

		OFFICE OF THE COMMISSIONER CUSTOM HOUSE, KANDLA NEAR BALAJI TEMPLE, NEW KANDLA Phone : 02836-271468/469 Fax: 02836-271467
A	File No.	GEN/ADJ/COMM/715/2025-Adj -O/o Commr-Cus-Kandla
B	Order-in-Original No.	KDL/ADJ/VS/10/2026-27
C	Passed by	Vishwajeet Singh, Commissioner (in-situ), Custom House, Kandla
D	Date of Order	29.04.2026
E	Date of Issue	29.04.2026
F	SCN NO. & Date	GEN/ADJ/COMM/715/2025-Adj -O/o Commr-Cus-Kandla date 03.12.2025
G	Noticee / Party / Importer / Exporter	<p>1. M/s. GKN Chemical India Pvt.Ltd. (IEC No.-AAJCG7002J), PLOT NO. 346-347, SECTOR - IV, PHASE - IV, KASEZ, Gandhidham, Kachchh, Gujarat, 370230 (Email-seenivaasan@gkngroups.com).</p> <p>2. Shri Seenivasan Narayanasamy, Director, M/s. GKN Chemical India Pvt. Ltd., Plot No. 346-347, Sector-IV, Phase-IV, KASEZ, Gandhidham, Kachchh, Gujarat- 370230. (E-mail-seenivaasan@gkngroups.com)</p> <p>3. Shri Narayanasamy Sivamurugeswarapandian, Director, M/s. GKN Chemical India Pvt. Ltd., Plot No. 346-347, Sector-IV, Phase-IV, KASEZ, Gandhidham, Kachchh, Gujarat-370230. (E-mail-info@gkngroups.com)</p> <p>4. Shri Venkataraman, Plant Head, M/s. GKN Chemical India Pvt. Ltd., Plot No. 346-347, Sector-IV, Phase-IV, KASEZ, Gandhidham, Kachchh, Gujarat-370230. (E-mail-venkatesh@gkngroups.com)</p> <p>5. Shri Sujith Padayachi, Sr. Manager, M/s. GKN Chemical India Pvt. Ltd., Plot No. 346-347, Sector-IV,</p>

	<p>Phase-IV, KASEZ, Gandhidham, Kachchh, Gujarat-370230 (E-mail-info@gkngroups.com)</p> <p>6. M/s Aastha Impex, First Floor, Office no.-07, Plot No. 326, Ward 12B, SatdevGandhidham, Kutch, Gujarat-370201 (E-mail- aasthaimpex2016@gmail.com)</p> <p>7. M/s Arihant Agro Industries, Agrasen Marg, DBZ-S-99, Opp. BMCB Complex, Gandhidham, Kutch, Gujarat-370201 (E-mail-accounts@aumarihant.com)</p> <p>8. M/s Radhe Madhav Trade, Ground Floor, Plot no. 13, Office no.-007, Sector No. 8, Riddhi Siddhi Arcade, Gandhidham, Kutch, Gujarat-370201 (E-mail - radhemadhav02@gmail.com)</p>
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1. यह मूल आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

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

2. यदि कोई व्यक्ति इस मूल आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128A के अंतर्गत प्रपत्र सीए- 1-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“ सीमाशुल्क आयुक्त (अपील),

7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद 380 009”

“THE COMMISSIONER OF CUSTOMS (APPEALS),

Having his office at 7th Floor, Mridul Tower, Behind Times of India,

Ashram Road, Ahmedabad-380009.”

3. उक्त अपील यह आदेश 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 accompanied by –

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्यप्रति जिस पर अनुसूची-1 के अनुसार न्यायालयशुल्कअधिनियम-1870 के मदसं.-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 इयूटि/ 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, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क 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 शुल्कया 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

M/s. GKN Chemical India Pvt. Ltd., bearing IEC- AAJCG7002J and GSTIN-24AAJCG7002J2ZP (hereinafter referred to as "SEZ unit"), having its registered premises at Plot No. 346-347, Sector-IV, Phase-IV, KASEZ, Gandhidham, Kachchh, Gujarat, was granted a Letter of Approval (LOA) No. 18/2022-23 dated 20.01.2023 (RUD No-1) and operations were commenced from 25.07.2023 as a Special Economic Zone (SEZ) unit. As per the LOA, permission was granted to undertake both manufacturing and trading of petrochemical products and allied chemicals. The company is stated to have two directors namely (i) Shri Seenivasan Narayanasamy and (ii) Shri Sivamurugeswarapandian N.

2. Intelligence:

2.1 Credible intelligence was received by the Directorate of Revenue Intelligence (DRI), Regional Unit, Gandhidham, that the said SEZ unit was engaged in misdeclaration of certain petroleum products, primarily finished automotive fuels like diesel or kerosene, as "solvents" under incorrect Customs Tariff Headings (CTH) such as 27101990 (Hydrocarbon Solvents). These goods were being imported duty-free by the SEZ unit under the category of raw materials as permitted in the LOA. However, the imported raw materials were being cleared into DTA as such by declaring the same as "Industrial Oil", which were suspected to be restricted petroleum goods (Diesel/Kerosene), without undergoing any actual manufacturing process.

2.2 Acting upon the said intelligence, a truck (oil tanker) bearing number GJ39 TA 1434, which had been loaded from M/s. GKN Chemical India Pvt. Ltd., KASEZ, Gandhidham, was intercepted on 04.06.2025 by DRI officers. The truck was found to be carrying "Industrial Oil" covered under M Type BE No. 2414257 dated 02.06.2025 and E-way bill No. 601915626828 dated 04.06.2025. The said vehicle was thereafter taken back to the premises of M/s. GKN Chemical India Pvt. Ltd., KASEZ, under panchnama dated 04/05.06.2025 (RUD No-2), and a search was also carried out at the said SEZ unit under the said panchnama. During the search proceedings, a thorough inspection of the plant machinery available at the said premises for manufacturing process was carried out and various documents viz. inward-outward entry register, invoices of goods being carried by the intercepted vehicle, and other relevant documents available at the premises were resumed.

2.3 Furthermore, samples were drawn from the goods being carried by the intercepted vehicle, as well as from storage tankers of various goods being imported/manufactured by the said SEZ unit located inside its premises, in the presence of Shri N. Seenivasan, Director of the said SEZ unit, who was handling the entire operations of the unit/plant including work related to sale and purchase of raw materials and finished goods. Further, one consignment declared as "Hydrocarbon Solvent" having total quantity of approximately 176.5 MT in 11 containers covered under Bill of Entry No. 2425928 dated 02.06.2025, imported by the said SEZ unit, was placed on hold and samples were drawn from the subject containers under panchnama dated 08.06.2025 (RUD No-3) drawn at the premises of M/s. GKN Chemical India Pvt. Ltd.

2.4 Two more consignments covered under Bills of Entry No. 3244314 and 3244548, both dated 14.07.2025 and declared to contain "Hydrocarbon Solvent", having total quantity of approximately 925 MT in total 50 containers, were placed on hold and samples were drawn under panchnamas dated 17.07.2025 and 29.07.2025 (RUD No-4). Further, goods under 29 containers covered under Bills of Entry No. 3244314 dated 14.07.2025 (04 containers) and 3244548 dated 14.07.2025 (25 containers) were transferred into storage tanks at the premises

of M/s. GKN Chemical India under panchnamas dated 07.08.2025 and 08.08.2025 (RUD No-5).

3. Testing of the Samples:

3.1 The samples drawn during investigation were required to be tested as per the IS standards of restricted petroleum goods viz. Diesel Fuel/Kerosene/Motor Spirit, in view of the recent judgment of the Hon'ble Supreme Court in the matter of M/s. Gastrade International vs. Commissioner of Kandla Customs.

3.2 Accordingly, 16 samples (05 samples drawn vide panchnama dated 04/05.06.2025 and 11 samples drawn vide panchnama dated 08.06.2025 in relation to 11 containers covered under Bill of Entry No. 2425928 dated 02.06.2025) were sent for testing to the laboratory of IOCL, Kandla, which subsequently submitted its reports dated 08.08.2025 (RUD No-6).

3.3 The test report received from IOCL, Kandla suggested that the goods imported vide Bill of Entry No. 2425928 dated 02.06.2025 met the requirements of SKO (Superior Kerosene Oil). The report with respect to goods cleared into DTA as manufactured goods declared as "Industrial Oil" loaded in tanker GJ 12 TA 1434 was found to be HFHSD (High Flash High Speed Diesel). The report with respect to one sample drawn from storage tank No. 18 was found to be Light Diesel Oil (LDO). The report with respect to one sample drawn from storage tank No. 17 was found to be HFHSD. One sample drawn from storage tank No. 19 wherein description informed as "Naptha" was found to be as declared. The findings of the aforementioned test reports were tabulated.

3.4 Further, two consignments covered under Bills of Entry No. 3244314 and 3244548, both dated 14.07.2025, were also tested. The representative samples drawn were sent for testing to CRCL, Vadodara, and the results of all test samples were found to be Light Diesel Oil as per IS 15770:2021 (RUD No-7). The findings of the aforementioned test reports were tabulated.

