कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:
CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421.
PHONE : 02838-271426/271163 FAX :02838-271425
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A	**FILE NO.** फ़ाइल संख्या	GEN/ADJ/ADC/831/2026-Adjn-O/o Pr. Commr-Cus-Mundra
B	**OIO NO.** आदेश संख्या	MCH/ZDC/ADC/308/2026-27
C	**PASSED BY** जारीकर्ता	**Dipak Zala,** Additional Commissioner of Customs
D	**DATE OF ORDER** आदेश की तारीख	11.09.2026
E	**DATE OF ISSUE** जारी करने की तिथि	11.09.2026
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	**78/2026-27/ADC/ZDC/MCH dated 04.06.2026**
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	**(i) M/s. Dev Enterprise (IEC No.0811020266)**

1. यहआदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128 के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकताहै-
Any person aggrieved by this Order - in - Original may file an appeal under Section 128 of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

"सीमाशुल्कआयुक्त (अपील),

चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,

नवरंगपुरा,अहमदाबाद 380 009"

"THE COMMISSIONER OF CUSTOMS (APPEALS)

HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,

NAVRANGPURA, AHMEDABAD-380 009."

3. उक्तअपील यहआदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

(i) उक्त अपील की एक प्रति और A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं°-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटि/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

1.1 M/s. Dev Enterprise (IEC No.0811020266) having its registered office/principal place located at A-614, Bijal Business Opp Shyam ICON Ahmedabad 382427 (hereinafter referred to as *the "Importer"*), imported goods vide **Bill of Entry No.4897106 dated 04.10.2025** at Customs House Mundra.

1.2 Specific intelligence gathered by the **Directorate of Revenue Intelligence (DRI)** indicated that the aforesaid consignment imported by M/s. Dev Enterprise lying at Mundra Port and declared as **"Lubricating Oil"** under **CTH 27101979**, was **mis-declared with respect to their description and nature,** with the deliberate intent to clear prohibited/restricted goods.

The details of the import consignment are as follows:

Table-I

	Details of Bill of Entry
Bill of Entry No.	4897106 dated 04.10.2025
Bill of Lading No.	ASC25JEAMUN007275
Declared Goods in BE	Lubricating Oil
Declared Quantity	154610 (in KGS)
Customs Broker	M/s Gaurav M Jhaveri
Country of Origin	UAE
Supplier	M/s. SRI Petroleum Trading LLC, UAE

1.3 Based on the aforesaid intelligence, the consignment imported by M/s. Dev Enterprise lying at Mundra Port and declared as "Lubricating Oil" under CTH 27101979 was put on hold by the DRI vide email dated 08.10.2025.

2. Examination and drawal of Samples:

The examination of aforesaid consignment was conducted by the DRI under Panchnama dated 13/14.10.2025 drawn at M/s. CWC CFS Pvt. Ltd., Mundra Port, in the presence of the authorized representative of the Customs

Broker appointed by the importer. During the said examination proceedings, representative samples, in duplicate, were drawn from each of the 8 containers (Flexi Bags), for laboratory testing to ascertain the exact nature of the imported goods in the said consignment.

3. <u>Testing of the Samples</u>:

3.1 The 8 samples drawn from the 8 Containers (Flexi Bags) covered under Bill of Entry No. 4897106 dated 04.10.2025 were sent to Custom House Laboratory, Visakhapatnam for testing vide Test Memos No. 532/2025 to 539/2025 dated 24.10.2025 respectively.

3.2 The laboratory subsequently submitted their test reports with respect to subject 08 samples, having reference Lab No. from 402-DRI to 409-DRI, all reports dated 08.01.2026 in respect of Bill of Entry No. 4897106 dated 04.10.2025.

3.3 The test reports in respect of all 08 samples pertaining to Bill of Entry No. 4897106 dated 04.10.2025, based on the parameters tested by the Custom House Laboratory, indicated that all the samples conform to the stringent parameters of Automotive Diesel Fuel. Since all the samples yielded similar findings, the report in respect of Lab No. 402-DRI is reproduced hereunder for illustration:

- ***a) The sample is other than Kerosene (IS 1459/IS 1571), Kerosene Intermediate (IS 17793).***

  b) The sample meets all the stringent parameter of Automotive Diesel Fuel (IS 1460)

  c) The sample is other than Light Diesel Oil- LDO (IS 15770).
  d) The sample meets all the stringent parameter of HFHSD (IS:16861).
- ***The sample has tested for above parameters mentioned in test report, which are stringent to characterize the product.***
- ***The sample is most akin to Automotive Diesel Fuel (IS 1460) and also meets the requirement of HFHSD (IS:16861).***

- ***The sample is other than Lubricating oil.***
- ***It is non-hazardous.***

3.4 For parameters not covered in the Custom Laboratory's Vishakhapatnam testing, additional sample was forwarded to Mangalore Refinery and Petrochemicals Limited (MRPL) vide Test Memo No. 950/2025 dated 17.03.2026 in respect of Bill of Entry No. 4897106 dated 04.10.2025, to ensure comprehensive testing of all specifications under IS 1460, as mandated by the Hon'ble Supreme Court in ***Gastrade International vs. Commissioner of Customs, Kandla.***

3.5 Thereafter, the Mangalore Refinery and Petrochemicals Limited (MRPL) has submitted test report dated 16.04.2026.

The findings of the both aforementioned Test Reports are reproduced below:

Table-II

Sl. No.	Bill of Entry No. & Dated	Quantity	Declared Description	Sample Test Result	IS Standards
01.	4897106 dated 04.10.2025	154610 Kgs.	Lubricating Oil	Conform to the parameters of Automotive Diesel Fuel (ADF)	IS 1460:2025

4. Whereas, detailed analysis of the MRPL Test Report indicates that the samples meets all parameters (*including Distillation recovery*) of Automotive Diesel Fuel (IS 1460:2025). Therefore, the Test Reports highlighted in **Table-II** above suggested that the goods imported meets the requirements Automotive Diesel Fuel (ADF) conforming to standard IS 1460:2025

4.1 Further, the specifications of Automotive Diesel Fuel (ADF) as per IS 1460 of the Bureau of Indian Standards (BIS) are reproduced below:

Table 1 Requirement for Automotive Diesel Fuel

(*Clauses* 3.1.4, 3.2 *and Foreword*)

Sl No.	Characteristic	Requirement	Method of Test, Ref to Parts of IS 1448 ISO/EN/Annex
(1)	(2)	(3)	(4)
i)	Appearance	Clear, bright and free from sediments, suspended matter and undissolved water at normal ambient fuel temperature	Visual
ii)	Total Acid Number (TAN), mg of KOH/g, *Max*	0.20	(Part 2)[8]
iii)	Ash, percent by mass, *Max*	0.01	(Part 4/Sec 1)[8]
iv)	Carbon residue, on 10 percent residue[1], percent by mass, *Max*	0.30	(Part 8)[8] /(Part 189)
v)	Cetane number, *Min*	51[2]	(Part 9)[8]
vi)	Cetane index, *Min*	46[2]	(Part 174)[8]
vii)	Pour point[3], °C, *Max*:		(Part 10/Sec 2)[8]
	a) Winter	3	
	b) Summer	15	
viii)	Copper strip corrosion for 3 h at 50 °C, *Max*	Class 1	(Part 15)[8]
ix)	Distillation, 95 percent *v/v* recovery, °C, *Max*	360	(Part 18)[8]/ISO 3405

Table 1 (*Concluded*)

Sl No.	Characteristic	Requirement	Method of Test, Ref to Parts of IS 1448 ISO/EN/Annex
(1)	(2)	(3)	(4)
x)	Flash point, Abel[4], °C, *Min*	35	(Part 20)[8]
xi)	Kinematic viscosity, mm^2/s, at 40 °C	2.0 to 4.5	(Part 25/Sec 1)[8]/(Part 186)
xii)	Total contamination, mg/kg, *Max*	24	EN 12662[8]
xiii)	Density at 15 °C, kg/m^3	810 to 845[5]	(Part 16)[8] /(Part 32)/(Part 167)
xiv)	Total sulphur, mg/kg, *Max*	10	(Part 160)[8]/(Part 34)/ (Part 161)/(Part 159)
xv)	Water content, mg/kg, *Max*	200	(Part 182)[8]
xvi)	Cold Filter Plugging Point (CFPP)[3], °C, *Max*:		(Part 110)[8]
	a) Winter	6	
	b) Summer	18	
xvii)	Oxidation stability[6], g/m^3, *Max*	25	(Part 154)[8]
	Oxidation stability[6], minutes, *Min*	60	EN 16091[12]
xviii)	Oxidation stability (for diesel fuel having FAME content of above 2 percent *v/v*), hours, *Min*	20	EN 15751[8]
	Oxidation stability (for diesel fuel having FAME content of above 2 percent *v/v*), minutes, *Min*	60	EN 16091
xix)	Polycyclic Aromatic Hydrocarbon (PAH), percent by mass, *Max*	8	EN 12916[8]
xx)	Lubricity, wear scar diameter (wsd) at 60 °C, µm, *Max*	460	(Part 149)[8]
xxi)	FAME content[7], percent *v/v*, Max	7.0	Annex B[8]

