

	<p style="text-align: center;">सीमा शुल्ककार्यालय का आयुक्त के (निवारक) , सीमा शुल्क भवन, जामनगर- राजकोट हाइवे, विक्टोरिया ब्रिज के पास, जामनगर) गुजरात - (361 001)</p> <p style="text-align: center;">Office of the Commissioner of Customs (Preventive), 'Seema Shulk Bhavan', Jamnagar – Rajkot Highway, Near Victoria Bridge, Jamnagar (Gujarat) – 361 001 Email: commr-custjmr@nic.in; adj-custjmr@nic.in</p>	
DIN – 20250771MM0000522387		
1.	फाइल क्रमांक/ File Number	F. No. CUS/16923/2025-Adjn
2.	मूल आदेश क्रमांक/ Order-in-Original No.	08/Additional Commissioner/ 2025-26
3.	द्वारा पारित/ passed by	एन .श्रुजन कुमार/ N. Srujan Kumar अपर आयुक्त/ Additional Commissioner, सीमा शुल्क, निवारक/Customs (Preventive) जामनगर/ Jamnagar.
4.	Date of Order /आदेश दिनांक	31.07.2025
4.	Date of issue / आदेश जारी किया	31.07.2025
5.	कारण बताओ नोटिस क्रमांक एवं दिनांक Show Cause Notice Number & Date	ADC-07/2025-26 dated 22.07.2025
6.	नोटिसी का नाम/ Name of Noticee	M/s. Sainath Industrial Fuels Private Limited, 205, Second Floor, Turning Point, Waghawadi Road, Bhavnagar.
01.	इस आदेश की मूल प्रति संबन्धित व्यक्ति को निशुल्क प्रदान की जाती है।	
	The original copy of this order is provided free of cost to the person concerned.	
02.	<p>इस मूल आदेश से व्यथित कोई भी व्यक्ति सीमा शुल्क अधिनियम, की धारा 1962 128A)(1)a सीमा शुल्क नियम (अपील), 1982 के नियम 3 के साथ पठित, के प्रावधानों के तहत, इस आदेश की प्राप्ति की तारीख से 60 दिन के भीतर फॉर्म सीए-1 में निम्नलिखित पते पर अपील दायर कर सकता है। फॉर्म सीए-1 में अपील का प्रपत्र, दो प्रतियों में दायर किया जाएगा और उसके साथ इस आदेश की समान संख्या में प्रतियाँ संलग्न की जाएंगी जिसके विरुद्ध अपील की गई है। जिनमें से कम से कम)एक प्रमाणित प्रति हो</p> <p>आयुक्त (अपील) वी मंजिल 7, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड, अहमदाबाद – 380 009</p>	
	<p>Any Person aggrieved by this Order-In-Original may file an appeal in Form CA-1, within sixty days from the date of receipt of this order, under the provisions of Section 128 of the Customs Act, 1962, read with Rule 3 of the Customs (Appeals) Rules, 1982 before the Commissioner (Appeals) at the above mentioned address. The form of appeal in Form No. CA.-1 shall be filed in duplicate and shall be accompanied by an equal number of</p>	