4. On analysis of the parameters detailed in the test reports vis-à-vis the parameters stipulated in BIS standards of IS 16861:2018, IS 15770:2021 and IS 1459:2018, it appeared in accordance with the intelligence that goods being imported, stored in tanks and laden in the truck appeared to have been misdeclared and the following conclusion appeared to flow from the analysis:

- (i) Goods in tanker were found to be High Flash High Speed Diesel (HFHSD)
- (ii) Goods in Tank No. 17 were found to be HFHSD
- (iii) Goods in Tank No. 18 were found to be Light Diesel Oil (LDO)
- (iv) Goods covered under Bill of Entry No. 2425928 were found to be SKO
- (v) Goods covered under Bills of Entry No. 3244314 and 3244548 were found to be LDO

4.1 As per the Customs Tariff Act, the goods found as High Flash High Speed Diesel (HFHSD) conforming to standard IS 16861:2018 appeared to be classifiable under CTH 27101949. Goods found as Light Diesel Oil (LDO) conforming to standard IS 15770:2021 appeared to be classifiable under CTH 27101943. Goods found as Super Kerosene Oil (SKO) conforming to standard IS 1459:2018 appeared to be classifiable under CTH 27101932.

Further, as per ITC(HS), 2022 Schedule 1 Import Policy, Section V, Chapter 27, the goods falling under the description of Kerosene conforming to IS 1459, Light Diesel Oil conforming to IS 15770 and High Flash High Speed Diesel conforming to IS 16861 were restricted for import and were permitted to be imported only through State Trading Enterprises subject to Policy Condition No. 5.

5. Confiscation and Seizure:

5.1 In view of the test results, it appeared that restricted petroleum products had been imported by the SEZ unit by misdeclaring the same, and the same were also cleared into DTA by misdeclaration and without any manufacturing. The test reports from IOCL, Kandla revealed that goods imported vide Bill of Entry No. 2425928 dated 02.06.2025 were SKO; goods cleared into DTA as "Industrial Oil" loaded in tanker were HFHSD; sample from storage tank No. 18 was LDO; and sample from storage tank No. 17 was HFHSD. Import of HFHSD, SKO and LDO was restricted into India and the same could only be imported subject to Condition No. 5 of Chapter 27 of ITC(HS), 2022.

Therefore, a reasonable belief was formed that the goods were liable to confiscation under Section 111 of the Customs Act, 1962, and the same were placed under seizure under Section 110(1) of the Customs Act, 1962 vide seizure memo dated 14.08.2025 read with corrigendum dated 06.10.2025 (RUD No-8).

5.2 Further, two consignments covered under Bills of Entry No. 3244314 and 3244548 dated 14.07.2025 were tested by CRCL, Vadodara and all samples were found to be Light Diesel Oil. Accordingly, a reasonable belief was formed that the said goods were liable to confiscation under Section 111 of the Customs Act, 1962 and the same were placed under seizure under Section 110(1) of the Customs Act, 1962 vide seizure memo dated 25.09.2025 (RUD No-9).

6. Statements:

6.1 Statement of Shri Seenivasan Narayanasamy, Director of M/s. GKN Chemical India Pvt. Ltd., was recorded under Section 108 of the Customs Act, 1962. It was inter alia stated that he was one of the Directors and was responsible for operations of the company; that the company was engaged in manufacturing and trading; that plant machinery including boilers and distillation units had been installed; that manufacturing was claimed to be undertaken through fractional distillation; that Industrial Oil, Naptha and Turpentine Oil were stated to be prepared; that testing was claimed to be conducted in in-house laboratory; that no demarcation for trading goods, raw materials and finished goods was available; that records relating to sampling and testing were not maintained; and that further explanations regarding stock mismatch would be submitted.

6.2 Statement of Shri Karan Pandiyan, Executive, was recorded wherein it was stated that production operations were supervised; raw materials were charged into kettles; distillation process was undertaken; finished goods were collected; no written SOPs were available; quality parameters were not known; plant was largely non-operational for certain periods; and no blending or additional chemical process was performed except moisture reduction.

6.3 Statement of Shri Karthick K, Executive, was recorded wherein similar facts regarding production, absence of SOPs, lack of chemical engineers, limited process of moisture removal and non-operational periods of plant were stated.

7. Non-appearance against Summons:

Summons were issued to various persons including plant head, senior manager, directors and associated firms. However, none of the persons appeared against the summons issued to them.

8. Relevant Legal Provisions:

Relevant provisions of the SEZ Act, 2005, Customs Act, 1962, Foreign Trade Policy, ITC(HS) Policy Conditions, and Customs Valuation Rules were examined and relied upon. The provisions relating to import, misdeclaration, confiscation, penalty and improper importation were considered applicable.

9. Therefore, M/s GKN Chemical India Pvt. Ltd., located at Plot No. 346-347, Sector - IV, PHASE - IV, KASEZ, Gandhidham, Kachchh, Gujarat, 370230, were called upon to Show Cause in writing to the Additional/Joint Commissioner of Customs, Customs House Kandla having office situated at Office of the Commissioner of Customs, Custom House, Near Balaji Temple, Kandla-370210 within 30 (thirty) days from the date of receipt of the notice, as to why-

- i. The declared classification and description of the goods imported vide Bill of Entry No. 2425928 dated 02.06.2025 should not be rejected and reclassified from Hydrocarbon Solvent (CTH-27101990) to Super Kerosene Oil (CTH- 27101932).
- ii. The declared classification and description of the goods imported vide both Bill of Entry No. 3244314 dated 14.07.2025, and Bill of Entry No. 3244548 dated 14.07.2025 should not be rejected and reclassified from Hydrocarbon Solvent (CTH-27101990) to Light Diesel Oil (CTH-27101943).
- iii. The declared classification and description of the goods covered under 'M' Bill of Entry No. 2414257 dated 02.06.2025, should not be rejected and reclassified from Industrial Oil (CTH-27101990) to High Flash High Speed Diesel(HFHSD) under CTH 27101949.
- iv. The declared assessable value in the Bill of Entry No. 2425928 dated 02.06.2025, Bill of Entry No. 3244314 dated 14.07.2025, Bill of Entry No. 3244548 dated 14.07.2025 and 'M' type Bill of Entry No 2414257 dated 02.06.2025, totalling Rs. 4,78,37,775/- should not be rejected and re-determined as Rs. 9,88,60,814/- as per Table-4 above under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962;
- v. The description and classification of the goods stored in Storage Tank No-17 and 18, should not be rejected and the same should not be re-classified as High Flash High Speed Diesel(CTH 27101949) and Light Diesel Oil(CTH-27101943) respectively.
- vi. The goods imported vide Bill of Entry No. 2425928 dated 02.06.2025 containing 176.51 MT of Super Kerosene Oil (SKO), Bill of Entry No. 3244314 dated 14.07.2025 containing 462.90 MT of Light Diesel Oil (LDO) , Bill of Entry No. 3244548 dated 14.07.2025 containing 462.98 MT of Light Diesel Oil (LDO) conforming to IS 15770:2021, goods covered under 'M' type Bill of Entry No. 2414257 dated 02.06.2025, goods stored in Tank No-17 (HFHSD) and Tank No. 18 (190 KL of LDO), all valued at Rs. 10,97,48,048/-, should not be confiscated under Section 111(d) and (m) of the Customs Act, 1962 since the subject goods have been imported in violation of the provisions of Para 2.01 and Para 2.21 of Foreign Trade Policy, 2023 read with Policy Condition No. 5 of Chapter 27 of ITC(HS), 2022, Schedule 1, Import Policy, which restricts the import of SKO (CTH 27101932), LDO (CTH 27101943) and HFHSD (CTH 27101949) to State Trading Enterprises only.
- vii. Penalty should not be imposed upon M/s. GKN Chemical India Pvt. Ltd under Sections 112 (a), 112(b), and 114AA of the Customs Act, 1962

10. Therefore, Shri N Seenivasan, director of M/s G K N Chemicals India Pvt. Ltd. and Shri Narayanasamy Sivamurugeswarapandian, Director, M/s. GKN Chemical India Pvt. Ltd may individually and separately were called upon to Show cause in writing to the Additional/Joint Commissioner of Customs, Customs House Kandla having office situated at

Office of the Commissioner of Customs, Custom House, Near Balaji Temple, Kandla-370210 within 30 (thirty) days from the date of receipt of the notice, as to why Penalty should not be imposed upon each of them separately under Sections 112 (a), 112(b), and 114AA of the Customs Act, 1962, for the reasons discussed above.

11. Therefore, the following further persons/companies/firms/concerns as appearing in Column 2 of the following Table-I, are hereby individually and separately called upon to Show cause in writing to the Additional/Joint Commissioner of Customs, Customs House Kandla having office situated at Office of the Commissioner of Customs, Custom House, Near Balaji Temple, Kandla-370210, within 30 days from the receipt of the show cause notice as to why Penalty should not be imposed on each of them individually under below mentioned penal provisions, respectively under the Customs Act, 1962 (as appearing at Column 3 to 6):

Table-I

S. No.	Name (S/Shri/ M/s)	Penal provisions under Customs Act, 1962			
		(3)	(4)	(5)	(6)
1	M/s Aastha Impex	-	112(b)	-	117
2	M/s Arihant Agro Industries	-	112(b)	-	117
3	M/s Radhe Madhav Trade	-	112(b)	-	117
4	Shri Venkataraman	-	-	-	117
5	Shri Sujith Padayachi	-	-	-	117

They were further required to submit a written reply within the stipulated time and to indicate whether they desire a personal hearing. If no reply is received within the stipulated period, the case shall be decided ex-parte on the basis of evidence available on record.

DEFENCE REPLY

11. Vide the Show Cause Notice dated 03.12.2025, the Noticees were directed to submit their reply within 30 days from the receipt of the Show Cause Notice failing which the matter would be decided Ex-parte and on the basis of documents available with this office.