4.2 And whereas, on analysis of the parameters detailed in the Test Reports vis-a-vis the parameters stipulated in the BIS standards of IS 1460, it appears, in accordance with the intelligence of DRI, that goods imported under aforesaid Bill of Entry have been mis-declared and following conclusions emerge from the said analysis:

Table-III

Sr. No	Bill of Entry No.	Quantity	Product description as per analysis of Test Reports (CRCL+MRPL)
1	4897106 dated 04.10.2025	154610 Kgs	Automotive Diesel Fuel (ADF) conforming to Standards IS 1460:2025

4.3 As per Customs Tariff Act, it appears that the goods found as Automotive Diesel Fuel (ADF) conforming to standard IS 1460:2025 are classifiable under

CTH 27101944.The relevant descriptions of the above mentioned CTHs as per the Customs Tariff Act are as below:

HS CODE (1)	ITEM DESCRIPTION (2)	UNIT (3)	BASIC (4)	EFFECTIVE (5)	PRE. (6)	IGST (7)	SWS (8)	TOTAL (9)	POLICY (10)	REMARKS (11)
2710 19 43	---- Light diesel oil conforming to standard IS 15770	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27*
2710 19 44	---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	2.50	2.50	---	14% + Rs. 15 per litre	0.08		State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn 12/2018-Cus.*

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 "Automotive Diesel Fuel (ADF) conforming to standard IS 1460", 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:

Sl.No.	Notes	Notification No.	Notification Date
1	Import of naphtha is free.		
2	Import of SKO shall be allowed through State Trading Enterprises (STEs) i.e. IOC, BPCL, HPCL and IBP for all purposes with STC being nominated as a State Trading Enterprise (STE) for supplies to Advance Licence holders. Advance Licence holders shall however, have the option to import SKO from the above mentioned STEs including STC		
3	Import is restricted in terms of Interim PIC Procedure of Rotterdam Convention on Prior Informed Consent procedure for hazardous chemicals and pesticides.		
4	Automobile industries, having RandD registration, are allowed to make free import of reference fuels (Petrol and Diesel) which are not manufactured in India, up to maximum of 5 KL per annum, subjects to the condition that the said imported reference fuels shall be used for RandD and emission testing purposes only		
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
6	Import of pet coke for fuel purpose is prohibited. However, import of Pet coke of the following categories shall be permitted, subject to conditions : a. Import of Pet coke is free for cement, lime kiln, calcium carbide, gasification industries and graphite electrodo industries for use as feed stock or in the manufacturing process only on Actual User basis. b. Total import of 1.9 Million MTs of Raw Petroleum Coke(RPC) for manufacturing Calcined Petroleum Coke(CPC) and 0.5 Million MTs of CPC for Aluminium Industry respectively shall be permissible during 2024-25, and 1.9 Million MTs of RPC for manufacturing CPC Manufacturing and 0.8 Million MTs of CPC for Aluminium Industry respectively shall be permissible from 2025-26 onwards, subject to the following conditions: i. Import of RPC & CPC shall be permitted only as a feedstock / raw material and under no circumstances shall be used as fuel. ii.Import of RPC and CPC shall be permitted to cater entirely to the domestic needs of aluminium	27/2024-25	04/09/2024

5 Confiscation and Seizure:

5.1 As per the test results as discussed in above paras, it is evident that the importer had imported restricted petroleum products, by mis-declaring the same as “Lubricating Oil”. The Custom Laboratory reports confirmed that the goods imported vide Bill of Entry No. 4897106 dated 04.10.2025 were in fact ‘Automotive Diesel Fuel’, which is restricted for import into India, and permissible only subject to Condition No. 5 of Chapter 27 of ITC (HS), 2022, Schedule 1 Import Policy issued by DGFT. Therefore, having a reasonable belief that the goods mentioned in **Table No-II** above, were liable to be confiscated under the provisions of the Section 111 of the Customs act, 1962, the same were placed under seizure as per the provisions of Section 110(1) of the Customs Act, 1962 vide seizure memo dated 12.01.2026**.**

6. During investigation, statements of the following person were recorded under Section 108 of the Customs Act, 1962, which are briefly discussed herein-below:

6.1 Statement of Shri Devendrapratap Kripashankar Singh, Aged 40 years, Proprietor of M/s Dev Enterprise was recorded on 08.05.2026, wherein he inter-alia stated that:

- On being asked, I state that M/s. Dev Enterprise is a proprietorship firm established in July 2017, engaged in the trading of petroleum solvents, industrial fuels, and lubricating oils. I further state that the import activities of the firm commenced in the year 2021.

- On being asked about my role, I state that I am the sole proprietor of the firm and am wholly responsible for all operations including imports, purchases, sales, and overall management of the business. Supporting documents in this regard are submitted.

- On being asked about Bill of Entry No. 4897106 dated 04.10.2025, I state that I am submitting the relevant documents including invoice, packing list, Bill of Lading, Certificate of Origin, and Certificate of Analysis, which were received through phone communication.

- On being asked about placement of orders, I state that I personally dealt with the overseas supplier, namely SRI Petroleum Trading LLC, UAE. The communication was mainly through phone calls and occasionally through WhatsApp. I further state that I came into contact with the said supplier during my visit to UAE in 2022–2023.

- On being asked to provide email or message records, I state that no email communication was used and the orders were placed telephonically or through messaging applications.

- On being asked regarding remittances, I state that I alone handled the negotiations and payments to the overseas supplier. Payments were made mostly on 100% advance basis. Proof of payment is submitted herewith, duly signed by me.

- On being asked about classification of goods, I state that classification is generally based on product specifications required by domestic buyers, particularly flash point and related characteristics. I further state that our CHA, M/s. Gaurav M. Jhaveri, advises us regarding the applicable Customs Tariff Heading as we do not have expertise in tariff classification.

- On being asked about the use of the imported goods, I state that the lubricating oil is generally used for preparation of lubricants, machine lubrication, and retail packing, and is supplied to various traders.

- On being asked about domestic buyers, I state that we do not have any formal contracts or agreements. Our major buyers include M/s. Shivam Impex and M/s. Aman Oil Trader.

- On being asked about distinction between HSN 27101978 and 27101979, I state that I do not have specific knowledge regarding the same. The classification is determined by our CHA. As per my understanding, specifications depend on parameters such as flash point and density. In this case, the product was ordered with flash point around 180°C and density between 870–880.

- On being asked about logistics, I state that buyers arrange their own tankers for transportation from CFS. For imports, ISO tank containers are provided by the overseas supplier.

- On being asked about sampling, I state that sampling was conducted in the presence of our authorized representative.

- On being asked about CRCL test report findings, I state that I have perused the report and signed the same. I agree that the report indicates the goods as Automotive Diesel Fuel. However, I clarify that we had ordered lubricating oil only and no instructions were given to supply diesel. The supplier has shipped the wrong cargo.

- On being asked about MRPL test report, I state that I have seen and signed the report and agree that all parameters of Automotive Diesel Fuel are met. However, I reiterate that we had no intention or knowledge of importing diesel or any restricted goods, and the supplier has sent incorrect material.

- On being asked whether I was aware that goods were diesel, I state that I was not aware that the imported goods were diesel or any restricted commodity. The purchase was made based on the Certificate of Analysis provided by the supplier, which indicated the goods as lubricating oil.

7. In the identical cases being investigated in parallel by DRI, the Hon'ble High Court of Gujarat at Ahmedabad has passed an order/judgment dated 09.03.2026 in R/Special Civil Application No. 16799 of 2025 and allied matters:

7.1 During the course of identical investigations conducted by DRI, various importers filed Special Civil Applications before the Hon'ble High Court of Gujarat at Ahmedabad, challenging the seizure and seeking provisional release of their consignments. The Hon'ble High Court of Gujarat at Ahmedabad, vide order/judgment dated 09.03.2026, disposed of the said Special Civil Applications.