	copies of the order appealed against (one of which at least shall be a certified copy).
03.	अपील पर 5/- रुपये का कोर्ट फीस स्टाम्प लगा होना चाहिए। जैसा कि भारतीय स्टाम्प अधिनियम, 1989 के तहत प्रदान किया गया है, या राज्य विधान द्वारा संशोधित किया जा सकता है, जबकि इस अपील के साथ संलग्न आदेश की प्रति पर रुपये) 0.50पचास पैसे केवल (का कोर्ट फीस स्टाम्प होना चाहिए। जैसा कि न्यायालय शुल्क अधिनियम, 1870 की अनुसूची -I, मद 6 के तहत निर्धारित किया गया है।
	The appeal should bear the Court Fee Stamp of Rs. 5/- as provided under the Indian Stamp Act, 1989, modified as may be, by the State Legislation, whereas the copy of the order attached with this appeal should bear a Court Fee Stamp of Rs. 0.50 (Fifty paisa only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.
04.	अपीलीय ज्ञापन के साथ शुल्क भुगतान /जुर्माना /अर्थ दंड का सबूत भी संलग्न करे अन्यथा सीमा शुल्क अधिनियम, 1962 की धारा 128 के प्रावधानों का अनुपालन ना होने के कारण अपील को खारिज किया जा सकता है।
	Proof of payment of duty / fine / penalty should also be attached with the appeal memo, failing to which appeal is liable for rejection for non-compliance of the provisions of Section 128 of the Customs Act, 1962.
05.	अपील प्रस्तुत करते समय यह सुनिश्चित करे की सीमा शुल्क अपील)) नियम, 1982 नियम (प्रोसीजर) और सिस्टेट प्रक्रिया, के सभी नियमों का पूरा पालन हुआ है। 1982
	While submitting the Appeal, the Customs (Appeals) Rules, 1982, and the CESTAT (Procedure) Rules, 1982, should be adhered to in all respects.
06.	इस आदेश के खिलाफ आयुक्त (अपील), सीमा शुल्क, उत्पाद शुल्क और सेवा कर अपीलीय न्यायाधिकरण के समक्ष मांग की गई शुल्क के 7.5% के भुगतान पर होगी, जहां शुल्क या शुल्क और जुर्माना विवाद में है, या जुर्माना विवाद में है, या जुर्माना जहां जुर्माना है अकेले विवाद में है।
	An appeal, against this order shall lie before the Commissioner (Appeals), on payment of 7.5% of the duty demanded, where duty or duty and penalty are in dispute, or penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s. Sainath Industrial Fuels Private Limited, 205, Second Floor, Turning Point, Waghawadi Road, Bhavnagar (*hereinafter referred to as the "Importer" for the sake of brevity*) (IEC - 2409004989/0 & GSTIN - 24AALCS1205P1Z7/G) have imported goods declaring the same as "General Purpose Thinner conforming to IS:14314 (Industrial Use Only)" (*hereinafter referred to as the "said goods"*) under CTH 38140019, which attracts duty of 10% BCD, 10% SWS on BCD and 18% IGST and are freely importable. The importer filed the Bill of Entry (for Warehousing) No. 9868158 dated 04.05.2025 through their Custom Broker M/s. Taffrail Marine and was cleared / assessed through RMS/FAG.

2. The details of the said Bill of Entry and other relevant details, are as under:-

S. No.	W/H No. & Date	B/E	Quantity warehoused	Assessable Value	CUSTOMS DUTY PAYABLE			
					Basic Customs Duty @ 10% (Rs.)	Social Welfare Surcharge (SWS) (10% of BCD) (Rs.)	IGST @ 18% (Sch.-III / 90B). (Rs.)	Total Duty (Rs.)
1	9868158 / 04.05.2025		2240.290 MTs	97681814/-	9768181/-	976818/-	19516826/-	30261825/-

3. The importer had executed Warehousing Bond / Consignment Bond No. 2002460783 as per Section 59(1) of the Customs Act, 1962 for the sum of Rs. 70,00,00,000/- to bind themselves to comply the conditions laid down thereunder i.e. to fulfill all the provisions of the Act, the rules and regulations made thereunder and to pay on demand all duties and interest payable under Section 61(2) and to pay all penalties and fines incurred for contravention of the provisions of the Act or the rules or regulations made thereunder.

4. Subsequent to the passing of the said W/H Bill of Entry through RMS/FAG, it was re-called for the purpose of provisional assessment for want of Test Result of the goods to ascertain the correct description of the goods. At the material point of time, the importer had executed P.D.Bond / T.B.Bond (Individual Importation) No. 2002460784 as per Section 18 of the Customs Act, 1962 for the sum of Rs. 70,00,00,000/- to make provisional assessment of the goods pending Chemical Test result and bind themselves to pay the difference between the duty finally assessed and the duty provisionally assessed. Accordingly, the said Bill of Entry was assessed provisionally and RSS (Representative Sample) drawn by Boarding Officer (BO) was sent for Chemical Test to the Chemical Examiner, CRCL, Vadodara vide Test Memo No. IMP/68/25-26 Dtd. 10.05.2025, with the following queries:-

- (a) Whether the sample conform the description of the goods as above or otherwise?
- (b) Nature & Composition,

- (c) Whether sample confirm the description of goods as GENERAL PURPOSE THINNER conforming to Standard IS:14314 ?
- (d) Special observation, if any, found.