12. Further, the Noticees i.e. Sr No. 01 to 05 of the SCN dated 03.12.2025 submitted their replies dated 14.02.2026 to impugned SCN. The Noticees i.e. Sr No. 06 to 08 of the SCN dated 03.12.2025 did not submitted any reply to the same. The SCN dated 03.12.2025 was served to all the Noticees via e-mail on 03.12.2025 The Noticees i.e. Sr. No. 01 to 05 of the impugned SCN submitted their replies vide letters dated 14.02.2026, which is summarized as below;

1. The proposals made in the show cause notice for rejection of declared classification and reclassification of the goods imported under Bills of Entry dated 02.06.2025 and 14.07.2025

- were not sustainable and were liable to be dropped. It was contended that the burden to establish misclassification rested upon the department and the same had not been discharged.
2. It was submitted that the test reports relied upon in the notice were incomplete and inconclusive. It was contended that the reports merely indicated conformity with certain parameters and did not establish full compliance with BIS standards prescribed for SKO, LDO or HFHSD. It was further submitted that several essential parameters such as acid number, ash content, carbon residue, CFPP, lubricity, oxidation stability, distillation recovery and burning quality had not been tested. Therefore, classification of the goods as restricted petroleum products was stated to be unsustainable.
 3. It was further submitted that the testing methodology prescribed under BIS standards had not been followed and complete parameter-wise comparison had not been carried out. It was contended that partial conformity with isolated parameters could not form the basis for classification. It was also argued that no expert opinion had been obtained confirming that the goods satisfied IS 1459, IS 15770 or IS 16861 specifications.
 4. It was submitted that the burden of proof had been incorrectly shifted upon the noticee. It was contended that where classification is proposed to be altered, the department must conclusively establish that the goods meet all parameters of the proposed classification, which had not been done in the present case.
 5. It was further submitted that the procedure prescribed for testing and re-testing of samples had not been followed. It was contended that test reports were not supplied promptly, requests for re-testing were ignored, and duplicate samples were not drawn in the presence of the importer. It was argued that denial of re-testing violated CBIC circulars and principles of natural justice.
 6. It was also submitted that reliance placed upon statements recorded during investigation was improper. It was contended that classification disputes must be decided on scientific testing and not on statements. It was further argued that statements recorded without furnishing test reports could not be relied upon.
 7. It was submitted that the valuation proposed in the notice was arbitrary and contrary to the Customs Valuation Rules, 2007. It was contended that identical or similar goods had not been established and sequential application of valuation rules had not been followed. It was further argued that residual method had been invoked without exhausting earlier rules.
 8. It was further submitted that no investigation had been conducted with DTA buyers and therefore allegation of diversion of restricted petroleum products was not established. It was contended that goods cleared into DTA had not been tested at buyers' premises and hence the allegation remained unsubstantiated.
 9. It was submitted that confiscation under Section 111 of the Customs Act was not sustainable as the goods had been declared correctly and the dispute pertained only to classification. It was argued that mere difference of opinion on classification could not result in confiscation.
 10. It was further submitted that penalties proposed under Sections 112 and 114AA were not sustainable as no deliberate misdeclaration or suppression had been established. It was contended that in a classification dispute, penalty could not be imposed.
 11. It was also submitted that penalty under SEZ provisions was not imposable and the proposals in the notice were beyond jurisdiction.
 12. It was further submitted that the show cause notice issued without proper DIN was invalid and liable to be set aside.
 13. It was therefore prayed that the proposals for reclassification, confiscation and imposition of penalty be dropped, the test reports be disregarded as inconclusive, and proceedings initiated in the show cause notice be set aside.

PERSONAL HEARING

13. Whereas, opportunities for personal hearing in the matter was granted to all the Noticees on

various occasions i.e. on 09.03.2026, 13.03.2026 and 18.03.2026 to remain present and produce all such documents which they intend to rely in support of their defence, in the case of Show Cause Notice dated 03.12.2025 issued to them.

14. On 09.03.2026, Shri Ashwanti Kumar Prabhakar, Advocate appeared on behalf of the Notices i.e. Sr. No. 01 to 05 of the SCN dated 03.12.2025 and reiterated their submission dated 14.02.2025 and requested to drop the proceedings initiated against them. Further, the Notice vide e-mail dated

The Notices i.e. Sr. No. 06 to 08 neither appeared in personal hearing on the given dates nor submitted any defence reply to the impugned SCN dated 03.12.2025.

The Noticee i.e. M/s GKN Chemical India Pvt Ltd. vide letters dated 03.03.2026 and 09.04.2026 has requested to expedite the adjudication process and issue the order at the earliest.

Furthermore, the Noticee i.e. M/s GKN Chemical India Pvt Ltd. vide letter dated NIL forwarded through e-mail dated 17.04.2026 requested for early adjudication of the case. Further, they submitted as under;

At the outset, we reiterate that the onus to establish classification as alleged in the Show Cause Notice lies entirely upon the Department. It is a settled position of law that the Revenue must adduce proper and cogent evidence to justify classification under a heading different from that declared by the importer. In this regard, reliance is placed on the judgments of the Hon'ble Supreme Court in Hewlett Packard India Sales Pvt. Ltd. v. Commissioner of Customs (import), Nhava Sheva 12023 (383) ELT 241 (SC1 and Gastrade International v. Commissioner of Customs, Kandla [2025 (392) ELT 529 (SC)], which unequivocally affirm the said principle.

Further, it is a well-established position that CBIC Circulars are binding on the Department, though not on quasi-judicial authorities or taxpayers. Attention is invited to Circular No. 30/2017-Cus dated 18.07.2017 issued vide F. No. 450/15/2017-Cus |V, which lays down detailed guidelines for re-testing of samples.

In the present case, it is a matter of record that test reports have not been communicated to the importer as per Circular. The seizure and proceedings appear to have been initiated on the basis of inconclusive test reports, without testing all relevant parameters, which is in clear disregard of the law laid down by the Hon'ble Supreme Court in Gastrade International V. CC, Kandla (supra). The formation of "reason to believe" on such incomplete and uncommunicated test results is legally unsustainable.

Without prejudice to the above, reliance is also placed on the judgment of the Hon'ble

*Supreme Court in **Sankar Pandi vs. Union of India [2002 (141) ELT 635 (Sc)]**, wherein it was held that, at best penalty may be imposed and the goods may be permitted for re-export. In this regard, we respectfully submit that we have no objection in re-export of the goods, as continued illegal detention cum seizure serves no revenue purpose and only results in undue hardship.*

We would like to further rely on following judgements/ order on imposition of fine/Penalties 1.Commissioner of Customs (import) v Stoneman Marble Industries: This precedent established that redemption fines and penalties must be determined based on the specifics of each case, rejecting the notion of a fixed penalty structure.

2.Commissioner of Customs, Mumbai v. Mansi Impex (2011): The Supreme Court emphasized that redemption fines and penalties must be determined based on the specific facts and circumstances of each case, rather than applying a standard formula.

In view of the above, we once again request your good office to kindly:

Consider immediate adjudication and issue order as per Customs Act, 1962 keeping in mind the settled law on the subject matter and jurisdictional issues raised in earlier letter.

Since the matter pertains of illegal seizure of LIVE SHIPMENTS for which no warehousing, no retesting requests were considered and huge detention and demurrage has already been incurred, immediate action may be taken by competent authority. We request that this matter be treated as most urgent, considering the ongoing prejudice caused due to the inordinate delay.

DISCUSSION AND FINDINGS

15. I have carefully perused the contents of the Show Cause Notice No. SCN No. GEN/ADJ/COMMR/715/2025-Adjn-0/o Commr.-Cus-Kandla dated 03.12.2025 along with the Relied upon Documents, the documents/evidences available on record and submission dated 14.02.2025

16. I find that the Noticees i.e. Sr. No. 06 to 08 have failed to submit any written reply to the above referred show cause notice dated 03.12.2025, though it was specifically mentioned in the said show cause notice itself to submit such reply within 30 days of receipt of the same. It was also specifically mentioned in the Show cause notice dated 03.12.2025 that if no reply to the notice was received from them within 30 days of receipt of the notice or if they failed to appear for the personal hearing on the date and time intimated to them, the case would be decided on the basis of available evidences and merits, without any further reference to them.

17. I further find that despite providing sufficient time for submission of documentary evidences and ample opportunities of personal hearing being provided to the noticees i.e. Sr. No. 06 to 08 as discussed in the foregoing paragraphs, neither any written submission/defense reply has been filed by them nor have they appeared on the dates on which personal hearing was scheduled by the undersigned in plain observance of the Principles of Natural Justice. I also hold that adjudication proceedings, being a time sensitive process can't be kept pending for long, especially when there is blatant lack of cooperation on part of the notices Sr. No. 06 to 08 of the impugned SCN dated 03.12.2025. Hence, under the circumstances and in light of the above facts, I am left with no option but to decide the Show Cause Notice on the basis of records/ documentary evidences available on file.

18. Therefore, in view of the discussions made in the foregoing paragraphs and peculiar circumstances of the case, I rely on various decisions of Hon'ble Supreme Court, High Courts and Tribunals wherein the ex parte decisions of the adjudicating authority have been upheld, which are as under:-

(a) **Hon'ble Apex Court in Jethmal Vs. U.O.I. 1999 (110) E.L.T. 379 (S.C.).**

"Our attention was also drawn to a recent decision of this court in A.K. Kripak Vs. Union of India -1969(2) SSC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well-known principle of "audi alteram partem" and it was argued that an ex parte hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality."

(b) **United Oil Mills Vs. C.C.E6 C.E., Cochin -2000 (124) E.L.T (Ker.)**

"Natural Justice- Petitioner given full opportunity before Collector to produce all evidence on which he intends to rely but petitioner not prayed for any opportunity to adduce further evidence — principles of natural justice not violated."