7.2 The observations of the Hon'ble High Court on the test reports issued by the Customs Laboratory, Visakhapatnam (CRCL) and Mangalore Refinery and Petrochemicals Limited (MRPL) are reproduced below:

"**46.** *Keeping in mind the aforesaid principles enunciated by the Supreme Court, we have attempted to distinguish the case of the petitioners for the following reasons.*

47. *Significantly, in the Test Reports in the case of* ***Gastrade International (supra),*** *the Apex Court has recorded that there was no opinion and finding expressed that the imported goods are "most akin" to HSD, which is not the issue in the Test Reports in question. In the first test report of CRCL, Visakhapatnam, out of 18 parameters tested, except for the parameters relating to flash point, distillation recovery and sulphur, the report categorically records that the sample is mainly composed of diesel fraction, is adulterated with lighter hydrocarbons, and is most "akin to HFHSD (IS 16861) / adulterated HFHSD". The diesel fraction is found to be between95% to 98%). Thus, out of 21 parameters, the 18 parameters tested by CRCL, Visakhapatnam and MRPL, there is a clear opinion by the laboratory that the sample meets all characteristics of ADF and HFHSD, except the flash point, which is lowered by mixing lighter hydrocarbons. In this context, we may refer to the definition of 'adulteration' as supplied in the 'Malpractices Order, 2005'. It reads thus:*

> *"**2(a)** "adulteration" means [presence of marker in motor spirit and high speed diesel and/or] [Inserted by Notification No. G.S.R. 18(E) dated 12.1.2007 (w.e.f. 21.12.2005).] the introduction of any foreign substance into motor spirit or high speed diesel illegally or unauthorisedly with the result that the product does not conform to the requirements of the Bureau of Indian Standards specifications number IS 2796 and IS 1460 for motor spirit and high speed diesel respectively or any other requirement notified by the Central Government from time to time;"*

Thus, any foreign substance, which is blended in high-speed diesel illegally or unauthorizedly, which ultimate results into failure of requirements of BIS specifications IS 1460 is an adulteration.

48. *In the instant case, there is a definite conclusion that the flash point, which is one of the most important parameters as emphasized by the Supreme Court, has been lowered by the use of lighter hydrocarbons and the product is therefore characterized as adulterated HFHSD. No such clear and unambiguous opinion was rendered by any of the three laboratories in the case of* ***Gastrade International (supra)*** *and also by the expert, who was examined during the inquiry."*

7.3 Application of the "Most Akin Test" by the Hon'ble Gujarat High Court:

*"****50.*** *Thus, if the rule of the "most akin test" is applied, the product declared by the petitioners as industrial oil is found to be Automotive Diesel Fuel / HFHSD, which is a restricted commodity. Hence, in view of the settled legal position laid down in the cases of* ***Om Prakash Bhatia (supra)*** *and* ***Raj Grow Impex (supra)****, we are not inclined to set aside the action of seizure of goods in question."*

7.4 Observations of the Hon'ble Gujarat High Court on Testing Conducted at Different Laboratories:

"Hence, even if there are two or more Test Reports from different laboratories, so long as they conform to the directions of the Supreme Court in the case of ***Gastrade International (supra)*** *and test the parameters prescribed under the relevant Indian Standards, such test results cannot be discarded merely because they were undertaken by different laboratories."*

7.5 Emphasis by the Hon'ble Gujarat High Court on Environmental Impact:

> ***"53.****The product imported by the petitioners, if released, will have a direct environmental impact affecting society at large. In such circumstances, having regard to the nature of the product, the Test Reports cannot be discarded merely because different parameters were tested in two different laboratories."*

7.6 The High Court of Gujarat dismissed the SCAs filed by the importers vide common oral judgment and order dated 09.03.2026, in R/Special Civil Application No. 16799 of 2025 and allied matters.

8. Extension under Section 110(2) of the Customs Act, 1962

Since the investigation could not be completed within the mandated six-month period, the competent authority granted a further extension of four months under Section 110(2) of the Customs Act, 1962, which was conveyed to the importer vide this office letter dated 06.04.2026**.**

9. Relevant Legal provisions:

9.1 The relevant portion of 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 is reproduced as under:

27101939	---	obtained from kerosene intermediate: ---- Aviation turbine fuels, kerosene type conforming to standard IS 1571	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101941	---	Gas oil and oils obtained from gas oil: ---- Gas oil	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101942	---	Gas oil and oils obtained from gas oil: ---- Vacuum gas oil	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101943	---	Gas oil and oils obtained from gas oil: ---- Light diesel oil conforming to standard IS 15770	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101944	---	Gas oil and oils obtained from gas oil: ---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101949	---	Gas oil and oils obtained from gas oil: ---- High flash high speed diesel fuel conforming to standard IS 16861	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101951	---	Fuel oils conforming to standard IS 1593: ---- Grade LV	Free	

9.2 Further, Para 2.21 of the Foreign Trade Policy, 2023 reads as under:

(A) ***"2.21 State Trading Enterprises (STEs):***

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

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

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

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

"(5) Import allowed through IOC subject to Para 2.21 of the Foreign Trade Policy, except for companies who have been granted rights for marking of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2002 for products excluding gasoline conforming to standard IS 2796 (ITC HS Code: 27101241) and Automotive Diesel Fuel, not containing Bio Diesel conforming to standard IS 1460 (ITC HS Code 27101944) which would be allowed to be imported by entities in terms of MoPNG Resolution No. P-12029(11)/2/2018-OMC-PNG dated 08.11.2019.

(B) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

9.4 **Section 2(22):** *"goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;*

Section 2(23): *"import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;*

Section 2(25): *"imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;*

Section 2(26): *"importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;*

Section 2(39): *"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.*

Section 11A: *"illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.*

9.5 Section 17 Assessment of duty:

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

.....

.....

.....

(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.

9.6 Section 46 Entry of goods on importation:

(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, relating to the imported goods.*

(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.

9.7 Section 111. Confiscation of improperly imported goods, etc.:

The following goods brought from a place outside India shall be liable to confiscation:-

.....

.....

.....

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

.....

.....

.....

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

9.8 Section 112 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:

9.9 Section 114AA Penalty for use of false and incorrect material:

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

(C) Relevant Provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:

"*Rule 4. Transaction value of identical goods.* - *(1) (a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;*

……..

…….

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

"Rule 5. Transaction value of similar goods. *- (1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:*
Provided that ……..

(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

Rule 7 of the CVR, 2007, stipulates that:-

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

(i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;

(ii) the usual costs of transport and insurance and associated costs incurred within India;

(iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

(3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.
(b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1).

Rule 8 of the CVR, 2007, stipulates that:-

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:-

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;

(c) the cost or value of all other expenses under sub-rule (2) of rule 10.

Rule 9 of the CVR, 2007, stipulates that:-

(1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;

Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

(2) No value shall be determined under the provisions of" this rule on the basis of –

(i) the selling price in India of the goods produced in India;
(ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;
(iii) the price of the goods on the domestic market of the country of exportation; (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;
(v) the price of the goods for the export to a country other than India;
(vi) minimum customs values; or
(vii) arbitrary or fictitious values.

Rule 12. Rejection of declared value *. - (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further*

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

10. Valuation:

10.1 From the foregoing paras, it is evident that M/s. Dev Enterprise was involved in mis-declaration of goods in terms of description and classification and the declared value in the corresponding Bill of Entry appears to be not acceptable as true transaction value and merits rejection in terms of Section 14 of Customs Act, 1962 read with Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Since exact comparative data in respect of the import goods covered under the subject consignment are not available in absence of clear descriptions and mis-declaration on the part of the importer, the value of the subject import consignments cannot be determined as per the provisions of Rule 4 to Rule 8 to the Customs Valuation (Determination of value of Imported goods) Rules, 2007. Since the goods cannot be fully compared with similar/identical imports as the same are restricted goods, their value appears to be determinable under Rule 9 (Residual method) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with sub-section (1) of Section 14 of Customs Act, 1962 and on the basis of objective and quantifiable data available in India. For valuation of the seized goods-ADF, the prevailing market rates of the goods in the 1st week of October-2025 were taken, such as invoices generated by M/s Nayara Energy Limited, ADF-**Rs 52,541.75/KL**. Accordingly, in terms of Rule 9 of the Customs Valuation Rules, 2007, the same value can be adopted for the offending goods in this case.

10.2 Further, import of "**Automotive Diesel Fuel *(ADF) as per IS 1460:2025***", is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27 of Customs Tariff, which stipulates that only '*import is allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/ 1/ 2001-MKT. Dated 8.3.2002*' to import the same. It therefore appears that said importer mis-declared restricted goods i.e. "**Automotive Diesel Fuel *(ADF) as per IS 1460:2025***" as "Lubricating Oil" in the consignment.

10.3 As discussed above, the consignment covered under Bill of Entry No. 4897106 dated 04.10.2025 was reported as "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***" by the Custom Laboratory, Vishakhapatnam and MRPL.The outcome of the test reports indicate that the invoice value declared by the importer does not reflect the actual value of the goods. Since the goods were mis-declared in the subject Bill of Entry, the declared assessable value of **Rs 63,11,042/-** (Rupees Sixty-Three Lakh Eleven Thousand Forty-two Only) in Bill of Entry cannot be accepted as the true "transaction value" under Section 14 of the Customs Act, 1962, and is liable to rejection under Rule 12 of the CVR, 2007.

10.4 Accordingly, for valuation purpose, to arrive at a fair and reasonable value within the framework of law and procedures under the Valuation Rules, ADF data dated 01.10.2025 from the M/s Nayara Energy Limited was referred. The base price was noted as **Rs 52,541.75/KL**. Based on this, the re-determined value of the consignment of "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***", having a total quantity of 154610 KGs equivalent to **186.70 KL** (using average density of 0.8281 g/ml as reported by Custom House Laboratory, Visakhapatnam), is **Rs. 98,09,781/-** (Rupees Ninety-Eight Lakh Nine Thousand Seven Hundred Eighty-One Only), in terms of provisions of Rule 9 of the CVR, 2007.

Thus, the value of the goods, as per the test reports of the Custom Laboratory and MRPL, is determined accordingly, are as below:

Table-IV

Bill of Entry No.	Sample Test Result	Declared Description	Quantity (in KGs)	Declared value as per BoE	Approx. Market Value
4897106 dated 04.10.2025	Automotive Diesel Fuel (ADF)	Lubricating Oil	154610	Rs. 63,11,042/-	Rs. 98,09,781/-

Therefore, the said goods having declared value of **Rs 63,11,042/- (Rupees Sixty-Three Lakh Eleven Thousand Forty-two Only)** and re-determined value of **Rs. 98,09,781/- (Rupees Ninety-Eight Lakh Nine Thousand Seven Hundred Eighty-One Only)** as per Table-IV above, appear to be liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.

11. Findings of the investigation:

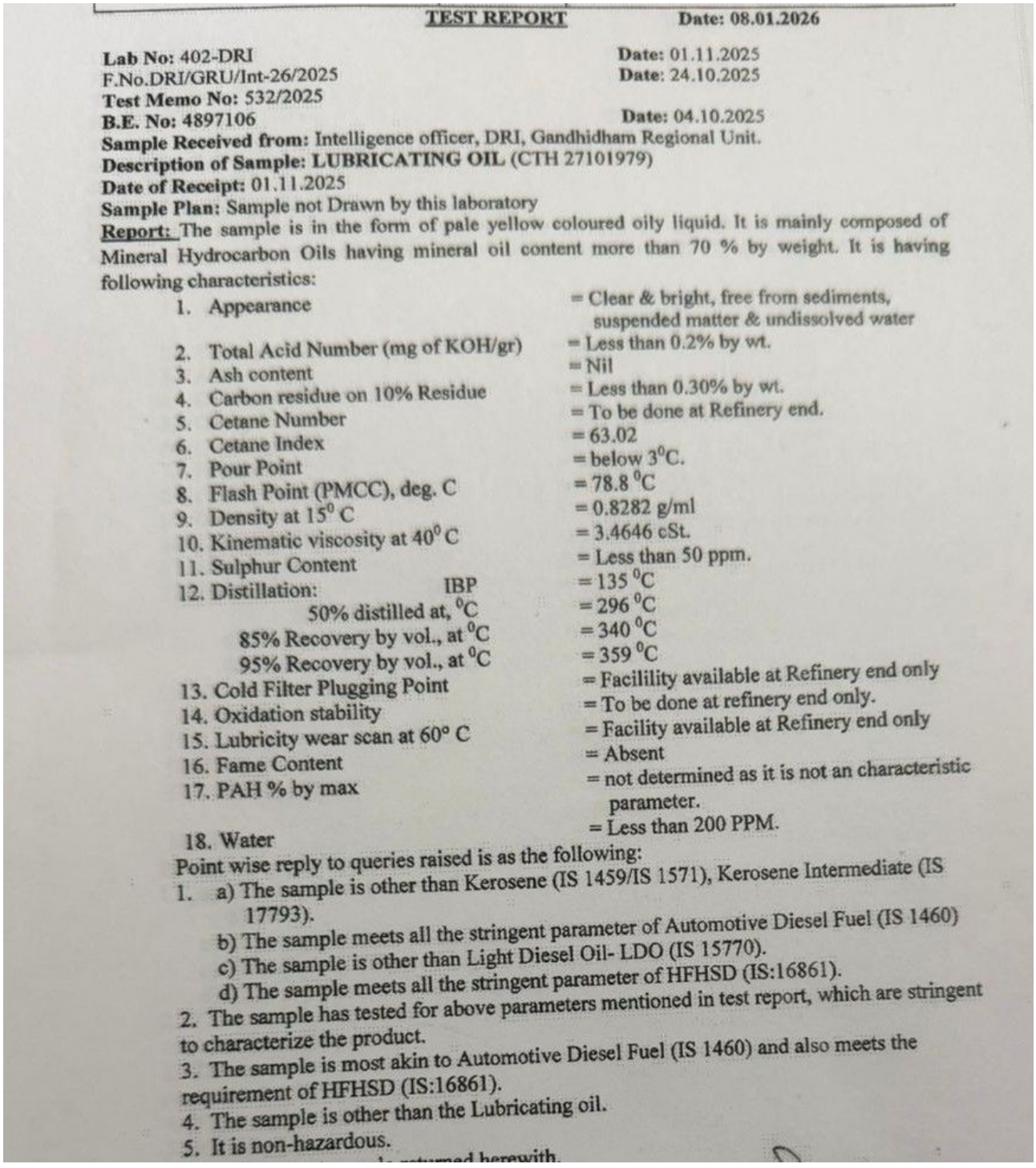
11.1 Specific intelligence gathered by the Directorate of Revenue Intelligence indicated that M/s. Dev Enterprise was indulged in import of restricted goods through mis-declaration. The importer had declared the consignment as Lubricating Oil, whereas examination and sampling carried out by the DRI revealed otherwise. The representative samples drawn in respect of Bill of Entry No. 4897106 dated 04.10.2025 were forwarded to the Custom House Laboratory, Visakhapatnam which confirmed that the goods **met all stringent parameters of Automotive Diesel Fuel (ADF) under IS 1460:2025.**

The Custom House Laboratory reports revealed that "***The sample meets all the stringent parameter of Automotive diesel fuel as mentioned in 1S: 1460:2025"***

To ensure comprehensive testing of all 21 parameters mandated by the Hon'ble Supreme Court in ***Gastrade International v. Commissioner of Customs, Kandla***, additional sample was sent to Mangalore Refinery and Petrochemicals Limited (MRPL). The combined reports from CRCL and MRPL conclusively

established that the imported goods were in fact Automotive Diesel Fuel conforming to IS 1460, and not Lubricating Oil as declared.

11.2 The sample Test report (CRCL Visakhapatnam, Lab No. 402-DRI, Test Memo No. 532/2025) in respect of Bill of Entry No. 4897106 dated 04.10.2025 is reproduced below:



TEST REPORT **Date: 08.01.2026**

Lab No: 402-DRI **Date:** 01.11.2025
F.No.DRI/GRU/Int-26/2025 **Date:** 24.10.2025
Test Memo No: 532/2025
B.E. No: 4897106 **Date:** 04.10.2025
Sample Received from: Intelligence officer, DRI, Gandhidham Regional Unit.
Description of Sample: LUBRICATING OIL (CTH 27101979)
Date of Receipt: 01.11.2025
Sample Plan: Sample not Drawn by this laboratory
Report: The sample is in the form of pale yellow coloured oily liquid. It is mainly composed of Mineral Hydrocarbon Oils having mineral oil content more than 70 % by weight. It is having following characteristics:

1. Appearance	= Clear & bright, free from sediments, suspended matter & undissolved water
2. Total Acid Number (mg of KOH/gr)	= Less than 0.2% by wt.
3. Ash content	= Nil
4. Carbon residue on 10% Residue	= Less than 0.30% by wt.
5. Cetane Number	= To be done at Refinery end.
6. Cetane Index	= 63.02
7. Pour Point	= below 3^0C.
8. Flash Point (PMCC), deg. C	= 78.8 ^{0}C
9. Density at 15^0 C	= 0.8282 g/ml
10. Kinematic viscosity at 40^0 C	= 3.4646 cSt.
11. Sulphur Content	= Less than 50 ppm.
12. Distillation: IBP	= 135 ^{0}C
50% distilled at, ^{0}C	= 296 ^{0}C
85% Recovery by vol., at ^{0}C	= 340 ^{0}C
95% Recovery by vol., at ^{0}C	= 359 ^{0}C
13. Cold Filter Plugging Point	= Facilility available at Refinery end only
14. Oxidation stability	= To be done at refinery end only.
15. Lubricity wear scan at 60° C	= Facility available at Refinery end only
16. Fame Content	= Absent
17. PAH % by max	= not determined as it is not an characteristic parameter.
18. Water	= Less than 200 PPM.