(c) **Kumar Jagdish Ch. Sinha Vs. CCE, Calcutta-2000 (124) E.L.T. 118 (Cal.)**

(d) **Saketh India Ltd. Vs. U.O.I.-2002 (143) E.L.T 274 (Del.)**

(e) **Devi Dayal Vs. U.O.I.-2002 (144) E.L.T. 502 (Del.) maintained in 2003 (151) E.L.T. A288 (S.C)**

(f) **Gopinath Chem. Tech Ltd Vs. C.C.E., Ahmedabad-II-2004(171) E.L.T.412 (Trib. Mumbai)**

(g)F N Roy Vs. C.C., Calcutta-1983 (13) E.L.T. 1296 (S.C.).

19. The issues to be decided before me are:-

- i. Whether the goods declared as "Hydrocarbon Solvent" and "Industrial Oil" were mis-declared to circumvent the restricted import policy for petroleum products;
- ii. Whether the Noticee violated the terms of the Letter of Approval (LOA) by failing to perform "actual manufacturing.";
- iii. Whether the Noticee has indulged in misdeclaration and misclassification;
- iv. Whether any manufacturing activity has been undertaken;
- v. Whether the imports violate the provisions of the Foreign Trade Policy and
- vi. Whether the goods are liable for confiscation and the Noticees are liable for penalty.

20.1 Findings in respect of Issue: Whether the goods declared as "Hydrocarbon Solvent" and "Industrial Oil" were mis-declared to circumvent the restricted import policy for petroleum products;

20.2 In this connection, I find that the 16 samples (05 samples which were drawn vide Panchnama dated 04/05.06.2025 and 11 samples which were drawn vide Panchnama dated 08.06.2025 in relation to 11 containers covered under Bill of Entry No. 2425928 dated 02.06.2025) were sent for testing to the Laboratory of IOCL Kandla, which subsequently submitted their reports dated 08.08.2025. I find that the Test Report received from the IOCL, Kandla revealed that the goods imported vide Bill of Entry No-2425928 dated 02.06.2025 meets the requirements of SKO (Superior Kerosene Oil). Further, the report w.r.t the goods cleared into DTA as manufactured goods declared as "Industrial Oil" loaded in the Tanker GJ 12 TA 1434 revealed to be HFHSD (High Flash High Speed Diesel), the report w.r.t One sample drawn from Storage Tank no-18 revealed to be Light Diesel Oil (LDO), the report w.r.t One sample drawn from Storage Tank no-17 revealed to be HFHSD (High Flash High Speed Diesel). One Sample drawn from the Storage Tank No-19 wherein description informed as "Naptha" was found to be as declared. Thus, I find that the findings of the aforementioned Test Reports as under:

Table No-1

Sl. No.	Tanker/Tank/Bill of Entry No.	Quantity	Declared Description	Sample Test Result	IS Standards
01.	Tanker GJ 12 TA 1434 (M Type BE No. 2414257/02.06.2025)	35.15 MT	Industrial Oil	High Flash High Speed Diesel (HFHSD)	IS 16861:2018
02.	Tank No. 17	6 KL	Industrial Oil	High Flash High Speed Diesel (HFHSD)	IS 16861:2018
03.	Tank No. 18	190 KL	Hydrocarbon Solvent	Light Diesel Oil (LDO)	IS 15770:2021
04.	11 Containers covered under Bill of Entry No. 2425928 dated 02.06.2025	176.51 MT	Hydrocarbon Solvent	Super Kerosene Oil (SKO)	IS 1459:2018

20.3 I further find that the Noticee had imported 02 more consignments covered under Bills of Entry No. 3244314 and 3244548 (25 Containers each), both dated 14.07.2025 and declared to contain "Hydrocarbon Solvent" under CTH 27101990. The 02 consignments having total 50 containers (25 each) were put on hold and representative samples were drawn from the same under panchnamas dated 17.07.2025 and 29.07.2025. The samples drawn were sent for testing to CRCL, Vadodara. I find that the test results of the all samples revealed as under;

Table No-2

Sl. No.	Bill of Entry No.	Quantity (in MTs)	Declared Description	Sample Test Result	IS Standards
01.	3244314 dated 14.07.2025	462.90	Hydrocarbon Solvent	Light Diesel Oil	IS 15770:2021
02.	3244548 dated 14.07.2025	462.98	Hydrocarbon Solvent	Light Diesel Oil	IS 15770:2021

20.4 I find that the parameters of the aforementioned Test Reports highlighted in Table - 1 and Table No-2 above revealed that the goods imported, stored in Tanks and laden in the Truck meets the requirements High Flash High Speed Diesel (HFHSD) conforming to standard IS 16861:2018, Light Diesel Oil (LDO) conforming to standard IS 15770:2021 and Super Kerosene Oil (SKO) conforming to standard IS 1459:2018.

20.5 Furthermore, on analysis of the parameters detailed in the Test Reports visa- vis the parameters stipulated in the BIS standards of IS 16861:2018, IS 15770:2021 and IS 1459:2018, I find that the goods being imported/stored in Tanks/Laded in the Truck found to be mis-declared and following conclusion derived from the analysis.

Table-3

Sr No	Tanker/Tank/Bill of Entry No.	Quantity	Product description as per analysis of Test Report
1	Tanker GJ 12 TA 1434 (M Type BE No. 2414257/02.06.2025)	35.15 MT	High Flash High Speed Diesel (HFHSD) conforming to Standards IS 16861
2	Tank No. 17	6 KL	High Flash High Speed Diesel (HFHSD) conforming to Standards IS 16861
3	Tank No. 18	190 KL	Light Diesel Oil(LDO) conforming to Standards IS 15770
4	11 Containers covered under Bill of Entry No. 2425928 dated 02.06.2025	176.51 MT	Super Kerosene Oil (SKO) conforming to Standards IS 1459
5	3244314 dated 14.07.2025	462.90 MT	Light Diesel Oil (LDO) conforming to Standards IS 15770
6	3244548 dated 14.07.2025	462.98	Light Diesel Oil (LDO) conforming to Standards IS

		MT	15770
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20.6 Thus, I find that the goods found as High Flash High Speed Diesel (HFHSD) conforming to standard IS 16861:2018 are classifiable under CTH 27101949, goods found as Light Diesel Oil (LDO) conforming to standard IS 15770:2021 is classifiable under CTH 27101943 and goods found as Super Kerosene Oil (SKO) conforming to standard IS 1459:2018 classifiable under CTH 27101932.

20.7 I, further find that 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 "Kerosene intermediate and oils obtained from kerosene intermediate: Kerosene conforming to standard IS 1459", "Gas oil and oils obtained from gas oil: Light Diesel Oil (LDO) conforming to Standards IS 15770 and High Flash High Speed Diesel fuel conforming to standard 16861" 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".

20.8 I find that the Test results clearly revealed that the goods declared as "Hydrocarbon Solvent" and "Industrial Oil" were mis-declared and the same were found to be as High Flash High Speed Diesel (HFHSD) Standards IS 16861, Light Diesel Oil (LDO) Standards IS 15770 and Super Kerosene Oil (SKO) Standards IS 1459. Thus, I find that this contention is not tenable. The Department has relied upon multiple test reports issued by IOCL Kandla and CRCL Vadodara, which consistently identify the goods as Superior Kerosene Oil (SKO), Light Diesel Oil (LDO) and High Flash High Speed Diesel (HFHSD). These findings are corroborated across different consignments, storage tanks and the intercepted tanker, thereby establishing the true nature of the goods beyond doubt. Therefore, the burden of proof has been adequately discharged by way of providing Test Results to the Noticees and the plea is rejected.

21. Findings in respect of Issue: Incomplete Testing and BIS Parameters

21.1 The Noticees have submitted that the test reports are incomplete as several parameters such as acid number, ash content, carbon residue, CFPP, lubricity, oxidation stability, distillation recovery and burning quality were not tested. I find that this contention is not sustainable. It is not a legal requirement that all BIS parameters must be tested in every case, particularly when the essential characteristics of the product are clearly established. The test reports have examined key identifying parameters sufficient to determine the nature of the goods. Moreover, the results are consistent across multiple samples, which reinforces their reliability.

I find that the investigation determined that goods declared as "Industrial Oil" and "Hydrocarbon Solvent" (CTH 27101990) were actually restricted petroleum products. The test reports from IOCL Kandla and CRCL Vadodara confirmed the following as discussed in above Para:

Item Source	Declared Product	Actual Product (Per Test)	IS Standard	Revised CTH
Tanker GJ 12 TA 1434 / Tank 17	Industrial Oil	HFHSD	IS 16861:2018	27101949
Tank 18 / BE 3244314 & 3244548	Hydrocarbon Solvent	LDO	IS 15770:2021	27101943
BE 2425928 (11 Containers)	Hydrocarbon Solvent	SKO	IS 1459:2018	27101932

The investigative process has successfully established the precise nature of the subject goods through comprehensive laboratory analysis by utilizing the specialized facilities of the IOCL Kandla Laboratory and CRCL Vadodara. The test results provided a clear and consistent profile of the products across various storage environments, including containers, stationary storage tanks, and transit tankers. The analysis confirms that the goods align perfectly with established Indian Standards (IS) as under;

- HFHSD (High Flash High Speed Diesel): Confirmed as per IS 16861:2018, correctly classifiable under CTH 27101949.
- LDO (Light Diesel Oil): Confirmed as per IS 15770:2021, correctly classifiable under CTH 27101943.
- SKO (Superior Kerosene Oil): Confirmed as per IS 1459:2018, correctly classifiable under CTH 27101932.