Point wise reply to queries raised is as the following:

1. a) The sample is other than Kerosene (IS 1459/IS 1571), Kerosene Intermediate (IS 17793).
   b) The sample meets all the stringent parameter of Automotive Diesel Fuel (IS 1460)
   c) The sample is other than Light Diesel Oil- LDO (IS 15770).
   d) The sample meets all the stringent parameter of HFHSD (IS:16861).
2. The sample has tested for above parameters mentioned in test report, which are stringent to characterize the product.
3. The sample is most akin to Automotive Diesel Fuel (IS 1460) and also meets the requirement of HFHSD (IS:16861).
4. The sample is other than the Lubricating oil.
5. It is non-hazardous.

returned herewith.

The above test reports in respect of Bill of Entry No. 4897106 dated 04.10.2025 clearly establish, as the intelligence had suggested, that the importer had in fact imported restricted goods, namely Automotive Diesel Fuel (ADF), conforming to the parameters and specifications of **IS 1460:2025.**

11.2.1 As per Schedule 1 Import Policy under ITC(HS), 2022 forChapter-27 (Mineral Fuels, Mineral Oils, etc.), import of "***Automotive Diesel Fuel (ADF) as per IS 1460***" covered under CTH 27101944, is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27. Accordingly, there being a reasonable belief that the said goods are liable for confiscation under the provisions of Section 111 of the Customs Act, the same were placed under seizure under Section 110 of the Customs Act, 1962,

11.3 During the investigation, DRI ensured that all 21 parameters under IS 1460 were tested, as mandated by the Hon'ble Supreme Court in ***Gastrade International v. Commissioner of Customs, Kandla.***

11.4 On analyzing the comprehensive test reports of CRCL, Visakhapatnam and MRPL, a combined parameter-wise assessment was carried out for the subject consignment against all 21 parameters prescribed under IS 1460:2025 for 'Automotive Diesel Fuel'. The consolidated findings are summarized in the Table below:

Table-V: Combined Parameter-wise Summary of Test Reports (CRCL + MRPL) vs. IS 1460:2025

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4897106 (Result / Match) with IS 1460:2025	Remarks
1	Flash Point (°C)	Min. 35°C	68°C	Within range
2	Sulphur Content (ppm)	Max. 10 ppm	7 ppm	Within range
3	Appearance (Visual)	Clear, bright, free from sediments,	Clear & bright,	Within range

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4897106 (Result / Match) with IS 1460:2025	Remarks
		suspended matter & un-dissolved water		
4	Total Acid Number (mg KOH/g)	Max. 0.20	0.04	Within range
5	Ash Content (% by mass)	Max. 0.01	<0.001	Within range
6	Carbon Residue on 10% Residue (% by mass)	Max. 0.30	<0.1	Within range
7	Cetane Number	Min. 51	60.7	Within range
8	Cetane Index	Min. 46	62.6	Within range
9	Pour Point (°C)	Max. +3°C (Winter)	-9°C	Within range
10	Copper Strip Corrosion (3h at 50°C)	Max. Class 1	Class 1a	Within range
11	Distillation, 95% v/v Recovery (°C)	Max. 360°C	352.8°C	Within range
12	Kinematic Viscosity @40°C (mm^2/s)	2.0 – 4.5	3.43 cSt	Within range
13	Total Contamination (mg/kg)	Max. 24	8	Within range
14	Density @15°C (kg/m^3)	810 – 845	826.5	Within range
15	Water Content (mg/kg)	Max. 200	60	Within range
16	Cold Filter Plugging Point (CFPP) (°C)	Max. +6°C (Winter)	-2°C	Within range
17	Oxidation Stability (min)	Min. 60 min	>60 min	Within range
18	Polycyclic Aromatic Hydrocarbon (PAH) (% by mass)	Max. 8.0	1.1	Within range
19	Lubricity, WSD @60°C (µm)	Max. 460	420 µm	Within range
20	FAME Content (% v/v)	Max. 7	Absent	Within range
21	Oxidation Stability (with FAME above/below 2%)	Required only if blended with biodiesel	Not applicable – FAME absent	Within range
TOTAL	**21 Parameters tested**	**—**	**21/21 Matching;**	**21/21 parameters found meeting**

11.4.1 The combined reports from CRCL and MRPL conclusively established that the imported goods were in fact Automotive Diesel Fuel conforming to IS 1460:2025 and not Lubricating Oil as declared.

11.5 From the above, it is evident that the importation made by the importer is in violation of the Import Policy pertaining to CTH 27101944 and thereby it is in violation of Para 2.01 and 2.21 of the Foreign Trade Policy 2023 as extended. As per Para 2.01 of the FTP, the imports shall be free, except when regulated by way of prohibition, restriction or exclusive trading through State Trading Enterprises (STEs) as laid down in the Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports. Looking to the aforesaid facts, since the goods falling under HS Code CTH 27101944 not being freely importable, the same would fall in the exceptional character with importation through the STEs only. As per Para 2.21 of the FTP, any goods, import of which is governed through exclusive or special privilege granted to the STEs, may be imported by the concerned STEs as per the condition specified in the ITC (HS). DGFT has however been given authority to grant an authorization to any other person to import the goods notified for exclusive trading through the STEs.

11.5.1 As per Para 11.41 of the FTP,2023, "Prohibited" indicates the import/export policy of an item, as appearing in ITC (HS) or elsewhere, whose import or export is not permitted. In the instant case, since the import of ADF classifiable under HS Code 27101944 is not permitted by the entities other than STEs, the import of said goods by the private entities is prohibited.

11.5.2 As per Section 3 (2) of the FTDR Act, 1992 empowers the Central Government to issue order, making provisions for prohibiting, restricting or otherwise regulating, the import of goods. As per Section 3(3) of the FTDR Act, 1992, all goods to which the order under Section 3(2) applies shall be deemed to be goods the imports of which has been prohibited under Section 11 of the Customs Act, 1962 and all the provisions of that Act shall have effect accordingly.

11.6 And whereas the provisions of Section 17(1) of the Customs Act, 1962 read with Section 2(2) of the Customs Act lay down onus on the importer to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declares 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 the importer has violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act, 1962.

11.7 And whereas in terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bill 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. Thus, in view of the facts discussed in the foregoing paras and material evidences available on records, it appears that M/s Dev Enterprise 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 restricted goods under the garb and guise of freely importable goods.

12. Role and Culpability:

12.1 Role played by M/s. Dev Enterprise (IEC No.0811020266) located at A-614, Bijal Business Opp Shyam ICON Ahmedabad 382427:

- From the facts narrated in foregoing paras and evidences gathered during investigation, it appears that M/s Dev Enterprise, imported consignment covered under 4897106 dated 04.10.2025 filed at Mundra Port, by mis-

declaring the imported goods as "Lubricating Oil" classified under CTH 27101979. The investigation conducted by DRI revealed that the actual goods were "***Automotive Diesel Fuel (ADF) as per IS 1460***", which is a '***Restricted***' commodity permitted for import only into India under Policy Condition No. 5 of the Customs Tariff.

- This act of mis-declaration was intended to circumvent import restrictions and facilitate the clearance of restricted goods for sale in the domestic market. Therefore, it appears that M/s. Dev Enterprise , by filing incorrect declarations and failing to ensure proper classification of the goods, knowingly violated the provisions of Section 17(1), Section 46(4) and 46(4A) of the Customs Act, 1962 by deliberately mis-declaring and mis-classifying the imported goods with intent to import restricted goods under the garb of freely importable goods, thereby contravening the import restrictions prescribed under the Foreign Trade Policy and rendering the goods liable to confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.

- Therefore, in view of the above, M/s Dev Enterprise has rendered themselves liable to penalty under Sections 112(a) and 112(b) of the Customs Act, 1962. Further, it appears that M/s Dev Enterprise deliberately filed false and incorrect documents before the Customs authorities, suppressing the actual nature of the goods in order to import restricted goods; hence, they are also liable to penalty under Section 114AA of the Customs Act, 1962.

13. Accordingly, M/s. Dev Enterprise (IEC No.0811020266) located at A-614, Bijal Business Opp Shyam ICON Ahmedabad 382427' were hereby called upon to Show cause in writing to **the Additional Commissioner of Customs, Customs House, Mundra**, having office situated at office of the Pr. Commissioner of Customs, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421 within 30 (thirty) days from the date of receipt of this notice, as to why:-

(i) The classification of goods covered under Bill of Entry No. 4897106 dated 04.10.2025 filed at Mundra Port, declared as 'Lubricating Oil', under CTH 27101979, should not be rejected and the same should not be re-classified as 'Automotive Diesel Fuel (ADF) as per IS 1460:2025' under CTH 27101944;

(ii) The declared value of the said goods declared as 'Lubricating Oil', as **Rs 63,11,042/-** (Rupees Sixty-Three Lakh Eleven Thousand Forty-two Only) should not be rejected in terms of Rule 12 of the CVR, 2007 and the same should not be re-determined as **Rs. 98,09,781/-** (Rupees Ninety-Eight Lakh Nine Thousand Seven Hundred Eighty-One Only) as discussed in foregoing paras;

(iii) The goods declared as 'Lubricating Oil', under the Bill of Entry No. 4897106 dated 04.10.2025 filed at Mundra Port having re-determined value of Rs. **98,09,781/-** as discussed in Table-IV, should not be held liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.

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

WRITTEN SUBMISSION AND PERSONAL HEARING

14. M/s. Dev Enterprise vide their letter dated 05.06.2026 submitted that they don't want personal hearing in this matter and requested to allow them to re-export the goods back to the supplier.

DISCUSSION AND FINDINGS

15. I have carefully gone through the Show Cause Notice, the relied upon documents, the statement of the Noticee recorded under Section 108 of the Customs Act, 1962, the legal provisions and the records available before me. I note that M/s. Dev Enterprise vide their letter dated 05.06.2026 have stated that they do not wish to avail the personal hearing opportunity and have requested permission for re-export of the subject goods back to the supplier.

They have not filed any written submissions on merits nor raised any substantive defence against the proposals in the Show Cause Notice. The case is therefore being decided on the basis of the Show Cause Notice, the relied upon documents, the statement recorded during investigation and other material evidence available on record. I find that the principle of natural justice has been complied with and therefore, I proceed to decide the case on the basis of applicable laws/rules and documentary evidence available on record.

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

(i) Whether the classification of goods covered under Bill of Entry No. 4897106 dated 04.10.2025 filed at Mundra Port, declared as 'Lubricating Oil' under CTH 27101979, should be rejected and the same should be re-classified as 'Automotive Diesel Fuel (ADF) conforming to IS 1460:2025' under CTH 27101944;

(ii) Whether the declared value of **Rs. 63,11,042/- (Rupees Sixty-Three Lakh Eleven Thousand Forty-Two Only)** should be rejected in terms of Rule 12 of the CVR, 2007 and re-determined as **Rs. 98,09,781/- (Rupees Ninety-Eight Lakh Nine Thousand Seven Hundred Eighty-One Only)** as discussed in the foregoing paras;

(iii) Whether the goods declared as 'Lubricating Oil' under Bill of Entry No. 4897106 dated 04.10.2025, having re-determined value of Rs. 98,09,781/, are liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962;

(iv) Whether penalty is imposable upon M/s. Dev Enterprise under Sections 112(a), 112(b) and 114AA of the Customs Act, 1962, separately.

16. I now take up the **first issue** regarding mis-declaration and mis-classification of the goods. I find that intelligence developed by the Directorate of Revenue Intelligence (DRI), indicated that the importer M/s. Dev Enterprise

was importing restricted petroleum products falling under Chapter 27 of the Customs Tariff by mis-declaring them as “Lubricating Oil” under CTH 27101979, with the deliberate intent to clear prohibited/restricted goods.

16.1 I find that M/s. Dev Enterprise filed Bill of Entry No. 4897106 dated 04.10.2025 at Mundra Port declaring the goods as "Lubricating Oil" classifiable under CTH 27101979. The examination of aforesaid consignment was conducted by the DRI under Panchnama dated 13/14.10.2025 drawn at M/s. CWC CFS Pvt. Ltd., Mundra Port, in the presence of the authorized representative of the Customs Broker appointed by the importer. During the said examination proceedings, representative samples, in duplicate, were drawn from each of the 8 containers (Flexi Bags), for laboratory testing to ascertain the exact nature of the imported goods in the said consignment vide Test Memos nos. 532/2025 to 539/2025 dated 24.10.2025.

16.2 I find that upon testing of representative samples drawn from all 8 containers under Panchnama dated 13/14.10.2025 by the Custom House Laboratory, Visakhapatnam (Test Memos 532/2025 to 539/2025 dated 24.10.2025; Lab Nos. 402-DRI to 409-DRI, all dated 08.01.2026) and subsequently by Mangalore Refinery and Petrochemicals Limited (MRPL) vide Test Memo No. 950/2025 dated 17.03.2026 (Report dated 16.04.2026), the goods were found to conform to all 21 parameters of Automotive Diesel Fuel (ADF) as per IS 1460:2025, classifiable under CTH 27101944.

16.3 I find that the Combined Parameter-wise Summary of Test Reports (Custom House Laboratory, Visakhapatnam + MRPL) confirms that all 21 out of 21 parameters prescribed under IS 1460:2025 for Automotive Diesel Fuel are met by the subject goods without exception, making it conclusively established that the goods are Automotive Diesel Fuel conforming to IS 1460:2025.

16.4 I note that the testing in this case has been conducted in full compliance with the directions of the Hon'ble Supreme Court in Gastrade International vs. Commissioner of Customs, Kandla, which requires that all parameters under the relevant IS standard be tested. Since the Custom House Laboratory, Visakhapatnam tested 18 parameters and the remaining parameters including distillation recovery were tested by MRPL, the combined test reports together

cover all 21 parameters under IS 1460:2025. The Hon'ble High Court of Gujarat at Ahmedabad, in its order/judgment dated 09.03.2026 in R/Special Civil Application No. 16799 of 2025 and allied matters — arising from identical parallel investigations by DRI in this very category of cases — has specifically held that even where test reports are from two different laboratories, so long as they conform to the directions of the Supreme Court in Gastrade International and test the parameters prescribed under the relevant IS standards, such test results cannot be discarded merely because they were undertaken by different laboratories. The Hon'ble High Court further upheld the "most akin test" and applied it to conclude that the product was Automotive Diesel Fuel/HFHSD, which is a restricted commodity, thereby dismissing the Special Civil Applications filed by the importers. The facts and test methodology in the present case are squarely covered by and consistent with the findings of the Hon'ble Gujarat High Court in the aforesaid judgment.

16.5 I find that as per Customs Tariff Act, the goods found as Automotive Diesel Fuel (ADF) conforming to standard IS 1460:2025 are classifiable under CTH 27101944. The relevant descriptions of the above mentioned CTHs as per the Customs Tariff Act are as below:

HS CODE (1)	ITEM DESCRIPTION (2)	UNIT (3)	BASIC (4)	EFFECTIVE (5)	PRE. (6)	IGST (7)	SWS (8)	TOTAL (9)	POLICY (10)	REMARKS (11)
2710 19 43	---- Light diesel oil conforming to standard IS 15770	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27*
2710 19 44	---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	2.50	2.50	---	14% + Rs. 15 per litre	0.08		State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn 12/2018-Cus.*

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 "Automotive Diesel Fuel (ADF) conforming to standard IS 1460", *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:

Sl.No.	Notes	Notification No.	Notification Date
1	Import of naphtha is free.		
2	Import of SKO shall be allowed through State Trading Enterprises (STEs) i.e. IOC, BPCL, HPCL and IBP for all purposes with STC being nominated as a State Trading Enterprise (STE) for supplies to Advance Licence holders. Advance Licence holders shall however, have the option to import SKO from the above mentioned STEs including STC		
3	Import is restricted in terms of Interim PIC Procedure of Rotterdam Convention on Prior Informed Consent procedure for hazardous chemicals and pesticides.		
4	Automobile industries, having RandD registration, are allowed to make free import of reference fuels (Petrol and Diesel) which are not manufactured in India, up to maximum of 5 KL per annum, subjects to the condition that the said imported reference fuels shall be used for RandD and emission testing purposes only		
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
6	Import of pet coke for fuel purpose is prohibited. However, import of Pet coke of the following categories shall be permitted, subject to conditions : a. Import of Pet coke is free for cement, lime kiln, calcium carbide, gasification industries and graphite electrodo industries for use as feed stock or in the manufacturing process only on Actual User basis. b. Total import of 1.9 Million MTs of Raw Petroleum Coke(RPC) for manufacturing Calcined Petroleum Coke(CPC) and 0.5 Million MTs of CPC for Aluminium Industry respectively shall be permissible during 2024-25, and 1.9 Million MTs of RPC for manufacturing CPC Manufacturing and 0.8 Million MTs of CPC for Aluminium Industry respectively shall be permissible from 2025-26 onwards, subject to the following conditions: i. Import of RPC & CPC shall be permitted only as a feedstock / raw material and under no circumstances shall be used as fuel. ii.Import of RPC and CPC shall be permitted to cater entirely to the domestic needs of aluminium	27/2024-25	04/09/2024

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

16.6 Policy Condition (5) of Chapter 27 of ITC (HS) Import Policy: As per Policy Condition 5 of Chapter 27, only State Trade enterprises can import the said goods. The said policy was amended by Notification No. 27/2015-2020 dated 16.09.2021. The same is produced below:

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

Notification No.27/2015-2020
New Delhi, Dated: 16th September, 2021

Subject: Amendment of policy condition no. 5 of Chapter 27 of ITC (HS), 2017, Schedule – I (Import Policy).