Thus, I find that the notices plea that the test reports are incomplete and inconclusive is rejected.

22. Findings in respect of Issue: Testing Methodology and Expert Opinion

I find that the test reports issued by IOCL and CRCL, being a Government laboratory, carry a high degree of credibility and are relied upon in Customs matters for determination of classification and nature of goods. I observed that the importer has neither disputed the findings of the IOCL and CRCL nor sought re-test of the sample. It is a settled position of law that the test report of the Central Revenue Control Laboratory, being an authorized Government laboratory, carries significant evidentiary value and prevails over trade description or private test certificates. In the case of M.M. Trading Company vs. Commissioner of Customs, Mundra (Final Order No. A/11695/2023 dated 14.08.2023), the Hon'ble CESTAT, Ahmedabad has categorically held that when the importer does

not seek re-test of the sample or challenge the laboratory findings at the appropriate stage, the test report attains finality and cannot subsequently be assailed. The Tribunal further observed that an error not resisted is deemed to have been accepted and that acquiescence to the laboratory findings precludes later challenge. On the basis of the conclusions of the test reports in respect of all the consignments under investigation, he agreed that the respective consignments contained High Flash High Speed Diesel fuel (HFHSD), Kerosene and Light Diesel Oil, as reported in the said Test Reports.

In view of the above, there is no material on record to discredit the said reports or to suggest that the sampling or testing procedure was defective. Therefore, I have no reason to doubt the correctness of the IOCL/CRCL findings and I accept the same as conclusive evidence regarding the nature of the goods.

I further find that the contention of the noticee regarding incomplete testing of parameters under the relevant IS standards is not sustainable. It is not necessary that each and every parameter under IS standards must be tested when the essential characteristics of the product are established through key parameters and further corroborated by advanced testing methods. In the present case, not only were the samples tested initially by CRCL, but confirmatory testing was also carried out, and both tests yielded consistent results. The noticee has also failed to produce any independent test report to contradict the findings of the CRCL. In such circumstances, the reliance placed by the noticee on judicial pronouncements relating to incomplete testing is misplaced.

The Noticees have contended that the prescribed BIS testing methodology was not followed and that no expert opinion was obtained confirming compliance with IS standards. I find that the testing has been carried out by recognized laboratories such as IOCL, Kandla and CRCL, vadodara, which are competent authorities for such analysis. The reports clearly indicate conformity with relevant standards. The argument that absence of a separate "expert opinion" vitiates the test results is not tenable. Laboratory reports themselves constitute expert evidence. Therefore, this plea is rejected.

23. Findings in respect of Issue: Burden of Proof

The Noticees have further argued that the burden has been incorrectly shifted upon them and that the Department must prove classification by satisfying all parameters. I find that once the Department produces credible and consistent scientific evidence, the burden shifts to the noticees to rebut the same. In the present case, the noticees have failed to produce any evidence to counter the findings. Therefore, the plea regarding burden of proof is rejected.

24. Findings in respect of Issue: Testing Procedure and Re-testing

The Noticees have contended that proper procedures for testing and re-testing were not followed and that denial of re-testing violates principles of natural justice. I find that the samples were drawn under panchnama in the presence of the Noticees' representatives and tested by recognized laboratories. The Noticees' have not demonstrated any prejudice caused due to alleged procedural lapses. Once

the Department provides "credible and consistent scientific evidence" (such as lab reports or technical specifications), a *prima facie* case is established. At this point, the onus of proof shifts to the Noticees, since they were provided the Test results of the same. To successfully challenge the Department's stance, the Noticees must provide their own evidence—such as independent expert testimony, alternative test results, or trade parlance evidence—rather than relying on mere denials. Because the Noticees in this instance failed to provide any such rebuttal, the Department's evidence stands uncontested. It is a settled legal position that procedural irregularities do not vitiate proceedings unless prejudice is established. Further, no independent test report has been produced by the Noticees. Therefore, this plea is rejected.

25. Findings in respect of Issue: Reliance on Statements

The Noticees have contended that statements recorded during investigation cannot be relied upon. I find that the case of the Department is primarily based on scientific evidence in the form of test reports. The statements recorded under Section 108 only corroborate the factual findings regarding operations and handling of goods. Therefore, reliance on such statements is valid and the plea is rejected.

26. Findings in respect of Issue: Valuation

I now proceed to examine the issue relating to the correct valuation of the impugned goods. The determination of assessable value is governed by the provisions of Section 14 of the Customs Act, 1962, read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. As per Section 14, the value of imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to India, subject to the conditions specified in Rule 3 of the Valuation Rules.

The Noticees have submitted that the proposed valuation is arbitrary and contrary to the Customs Valuation Rules, 2007. I find that the declared value loses credibility once the goods are found to be mis-declared in terms of description. The re-determination of value has been proposed in accordance with applicable rules and based on available data.

I find that the M/s G K N Chemical India Pvt. Ltd. Mis-declared the goods in terms of description and classification and hence the declared value in the corresponding Bill of Entry is not acceptable 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 consignments were not available in absence of clear descriptions and mis-declaration on the part of the importer, the value of the subject import consignments could not be determined as per the provisions of Rule 4 to Rule 8 to the Customs Valuation (Determination of

value of Imported goods) Rules, 2007. Furthermore, the goods could not be fully compared with similar/identical imports as the same are restricted goods, therefore, their value appeared 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- HFHSD and LDO, Market rates of the goods in the period June-2025 were taken, such as invoices generated by IOCL, HFHSD-Rs 88,516/Ton and LDO-Rs 54,970/KL. For the SKO, price of non-PDS Kerosene as on 01.08.2025 from the website of IOCL, as Rs. 87,500.25/KL, was referred. Thus, I find that as per the said prices, value of the goods for which reports had been received from IOCL, Kandla and CRCL Vadodara, has been arrived at properly, which is as under.

Table-4

Sl. No.	Tanker/Tank/Bill of Entry No.	Sample Test Result	Declared Description	Quantity (in MT)	Declared value as per BoE	Approx. Market Value (in Rs.)
01.	M Type BE No. 2414257)	High Flash High Speed Diesel (HFHSD)	Industrial Oil	200	70,00,000	1,77,03,200
02.	Tank No. 17	High Flash High Speed Diesel (HFHSD)	Industrial Oil	5.004	-	4,42,934
03.	Tank No. 18	Light Diesel Oil (LDO)	Hydrocarbon Solvent	162.11	-	1,04,44,300
04.	11 Containers Bill of Entry No. 2425928 dated 02.06.2025	Super Kerosene Oil (SKO)	Hydrocarbon Solvent	176.51	69,40,110	1,98,96,682
05.	Bill of Entry No. 3244314 dated 14.07.2025	Light Diesel Oil (LDO)	Hydrocarbon Solvent	462.90 (557.173 KL)	1,69,47,368	3,06,27,800
06.	Bill of Entry No. 3244548 dated 14.07.2025	Light Diesel Oil (LDO)	Hydrocarbon Solvent	462.98 (557.270 KL)	1,69,50,297	3,06,33,132
Total						10,97,48,048

Further, I find that the Noticees have not provided any evidence to support the correctness of the declared value. Accordingly, this plea is rejected.

27. Findings in respect of Issue: Diversion into DTA

The Noticees have contended that no investigation has been conducted at the buyers' end and hence

diversion is not established. I find that the goods cleared into DTA have been tested and found to be restricted petroleum products. Therefore, the nature of goods at the point of clearance itself stands established. Investigation at buyers' premises is not necessary when the identity of goods is scientifically proven. Accordingly, this plea is rejected.

28. Findings in respect of Issue: Confiscation

The Noticees have argued that this is merely a classification dispute and confiscation is not warranted. I find that the present case involves deliberate misdeclaration of restricted goods to circumvent import restrictions. The goods are restricted under FTP and their import is permitted only through State Trading Enterprises. By mis-declaring the goods, the Noticees have violated these provisions. In terms of the FTDR Act, such goods are deemed to be prohibited under the Customs Act. Therefore, confiscation under Sections 111(d) and 111(m) is fully justified. The plea is rejected.

29. Findings in respect of Issue: Penalty

The Noticees have contended that penalty is not imposable as this is a classification dispute. I find that the facts of the case establish deliberate misdeclaration, repeated pattern of imports, and intent to evade restrictions. Therefore, this is not a mere interpretational issue but a case of conscious wrongdoing. Accordingly, penalty is clearly attracted and the plea is rejected.

30. Findings in respect of Issue: Penalty under SEZ Provisions

The Noticees have submitted that penalty under SEZ provisions is not applicable. I find that the present proceedings are under the Customs Act and penalties have been proposed under Sections 112 and 114AA. The misuse of SEZ provisions does not exempt the Noticees from liability under the Customs Act. Accordingly, this plea is rejected.

31. Findings in respect of Issue: Validity of SCN (DIN)

The Noticees have contended that the SCN is invalid due to absence of proper DIN. I find that the SCN has been issued in accordance with prescribed procedures and bears valid identification. Moreover, the Noticees have participated in proceedings and filed detailed submissions, thereby demonstrating that no prejudice has been caused. Therefore, this plea is rejected.