S.O.(E): In exercise of powers conferred by Section 3 read with Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby amends policy condition no.5 of Chapter 27 of ITC (HS), 2017, Schedule – I (Import Policy) as under:

Existing Policy Condition	Revised Policy Condition
Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P and NGs Resolution No. P23015/1/2001-MKT.Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date.	Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2002 for products excluding gasoline conforming to standard IS 2796 (ITC HS Code: 27101241) and Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460 (ITC HS Code 27101944) which would be allowed to be imported by entities in terms of MoPNG Resolution No. P-12029(11)/2/2018-OMC-PNG dated 08.11.2019".

2. **Effect of the Notification:** Policy condition no.5 of Chapter 27 of ITC (HS), 2017, Schedule – I (Import Policy) amended in terms of Government Resolution No. P-12029(11)/2/2018-OMC-PNG dated 08.11.2019.

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

"2.20 State Trading Enterprises (STEs)

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

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

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

16.8. I find that in the instant case, the importer M/s. Dev Enterprise is neither a STE (State Trading Enterprise) nor any authorization has been granted by DGFT to the Importer for import of said restricted goods.

16.9 In view of the above, I find that the declared classification of the goods as "Lubricating Oil" under CTH 27101979 is incorrect and is rejected. The goods are correctly classifiable under **CTH 27101944 as Automotive Diesel Fuel (ADF) conforming to IS 1460:2025, which is restricted as per Import policy.**

16.10 I find that the provisions of Section 17(1) of the Customs Act, 1962 read with Section 2(2) of the Customs Act, 1962 and CBIC Circular No. 17/2011-Customs dated 08.04.2011 lay down the onus on the importer to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declares 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, I find that M/s. Dev Enterprise has violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act, 1962. Further, in terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bill 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, I find that M/s. Dev Enterprise filed Bill of Entry No. 4897106 dated 04.10.2025 at Mundra Port declaring the goods as "Lubricating Oil" under CTH 27101979. Shri Devendrapratap Kripashankar Singh, Proprietor of M/s. Dev Enterprise, in his statement dated 08.05.2026, accepted both the Custom House Laboratory, Visakhapatnam test reports (Lab Nos. 402-DRI to 409-DRI, all dated 08.01.2026) and the MRPL test report dated 16.04.2026, and agreed that the test reports indicate the goods as Automotive Diesel Fuel conforming to IS 1460:2025. Thus, in view of the facts discussed in the foregoing paras and material evidence available on records, I find that the importer has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, inasmuch as they had intentionally mis-declared the description of the goods imported by them with a malafide intention to import restricted goods under the garb and guise of freely importable goods.

17. I now take up the **second issue** regarding rejection of declared value and re-determination of assessable value. I find that the declared assessable value of **Rs. 63,11,042/- (Rupees Sixty-Three Lakh Eleven Thousand Forty-Two Only**) in Bill of Entry No. 4897106 dated 04.10.2025 cannot be accepted as the true and correct transactional value of the subject goods, since the goods have been found to be mis-declared in respect of description and classification. The declared invoice value pertains to "Lubricating Oil" and not to the goods actually found i.e. Automotive Diesel Fuel conforming to IS 1460:2025 classifiable under CTH 27101944. In terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962, the declared value is accordingly rejected and the assessable value is required to be re-determined by sequentially proceeding through Rules 4 to 9 of the CVR, 2007.

17.1 I find that since the goods were mis-declared and are restricted goods, exact comparative import data for the actual goods i.e. ADF is not readily available for application of Rules 4 to 8 of the CVR, 2007. The value is

accordingly determinable under Rule 9 (Residual Method) of the CVR, 2007, read with Section 14 of the Customs Act, 1962, on the basis of objective and quantifiable data available in India. For this purpose, the prevailing market rate of ADF in the 1st week of October 2025 as per the invoice generated by M/s. Nayara Energy Limited i.e. **Rs. 52,541.75/- per KL** has been adopted as the reference price, being the best available objective data on record.

17.2 I find that the total quantity of the subject goods is **154,610 Kgs**, which is equivalent to **186.70 KL** using the average density of 0.8281 g/ml as reported by Custom House Laboratory, Visakhapatnam. Accordingly, the re-determined value of the subject goods works out to **Rs. 98,09,781/- (Rupees Ninety-Eight Lakh Nine Thousand Seven Hundred Eighty-One Only)** [i.e. 186.70 KL × Rs. 52,541.75/- per KL]. I find that this re-determined value of **Rs. 98,09,781/-** is fair, reasonable and based on objective data available on record, and is accordingly adopted as the re-determined value of the goods. The details for re-determination of assessable value under Rule 9 of CVR 2007, are as follows:

Particulars	**BE No. 4897106 dt. 04.10.2025**
ADF Market Price (Nayara Energy, Oct 2025)	Rs. 52,541.75 per KL
Imported Quantity	154610 KGs
Average Density (as per CRCL Visakhapatnam)	0.8281 g/ml
Volume Equivalent	186.70 KL
Re-determined Assessable Value	Rs. 98,09,781/-

18. CONFISCATION OF GOODS:

18.1 I now proceed to discuss the **third issue i.e. confiscation** of the imported goods under Section 111 of the Customs Act, 1962. I find that the Show Cause Notice has proposed confiscation of the impugned goods under Sections 111(d) and 111(m) of the Customs Act, 1962. The relevant legal provisions are reproduced below:

> *"(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being*

imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

...

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

18.2 I find that M/s. Dev Enterprise filed Bill of Entry No. 4897106 dated 04.10.2025 at Mundra Port declaring the goods as "Lubricating Oil" under CTH 27101979, whereas the goods on testing by Custom House Laboratory, Visakhapatnam and MRPL were found to be Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 classifiable under CTH 27101944. Shri Devendrapratap Kripashankar Singh, Proprietor of M/s. Dev Enterprise, in his statement dated 08.05.2026, accepted both test reports and agreed with the findings. Thus, there is no ambiguity that the goods were mis-declared by the importer with respect to description, classification and import policy status. The goods actually imported i.e. Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 are restricted goods under Policy Condition No. 5 of Chapter 27 of ITC(HS), 2022 and can be imported only by State Trading Enterprises (STEs) or entities specifically authorized by DGFT. M/s. Dev Enterprise is neither a STE nor does it possess any such authorization from DGFT.

18.3 I find that the Importer has violated Policy Condition No. 5 of Chapter 27 of the ITC(HS), 2022 which mandates that *"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 MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2002..."* Further, in terms of Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992, all goods to which any order under Section 3(2) applies shall be deemed to be goods the import of which has been prohibited under Section 11 of the Customs Act, 1962 and all provisions of that Act shall have effect accordingly. By mis-declaring the restricted goods as "Lubricating Oil" under CTH 27101979 (Free),

the importer has deliberately attempted to circumvent the import restrictions. The goods are therefore liable for confiscation under **Section 111(d)** of the Customs Act, 1962.

18.4 Further, the goods declared as "Lubricating Oil" under CTH 27101979 in the Bill of Entry do not correspond with the actual goods found on testing i.e. Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 classifiable under CTH 27101944. The description, classification, value and policy status mentioned in the Bill of Entry are completely at variance with the actual nature of the goods. The declared value of Rs. 63,11,042/- also does not correspond to the re-determined value of Rs. 98,09,781/- of the actual goods. Therefore, the goods are also liable for confiscation under **Section 111(m)** of the Customs Act, 1962.