32. Findings in respect of Issue- Manufacturing Activity

The Noticees have claimed that the imported goods were subjected to fractional distillation and converted into "Industrial Oil", and therefore the goods cleared into the Domestic Tariff Area were manufactured goods. However, on examination of the records and statements, I find that there is no evidence of any meaningful manufacturing activity having been undertaken. There are no documented standard operating procedures, no segregation of raw materials and finished goods, and

the production staff themselves were not aware of the technical specifications of the products. Further, the goods cleared into DTA were found, upon testing, to be identical to the imported goods. The alleged process appears to involve only heating and minor handling without bringing into existence a new product having a distinct name, character or use. Therefore, I hold that no substantive manufacturing has taken place and the activity of the Noticees' are essentially trading and diversion of imported petroleum products. The plea of manufacturing is thus rejected.

33. Findings in respect of Issue- Misdeclaration and Intent

I further find that the Noticees have declared the goods as "Hydrocarbon Solvent" at the time of import and as "Industrial Oil" at the time of DTA clearance, whereas the goods have consistently been found to be restricted petroleum products. The Noticees have contended that such classification was bona fide. However, this contention is not acceptable as the pattern of misdeclaration is repeated across multiple consignments, and the goods have consistently been identified as SKO, LDO and HFHSD. The absence of proper records supporting the declared classification and the direct clearance into DTA without any transformation further indicate that the misdeclaration was deliberate and not due to any bona fide belief. Accordingly, I hold that the Noticees have deliberately mis-declared and misclassified the goods with intent to circumvent import restrictions.

34. Findings in respect of Issue-Violation of Foreign Trade Policy

With regard to the provisions of the Foreign Trade Policy, I find that the goods in question, namely SKO, LDO and HFHSD, are restricted for import and can be imported only through State Trading Enterprises in terms of ITC(HS) 2022 read with Para 2.01 and Para 2.21 of FTP 2023. The Noticees have contended that it holds licenses under the Petroleum Act, 1934 and Petroleum Rules, 2002 and is therefore authorized to deal with such goods. However, I find that such licenses pertain only to storage, handling and transport of petroleum products and do not confer any authorization to import restricted goods in violation of the Foreign Trade Policy. The Noticees have not produced any authorization from DGFT permitting such imports. Therefore, the import of the said goods is in clear violation of the Foreign Trade Policy and, by virtue of Section 3 of the FTDR Act, 1992, such goods are deemed to be prohibited under Section 11 of the Customs Act, 1962.

35. With regard to penalty under Section 112(a) of the Customs Act, 1962, I find that the language of Section 112(a) of Customs Act, 1962 is very much clear that penalty is imposable on any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act. Thus, once the goods are liable to confiscation, imposition of penalty under Section 112(a) becomes justified merely for doing an act or omitting to do act which renders the goods liable for confiscation. It is settled position of law that for imposing penalty under Section 112 (a) of the Customs Act, 1962, it is sufficient to prove that a default in complying with the statute has occurred rendering the impugned

goods liable to confiscation under Section 111 of the Customs Act, 1962 and consequently, rendered itself liable to penalty under Section 112(a) of the Customs Act, 1962.

I further observe that the importer had declared the goods viz. "Hydrocarbon Solvent" and "Industrial Oil" were mis-declared and the same were found to be as High Flash High Speed Diesel (HFHSD) Standards IS 16861, Light Diesel Oil(LDO)Standards IS 15770 and Super Kerosene Oil (SKO) Standards IS 1459 and thus intentionally made false or incorrect declaration to circumvent Import Policy restriction. Therefore, it is evident that they attract penal action under Section 114AA of the Customs Act, 1962, which reads as under:

“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.”.

36. Findings in respect of Issue: Prayer for Dropping Proceedings

The Noticees have prayed for dropping of proceedings on the ground that the allegations are not established. In view of the findings recorded above, I hold that the Department has successfully established that the goods are restricted petroleum products, that misdeclaration has taken place, and that import is in violation of FTP provisions. Therefore, the prayer for dropping proceedings is devoid of merit and is rejected.

37. CLASSIFICATION OF THE GOODS;

In the present case, the goods were declared under CTI 27101990 as "Industrial Oil" and 'Hydrocarbon Solvent'. Heading 2710 covers "Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals." Within Heading 2710, specific tariff items exist for Motor Spirit, Aviation Turbine Fuel, High Speed Diesel and other defined petroleum products, followed by a residual entry "Other." Thus, on the basis of consistent laboratory findings, I hold that the goods under import are in fact High Flash High Speed Diesel (HFHSD) conforming to standard IS 16861:2018, Light Diesel Oil (LDO) conforming to standard IS 15770:2021 and Super Kerosene Oil (SKO)conforming to standard IS 1459:2018.

I find that products such as High Flash High Speed Diesel (HFHSD), Light Diesel Oil and Super Kerosene Oil Kerosene are specifically recognized petroleum products with well-defined technical specifications. These products are commercially and technically distinct from generic "solvents". Solvents, on the other hand, are typically characterized by their use as diluents or carriers in industrial

applications and have different compositional profiles.

37.1 Applying Rule 1 of the General Rules for Interpretation, I hold that classification must be determined according to the terms of the headings and relevant Section and Chapter Notes. In view of the conclusive identification of the goods as High Flash High Speed Diesel (HFHSD), Light Diesel Oil and Super Kerosene Oil, I find that the goods are more specifically covered under the appropriate tariff entries relating to such petroleum products within Heading 2710, rather than under a residual or generic category of "other" petroleum preparations. I also find that the principle of specific over general is applicable in the present case. Where a product is specifically identifiable as High Flash High Speed Diesel (HFHSD), Light Diesel Oil and Super Kerosene Oil Kerosene, it cannot be classified under a broader or vague category as "solvent". Therefore, the declared classification under a generic description is not sustainable in law. In the present case, I further observe that classification cannot be influenced by the intended use, especially when the nature of the goods is clearly established. Intended use does not alter the fundamental character of the goods as diesel or kerosene at the time of importation. Accordingly, I hold that the impugned goods have been wrongly declared and mis-classified as "Industrial Oil" and "Hydrocarbon Solvent", whereas in fact they are classifiable as High Flash High Speed Diesel (HFHSD), Light Diesel Oil and Super Kerosene Oil.

38. I find that the Importer had declared description of the goods as "Industrial Oil" and "Hydrocarbon Solvent" under Customs Tariff Item 27101990. I find that the importer at the time of filing of bills of entry has declared the description of the goods as "Industrial Oil" and "Hydrocarbon Solvent", however, upon testing other items namely "HFHSD", "SKO" & "LDO", were found. Thus there is no ambiguity on the point that the goods were mis-declared by the importer w.r.t. description, classification, valuation.

39. I find that the Importer has violated the Policy condition (2) of the ITC (HS) for Exports and Imports 2015-2020 for chapter 27 which mandates that "Import of Automotive Diesel Fuel 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." The Importer has also violated the Policy condition (5) of the ITC (HS) for Exports and Imports 2015-2020 for chapter 27 which mandates that "Import allowed through IOC subject to Para 2.20 of the Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NG's Resolution No. P-23015/1/2001-MKT, dtd.8.3.2002 including HPCL, BPCL and IBP, who have been marketing transportation fuels before this date."

40. I find that Para 2.01 of Foreign Trade Policy provides that exports and imports shall be free except when regulated by way of prohibition, restriction, or exclusive trading through State Trading Enterprises has laid down in Indian Trade Classification (harmonized system) of exports and imports.

Para 2.01 empowers the DGFT to impose restrictions on export and import through a notification for the purposes mentioned in the said para. I noticed that in present case, despite knowing the fact that they are not a STE nor having license/rights for marketing of transportation fuels, the Noticee/s had imported canalised items. Thus, they had violated the provisions of Para 2.01 of Foreign Trade Policy.

41. From the above discussion it is clear that import of HFHSD, Super Kerosene Oil (SKO) and Light Diesel Oil (LDO) is allowed to certain entities i.e. State Trading Enterprises. The importer doesn't qualify as State Trading Enterprise and since the mandatory licence and provisions are not available with the importer as per the above given condition under policy condition 5 of chapter 27. Therefore, the subject mis-declared goods are liable for confiscation under section 111(d) of the Customs Act 1962. I find that upon testing, the goods were found different from the declared freely importable goods and also the goods were found mis-classified. Thus, it is also evident that the goods are liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962.

42. I noticed that the Noticees in their defence submissions claimed there the element of mens rea absent in the present case. The investigation reveals that the import transactions were fully controlled by M/s G.K.N. Chemical India Pvt. Ltd. M/s. GKN placed orders with foreign suppliers, made payment to suppliers, handled documentation and coordinated/controlled clearance of the subject. The test results of the goods were found different from the declared freely importable goods and thus the goods were found mis-classified. These acts clearly establish knowledge, intent, and active involvement in the scheme of mis-declaration by M/s. GKN alongwith their associates.

43. I find that this is not a case of interpretational classification but also involve mis-declaration of the goods by using false and incorrect documents. I further find that the subject goods are restricted under the import policy. The Noticees by misdeclaring them as Hydrocarbon solvents and Industrial Oil, attempted to circumvent the import policy. Therefore, the present case involves deliberate misdeclaration and suppression of the facts. Thus, the present case is not a bona fide classification dispute. Accordingly, I hold that the goods are rightly liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962, and the contention of the noticees are not correct.

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

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

goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 1[or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit.”

45. 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 owner of confiscated goods to redeem the goods by paying redemption fine. The Noticee M/s GKN during the adjudication proceedings has requested permission for re-export of the goods and adjudication of the case. The Noticees also did not disputed the CRCL test reports at the time of investigation period or during the recording of their statements. Section 125 of the Customs Act, 1962 empowers the adjudicating authority, in cases where goods are liable to confiscation, to grant an option to redeem the goods on payment of fine in lieu of confiscation. In the present case, the goods have remained under customs control and have not been cleared for home consumption. The importer, upon being informed of the test results, has sought re-export and has not pressed for clearance into the domestic market. I observe that confiscation must follow as a consequence of statutory violation. The principles of proportionality and fairness in adjudication require that while enforcement of law is ensured, the punishment should be proportionate to the nature of violation.

46. I find that import of certain petroleum products, including diesel and related products, is canalized through State Trading Enterprises and requires authorization, which the importer admittedly does not possess. Thus, the issue that arises is not one of absolute prohibition of the goods per se, but of non-fulfilment of the statutory and policy conditions governing their import. In the present case, the importer has failed to obtain the requisite authorization and has thus not satisfied the mandatory pre-conditions for import and clearance of the goods for home consumption. Therefore, the infirmity lies in the importer's failure to comply with the prescribed statutory conditions. In the absence of fulfilment of these essential conditions, the goods cannot be permitted to be cleared into the domestic market.

47. I further observe that ordering confiscation in the present case and not allowance for re-export would not serve any meaningful revenue purpose. Such a course would only result in unnecessary litigation and prolonged detention of goods at the port/storage 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 authorization.

48. 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.

I am of the view that the importer is not authorized to import the impugned goods and the same is required to be re-exported by them.

With regard to imposition of redemption fine and penalty, I find that the following judgments will apply squarely in the instant case:

SANKAR PANDI Versus UNION OF INDIA [2002 (141) E.L.T. 635 (Mad.)]

*“3. It appears that the question relating to re-export is covered by the decision of the Supreme Court rendered in the case of Siemens Limited v. Collector of Customs reported in S.C. [1999 \(113\) E.L.T. 776](#). Keeping in view the abovesaid decision there cannot be any doubt that the petitioner is entitled to re-export the articles in question and for the abovesaid purpose, **it is not necessary for him to pay redemption fine as imposed by the authorities.***

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6. In the facts and circumstances of the case, I feel the imposition of penalty of Rs. 33,000/-, keeping in view the relevant value of the articles concerned, appears to be grossly high and interest of justice would be met by reducing the penalty to Rs. 15,000/- and such amount should be paid by the petitioner within a period of two weeks from the date of receipt of this order. Only after the amount is paid, the petitioner would be permitted to re-export the items concerned.”.

49. Role and penalty on Shri Narayanasamy Seenivasan, Director of M/s. GKN Chemical India Pvt. Ltd., (SEZ Unit):

I find that Shri Seenivasan Narayanasamy in his statement recorded under Section 108 of the Customs Act, 1962 on 05.06.2025 agreed that he is responsible for all the operations of the company and after having fully aware of the nature of goods being imported and deliberately orchestrated the misdeclaration and misclassification of restricted petroleum products to circumvent import restrictions. In his statement dated 05.06.2025, he claimed that through fractional distillation process the finished products as Industrial Oil, Naptha and Turpentine Oil are prepared by blending different raw materials; that there are 04 chemical engineers employed; and that he has all permissions/licenses under Petroleum Act, 1934 or Petroleum Rules 2002. However, these claims were categorically contradicted by Production Executives Shri Karan Pandiyan and Shri Karthick K, both of whom denied the existence of any Chemical Engineers at the plant and stated that apart from moisture reduction (8-20% loss), no additional chemical

process or blending is performed; that there are no Standard Operating Procedures (SOPs); and that the plant has been non-operational since 25th May 2025. On being asked about the stock mismatch of 200 MT of Industrial oil and 562 MT raw materials, Shri Seenivasan stated that he would submit documents within 02 days, however, no such documents were ever submitted. On being asked about the difference between aromatic solvent and hydrocarbon solvent, he stated that if a product does not fall under the IS/BIS standards, then importer has no other option than to classify it in "others" category under CTH 27101990, demonstrating his awareness of the classification system and his deliberate misuse of the "Others" category to import restricted petroleum products that actually conform to specific BIS standards and are correctly classifiable under CTHs where import restrictions apply.

I further find that Shri N. Seenivasan deliberately failed to cooperate with the investigation and evaded multiple summons issued by the DRI. This deliberate non-cooperation and evasion of summons demonstrates his consciousness of guilt and intent to obstruct the investigation. And whereas by attempting to import restricted goods classified as motor fuels under CTH 27101949 (HFHSD), CTH 27101943 (LDO) and CTH 27101932 (SKO) by misdeclaring them as "Hydrocarbon Solvent" under CTH 27101990, and clearing them into DTA without any genuine manufacturing process, Shri N. Seenivasan appeared to have indulged in the act of smuggling as defined under Section 2(39) of the Customs Act, 1962. Thus, I find that Shri N. Seenivasan, M/s. GKN Chemical India Pvt. Ltd appears rendered himself liable for penal action under Sections 112(a)/112 (b) and 114AA of the Customs Act, 1962, for his deliberate and conscious involvement in the illegal importation of restricted petroleum products through fraudulent misdeclaration and misclassification of the goods.

50. Role and penalty on Shri Narayanasamy Sivamurugeswarapandian, Director of M/s. GKN Chemical India Pvt. Ltd

I find that Shri Narayanasamy Sivamurugeswarapandian is one of the two Directors of M/s. GKN Chemical India Pvt. Ltd., along with his younger brother Shri N. Seenivasan. And whereas being a director of the company, Shri Narayanasamy Sivamurugeswarapandian was responsible for the overall management, supervision and operations of M/s. GKN Chemical India Pvt. Ltd., and appeared to have been fully aware of the illicit activities being undertaken by the SEZ unit involving import of restricted petroleum products under the garb of freely importable goods and their subsequent clearance into DTA without any genuine manufacturing process. And whereas Shri Narayanasamy Sivamurugeswarapandian was issued Summons dated 18.06.2025 for appearance on 20.06.2025 and Summons dated 17.10.2025 for appearance on 28.10.2025, in the matter of M/s. GKN Chemical India but he did not appear against any of these Summons issued to him, demonstrating deliberate non-cooperation with the investigation and consciousness of guilt regarding the illicit activities of the SEZ unit. And whereas by his acts of omission and commission

as Director of M/s. GKN Chemical India Pvt. Ltd., I find that Shri Narayanasamy Sivamurugeswarapandian rendered himself liable for penal action under Sections 112(a)/112 (b) and 114AA of the Customs Act, 1962 , for his role in the illegal importation of restricted petroleum products through fraudulent misdeclaration and misclassification, and for his deliberate non-cooperation with the investigation authorities.

51.Role and penalty on M/s Aastha Impex, M/s Arihant Agro Industries, and M/s Radhe Madhav Trade.

I find that M/s. GKN Chemical India Pvt. Ltd. was clearing the imported restricted petroleum products into the Domestic Tariff Area (DTA) by declaring them as "Industrial Oil" and selling them to various traders. And whereas the major trading partners who purchased goods from M/s. GKN Chemical India Pvt. Ltd. include M/s Aastha Impex, M/s Arihant Agro Industries, and M/s Radhe Madhav Trade. And whereas summons were issued to the proprietors of these firms to ascertain their role in the procurement and further sale of the goods cleared by M/s. GKN Chemical India Pvt. Ltd. The Proprietor of M/s Aastha Impex was issued Summons dated 26.06.2025 for appearance on 02.07.2025, Summons dated 11.08.2025 for appearance on 13.08.2025, and Summons dated 23.09.2025 for appearance on 26.09.2025. The Proprietor of M/s Arihant Agro Industries was issued Summons dated 26.06.2025 for appearance on 01.07.2025, Summons dated 11.07.2025 for appearance on 24.07.2025, and Summons dated 23.09.2025 for appearance on 25.09.2025. The Proprietor of M/s Radhe Madhav Trade was issued Summons dated 26.06.2025 for appearance on 03.07.2025, Summons dated 11.07.2025 for appearance on 22.07.2025, and Summons dated 23.09.2025 for appearance on 25.09.2025, in the matter of M/s. GKN Chemical India Private Limited. However, none of these proprietors appeared against any of the summons issued to them, showing their deliberate non-cooperation in the investigation. The deliberate non-appearance of these buyers/trading partners despite repeated summons suggested their awareness and possible involvement in the illicit trading network established by M/s. GKN Chemical India Pvt. Ltd. for clearing restricted petroleum products into the domestic market. And whereas it appeared that these Buyers were procuring goods declared as "Industrial Oil" from M/s. GKN Chemical India Pvt. Ltd., which were actually restricted petroleum products viz. HFHSD, LDO and SKO that had been imported without proper authorization and cleared into DTA without any genuine manufacturing process. Their deliberate failure to respond to summons and provide information regarding the procurement, use, and further sale of the goods purchased from M/s. GKN Chemical India Pvt. Ltd. indicated consciousness of guilt and suggested that they had aware or had reason to believe that the goods being purchased were restricted petroleum products being illicitly cleared into the domestic market. From the omission and commission on the part of above firms, I find that they have rendered themselves liable to penalty on each of them separately under Section 112 and Section 117of the Customs Act, 1962 .