18.5 Accordingly, in the manner as discussed above and in contravention of Section 17(1), Section 46(4) and 46(4A) of the Customs Act, 1962, I find that the said acts of omission and commission on the part of the importer have made the imported goods i.e. 154,610 Kgs of Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 imported vide Bill of Entry No. 4897106 dated 04.10.2025 in 8 containers (Flexi Bags), having re-determined assessable value of Rs. 98,09,781/- (Rupees Ninety-Eight Lakh Nine Thousand Seven Hundred Eighty-One Only), liable for confiscation under **Section 111(d) and 111(m) of the Customs Act, 1962.**

19. IMPOSITION OF REDEMPTION FINE IN LIEU OF CONFISCATION UNDER SECTION 125 OF THE CUSTOMS ACT, 1962:

19.1 As the impugned goods have been held liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962, I now proceed to consider whether an option to redeem the goods on payment of redemption fine under Section 125 of the Customs Act, 1962 should be given to the importer.

19.2 Section 125(1) of the Customs Act, 1962 reads as under:

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

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

19.3 A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to the owner of confiscated goods for release of confiscated goods by paying redemption fine where there is no restriction on policy provision for domestic clearance. In the present case, the goods i.e. Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 are restricted/prohibited in nature for the importer (non-STE) and have been imported in violation of Policy Condition No. 5 of Chapter 27. Therefore, the goods are not fit for clearance for home consumption.

19.4 During the adjudication proceedings, M/s. Dev Enterprise vide their letter dated 05.06.2026 have stated that they do not wish to avail personal hearing in the matter and have requested permission to re-export the goods back to the supplier. The goods have remained under customs control at Mundra Port and have not been cleared for home consumption. I observe that redemption is not a right but a discretion to be exercised by the Adjudication Authority.

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

19.6 In view of the above discussion, I am of the considered view that the ends of justice would be met by allowing redemption of the subject goods for the limited purpose of re-export. Imposition of redemption fine along with penalty is sufficient to address the violation and convey a clear deterrent message to similarly placed importers. At the same time, this course ensures that the goods do not enter the domestic market in violation of statutory conditions. Therefore,

exercising powers under Section 125 of the Customs Act, 1962, I deem it appropriate to allow the importer an option to redeem the goods for the limited purpose of re-export on payment of redemption fine under the provisions of Section 125 of the Customs Act, 1962.

DISCUSSION ON IMPOSITION OF PENALTY ON NOTICEE:-

20. Penalty on M/s. Dev Enterprise (Importer):

20.1 I find that M/s. Dev Enterprise filed Bill of Entry No. 4897106 dated 04.10.2025 at Mundra Port declaring the goods as "Lubricating Oil" classifiable under CTH 27101979 (Free), whereas the goods on testing by Custom House Laboratory, Visakhapatnam and MRPL were found to be Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 classifiable under CTH 27101944, which is a restricted item under Policy Condition No. 5 of Chapter 27 of ITC(HS), 2022 and can be imported only by State Trading Enterprises (STEs). Hence, the imported goods covered under Bill of Entry No. 4897106 dated 04.10.2025 were mis-declared by the importer with respect to description, classification and import policy status to circumvent the import policy.

20.2 M/s. Dev Enterprise is a proprietorship firm established in July 2017, engaged admittedly in trading of petroleum solvents, industrial fuels and lubricating oils, with import activities commenced from 2021. Shri Devendrapratap Kripashankar Singh, its sole Proprietor, admitted in his statement dated 08.05.2026 that he personally handled all import operations of the firm, that he himself dealt with the overseas supplier M/s. SRI Petroleum Trading LLC, UAE, through telephonic and WhatsApp communication, that no written buyer-seller agreement was executed, that he placed orders for goods with flash point around 180°C and density between 870–880 g/ml — specifications which are characteristically those of a lubricating oil/base oil and are fundamentally inconsistent with the actual goods received i.e. ADF having flash point of 68°C and density of 826.5 kg/m³. Despite this, he accepted the MRPL test report dated 16.04.2026 which conclusively established all 21/21

parameters of ADF under IS 1460:2025, while simultaneously claiming that he had no knowledge that diesel was being shipped to him.

20.3 The defence that the overseas supplier shipped wrong goods by mistake is not acceptable for the following reasons:

(i) The importer admittedly placed orders only telephonically or through WhatsApp, without any written purchase order, buyer-seller agreement or email record confirming the specific product ordered. In the absence of any contemporaneous documentary evidence of the original order, the claim that wrong goods were shipped cannot be verified or accepted.

(ii) The importer paid 100% advance to the overseas supplier before loading. Despite this, no pre-shipment independent inspection, surveyor report or load port Chemical Analysis Report was obtained. A trader in petroleum products making 100% advance payment for 8 containers of liquid goods cannot claim complete ignorance of the nature of the goods actually loaded.

(iii) The specifications stated by the importer in his statement as those of the ordered goods — flash point 180°C, density 870–880 g/ml — are wholly inconsistent with the actual goods received, which have flash point 68°C and density 826.5 kg/m³. This stark difference in specifications is not consistent with a simple "wrong shipment" by the supplier; it is indicative of a deliberate procurement of a product whose specifications were known to the importer.

(iv) No protest communication, no complaint to the supplier, no claim for return of advance payment and no documentary evidence of having disputed the wrong shipment with the overseas supplier has been produced.

20.4 The import of 154,610 Kgs of Automotive Diesel Fuel (ADF) without DGFT authorization, in violation of Policy Condition No. 5 of Chapter 27, by mis-declaring the goods as freely importable "Lubricating Oil" under CTH 27101979, constitutes an act of smuggling as defined under Section 2(39) of the Customs Act, 1962. For their acts of omission and commission in the case as borne out by the investigation, M/s. Dev Enterprise has rendered itself liable for penalty under the provisions of Section **112(a)(i)** of the Customs Act, 1962.

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously amounts to imposition of double penalty; therefore, I refrain from imposition of penalty under Section 112(b) of the Customs Act, 1962.

Further, M/s. Dev Enterprise knowingly and intentionally filed the Bill of Entry containing false and incorrect declarations in material particulars namely description, classification and value of goods, and caused to be used a fabricated Certificate of Analysis from the supplier in support thereof, thereby rendering themselves liable for penalty not exceeding five times the value of goods under Section 114AA of the Customs Act, 1962.

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

ORDER

i. I order to reject the declared classification of the impugned goods i.e. Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 having total quantity of 154,610 Kgs mis-declared as 'Lubricating Oil' under Customs Tariff Item 27101979 imported vide Bill of Entry No. 4897106 dated 04.10.2025, and order to re-classify the same under Customs Tariff Item **27101944**.

ii. I order to reject the declared assessable value of **Rs. 63,11,042/- (Rupees Sixty-Three Lakh Eleven Thousand Forty-Two Only)** in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and order to re-determine the same as **Rs. 98,09,781/- (Rupees Ninety-Eight Lakh Nine Thousand Seven Hundred Eighty-One Only)** in terms of Rule 9 of the said Rules read with Section 14 of the Customs Act, 1962.

iii. I order to confiscate the impugned goods i.e. 154,610 Kgs of Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 sought to be imported by M/s. Dev Enterprise, in 8 containers pertaining to Bill of Entry No. 4897106 dated 04.10.2025, having re-determined value of **Rs. 98,09,781/- (Rupees Ninety-Eight Lakh Nine Thousand Seven Hundred Eighty-One Only)**, under Sections 111(d) and 111(m) of the Customs Act, 1962. However, I give an option to the Importer to redeem the goods only for re-export purpose within 120 days

of this Order, upon payment of Redemption Fine of **Rs.9,00,000/- (Rupees Nine Lakh Only)** under the provisions of Section 125 of the Customs Act, 1962.

iv. I impose a penalty of **Rs.4,50,000/- (Rupees Four Lakh Fifty Thousand Only)** on M/s. Dev Enterprise, under Section 112(a)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(b) of the Customs Act, 1962, for the reasons discussed above.

v. I impose a penalty of **Rs.50,000/- (Rupees Fifty Thousand Only)** on M/s. Dev Enterprise, under Section 114AA of the Customs Act, 1962.

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

23. The Show Cause Notice issued vide F. No. GEN/ADJ/ADC/831/2026-Adjn-O/o Pr. Commr-Cus-Mundra dated 04.06.2026 bearing SCN No. 78/2026-27/ADC/ZDC/MCH is hereby disposed of on the above terms.

Digitally signed by Dipakbhai Zala
Date: 11-09-2026 19:10:12

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

To,

(1) M/s. Dev Enterprise (IEC No.0811020266)
A-614, Bijal Business Opp Shyam ICON,
Ahmedabad- 382427
(Email-deventerprise.imp @gmail.com).

Copy to:

(1) The Additional Director, DRI Regional Unit, Gandhidham (Kutch).

(2) The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.

(3) The Dy./Asstt. Commissioner (Group-1/1A), Customs House, Mundra.

(4) The Deputy Commissioner, EDI, Customs Mundra (For uploading on official website immediately).