52.Role and penalty on other persons

- Shri Venkataraman, Plant Head of M/s GKN Chemical India Pvt. Ltd.
- Shri Sujith Padayachi, Sr. Manager of M/s GKN Chemical India Pvt. Ltd

I find that during the course of investigation, summons were issued to above mentioned employees of M/s. GKN Chemical India Pvt. Ltd. Shri Venkataraman, Plant Head of M/s GKN Chemical India Pvt. Ltd., was issued Summons dated 28.08.2025 for appearance on 30.08.2025, Summons dated 19.09.2025 for appearance on 22.09.2025, and Summons dated 17.10.2025 for appearance on 01.11.2025, but he did not appear against any of these Summons issued to him. Shri Sujith Padayachi, Sr. Manager of M/s GKN Chemical India Pvt. Ltd., was issued Summons dated 13.08.2025 for appearance on 20.08.2025, Summons dated 28.08.2025 for appearance on 10.09.2025, and Summons dated 19.09.2025 for appearance on 23.09.2025, but he did not appear against any of these Summons issued to him. The above employees, by virtue of their positions as Plant Head and Senior Manager in the company, were expected to have knowledge of the import operations, manufacturing processes, and clearances being undertaken by M/s. GKN Chemical India Pvt. Ltd. And whereas Section 108 of the Customs Act, 1962 empowers officers of customs to summon any person whose attendance he considers necessary either to give evidence or to produce a document or thing in any inquiry which such officer is making under the Customs Act. Thus, Shri Venkataraman, Plant Head and Shri Sujith Padayachi, Sr. Manager of M/s GKN Chemical India Pvt. Ltd., by their deliberate and repeated failure to appear before the investigation authorities despite multiple summons being issued to them under Section 108 of the Customs Act, 1962. From the omission and commission on the part of them, I find that they have rendered themselves liable to penalty on each of them separately under Section 117 of the Customs Act, 1962 .

ORDER

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

A. In respect of M/s GKN Chemical India Pvt. Ltd., located at Plot No. 346-347, Sector - IV, PHASE - IV, KASEZ, Gandhidham, Kachchh, Gujarat, 370230;

(i) I hereby reject the declared classification and description of the goods imported vide Bill of Entry No. 2425928 dated 02.06.2025 and order to re-classify the same from Hydrocarbon Solvent (CTH-27101990) to Super Kerosene Oil (CTH- 27101932).

(ii) I hereby reject the declared classification and description of the goods imported vide both Bill of Entry No. 3244314 dated 14.07.2025, and Bill of Entry No. 3244548 dated 14.07.2025 and order to re-classify the same from Hydrocarbon Solvent (CTH-27101990) to Light Diesel Oil (CTH-27101943).

(iii) I hereby reject the declared classification and description of the goods covered under 'M' Bill of Entry No. 2414257 dated 02.06.2025 and order to re-classify the same from Industrial Oil

(CTH-27101990) to High Flash High Speed Diesel (HFHSD) under CTH 27101949.

(iv) I hereby reject the declared assessable value in the Bill of Entry No. 2425928 dated 02.06.2025, Bill of Entry No. 3244314 dated 14.07.2025, Bill of Entry No. 3244548 dated 14.07.2025 and 'M' type Bill of Entry No 2414257 dated 02.06.2025, totalling Rs. 4,78,37,775/- and re-determined as Rs. 9,88,60,814/- as per Table-4 above under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962;

(v) I hereby reject the description and classification of the goods stored in Storage Tank No-17 and 18, and order to re-classify the same as High Flash High Speed Diesel (C T H 27101949) and Light Diesel Oil (CTH-27101943), respectively.

(vi) I hereby order confiscation of the goods imported vide Bill of Entry No. 2425928 dated 02.06.2025 containing 176.51 MT of Super Kerosene Oil (SKO), Bill of Entry No. 3244314 dated 14.07.2025 containing 462.90 MT of Light Diesel Oil (LDO), Bill of Entry No. 3244548 dated 14.07.2025 containing 462.98 MT of Light Diesel Oil (LDO) conforming to IS 15770:2021, goods covered under 'M' type Bill of Entry No. 2414257 dated 02.06.2025, goods stored in Tank No-17 (HFHSD) and Tank No. 18 (190 KL of LDO), all valued at Rs. 10,97,48,048/-, under Section 111(d) and (m) of the Customs Act, 1962 since the subject goods have been imported in violation of the provisions of Para 2.01 and Para 2.21 of Foreign Trade Policy, 2023 read with Policy Condition No. 5 of Chapter 27 of ITC(HS), 2022, Schedule 1, Import Policy, which restricts the import of SKO (CTH 27101932), LDO (CTH 27101943) and HFHSD (CTH 27101949) to State Trading Enterprises only.

However, I impose redemption fine of Rs. 25,00,000/- (Rupees Twenty Five Lakh Only) under Section 125 of the Customs Act, 1962, in lieu of the confiscation, strictly for re-export only, within 45 days.

(vii) I hereby impose Penalty of Rs.10,00,000/- (Rupees Ten Lakh only) M/s. GKN Chemical India Pvt. Ltd under Sections 112 of the Customs Act, 1962.

(viii) I hereby impose Penalty of Rs.25,00,000/- (Rupees Twenty Five Lakh only) M/s. GKN Chemical India Pvt. Ltd under Sections 114AA of the Customs Act, 1962.

B. In respect of Shri N Seenivasan, Director of M/s G K N Chemicals India Pvt. Ltd., located at Plot No. 346-347, Sector - IV, PHASE - IV, KASEZ, Gandhidham, Kachchh, Gujarat, 370230;

(i) I hereby impose Penalty of Rs.5,00,000/- (Rupees Five Lakh only) under Sections 112 of the Customs Act, 1962.

(ii) I hereby impose Penalty of Rs.10,00,000/- (Rupees Ten Lakh only) under Sections 114AA of

the Customs Act, 1962.

C. In respect of Shri Narayanasamy Sivamurugeswarapandian, Director of M/s G K N Chemicals India Pvt. Ltd., located at Plot No. 346-347, Sector - IV, PHASE - IV, KASEZ, Gandhidham, Kachchh, Gujarat, 370230;

(i) I hereby impose Penalty of Rs.5,00,000/- (Rupees Five Lakh only) under Sections 112 of the Customs Act, 1962.

(ii) I hereby impose Penalty of Rs.10,00,000/- (Rupees Ten Lakh only) under Sections 114AA of the Customs Act, 1962.

D. In respect of following further persons/companies/firms/concerns as appearing in Column 2 of the following Table-III, I hereby impose penalties upon them separately under Section 112 (b) and Section 117 of the Customs Act, 1962, as appearing in Column 4 and Column 6, respectively.

Table-III

S. No.	Name (S/Shri/ M/s)	Penal provisions under Customs Act, 1962			
		(3)	(4)	(5)	(6)
(1)	(2)	(3)	(4)	(5)	(6)
1	M/s Aastha Impex	112(b)	50,00,000/-	117	1,00,000/-
2	M/s Arihant Agro Industries	112(b)	50,00,000/-	117	1,00,000/-
3	M/s Radhe Madhav Trade	112(b)	50,00,000/-	117	1,00,000/-
4	Shri Venkataraman	-	-	117	1,00,000/-
5	Shri Sujith Padayachi	-	-	117	1,00,000/-

The proceedings initiated vide Show Cause Notice F. No. GEN/ADJ/ADC/715/2023-Adjn-O/o Commr-Cus-Kandla dated 03.12.2025 stands disposed of accordingly.

This order is issued without prejudice to any other action that may be taken against the SEZ warehouse unit/importer firms or any other person under the Customs Act, 1962, SEZ Act or any other law for the time being in force.

(Vishwajeet Singh)
Commissioner (in-situ),
Custom House Kandla

By Speed Post/Regd. Post/E-mail/Hand Delivery

List of Notices:

1. M/s. GKN Chemical India Pvt. Ltd. (IEC No.- AAJCG7002J), PLOT NO. 346-347, SECTOR - IV, PHASE - IV, KASEZ, Gandhidham, Kachchh, Gujarat, 370230(E-mail- seenivaasan@gkngroups.com).
2. Shri Seenivasan Narayanasamy, Director, M/s. GKN Chemical India Pvt. Ltd., Plot No. 346-347, Sector-IV, Phase-IV, KASEZ, Gandhidham, Kachchh, Gujarat- 370230. (E-mail- seenivaasan@gkngroups.com)
3. Shri Narayanasamy Sivamurugeswarapandian, Director, M/s. GKN Chemical India Pvt. Ltd., Plot No. 346-347, Sector-IV, Phase-IV, KASEZ, Gandhidham, Kachchh, Gujarat-370230. (E-mail- info@gkngroups.com)
4. Shri Venkataraman, Plant Head, M/s. GKN Chemical India Pvt. Ltd., Plot No. 346- 347, Sector- IV, Phase-IV, KASEZ, Gandhidham, Kachchh, Gujarat-370230. (E- mail- venkatesh@gkngroups.com)
5. Shri Sujith Padayachi, Sr. Manager, M/s. GKN Chemical India Pvt. Ltd., Plot No. 346-347, Sector-IV, Phase-IV, KASEZ, Gandhidham, Kachchh, Gujarat-370230(E- mail- info@gkngroups.com)
6. M/s Aastha Impex, First Floor, Office no.-07, Plot No. 326, Ward 12B, Satdev Gandhidham, Kutch, Gujarat-370201(E-mail- aasthaimpex2016@gmail.com)
7. M/s Arihant Agro Industries, Agrasen Marg, DBZ-S-99, Opp. BMCB Complex, Gandhidham, Kutch, Gujarat-370201(E-mail-accounts@aumarihant.com)
8. M/s Radhe Madhav Trade, Ground Floor, Plot no. 13, Office no.-007, Sector No. 8, Riddhi Siddhi Arcade, Gandhidham, Kutch, Gujarat-370201(E-mail-radhemadhav02@gmail.com)

Copy to :-

- (i) The Commissioner, Custom House, Kandla-for review
- (i) The Deputy/Assistant Commissioner (RRA/TRC) for necessary action.
- (ii) The Superintendent (EDI) for uploading on the website.
- (iii) Guard File.