5. In meanwhile, the importer had filed the following Ex-Bond Bills of Entry for removal of the said goods stored in warehoused as per the aforesaid W/H Bill of Entry.

S. No.	Ex-Bond B/E No. & Date	Quantity removed from warehouse.	Assessable Value (Rs.)	Duty Paid (Rs.)	OOC granted on
1	9986389/10.05.2025	500 MTs	21801134/-	6753991/-	12.05.2025
2	9986388/10.05.2025	500 MTs	21801134/-	6753991/-	16.05.2025
3	9986385/10.05.2025	500 MTs	21801134/-	6753991/-	19.06.2025
	9986391/10.05.2025	290 MTs	12644658/-	3917316/-	20.05.2025
	TOTAL	1790 MTs	78048060/-	24179289/-	

6. The Chemical Examiner, CRCL, Vadodara vide its Test Result dated 09.06.2025 mainly informed / opined based on various tested parameters as under:

TEST REPORT

The sample as received is in the form of clear colour-less liquid, having following constant.

Sr. No.	<u>Tested Parameters</u>	IMP/68/25-26
1	<i>Density at 27 Degree Centigrade, gm/ml</i>	0.7752
2	<i>Flash Point (Abel), Degree Centigrade</i>	45.0
3	<i>Water content</i>	NIL
4	<i>Distillation range : IBP</i>	154.3 Degree Centigrade
5	<i>95% Distillation at Temp.</i>	206.8 Degree Centigrade
6	<i>FBP</i>	217.0 Degree Centigrade.
7	<i>Hydrocarbon content</i>	More than 95%.

On the basis of above tested parameters sample u/r meets the requirements of the Thinner, General purpose for Synthetic Paints and Varnishes specification as per IS: 14314:1995 and it also meets the requirement of petroleum hydrocarbon solvent 125/240 as IS:1745:2018. Further classification of the product may be verified at your end.

7. M/s. Sainath Industrial Fuels Private Limited, Bhavnagar has classified their product under HS Code 38140019 (Thinner of kind used for the paints etc.) which attracts duty of 10% BCD and freely importable and the Test Result issued by CRCL Vadodara confirm the description with compliance of IS: 14314:1995. The said Test Result further states that the goods also meet the requirement of Petroleum Hydrocarbon Solvent 125/240 as IS: 1745:2018. The Petroleum Hydrocarbon Solvent 125/240 (as per IS: 1745:2018) is classifiable under HS Code 27101920 and is restricted for importation except by State Trading Enterprises (STEs).

8. The importer has already filed 01 Ex-Bond Bill of Entry No. 2728866 dated 18.06.2025 (A/V – Rs. 19308131/-) for seeking clearance of 442.824 MTs of the goods (250 MT each), subsequent to receipt of the aforesaid Test Result, however, duty payable thereon of Rs. 5981659/-, have not been paid, so far.

9. In view of the above facts & circumstances of this matter, it was appeared that:

- (a) the Test Result confirm declared description of the goods i.e. General Purpose Thinner (CTH – 3814 00 19) which is FREE and attracts BCD @ 10%/SWS-10% of BCD / IGST-18% (aggregate of duties is 30.980%);
- (b) the Test Result also suggests different description of the goods i.e. Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 is classifiable under CTH 2710 19 20 and attract BCD @ 5%/SWS-10% of BCD / IGST-18% (aggregate of duties is 24.490%) which is RESTRICTED (i.e. permitted to be imported by State Trading Enterprises), as per Foreign Trade Policy;
- (c) Two different descriptions of the goods suggested by Chemical Examiner vide their Test Result, is based on certain overlapping criteria Viz. Flash Point, Initial Boiling Point and Final Boiling Point prescribed under Indian Standards (IS).

10. The imported goods were got tested to arrive at the exact description and correct classification of the goods. The Test Result issued by Chemical Examiner appeared to be dual in nature and suggested another description of the goods viz. Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745:2018 and it appeared to be classifiable in different Tariff Heads i.e. CTH 2710 19 20 and invited POLICY restriction. As such, the matter was referred back to Chemical Examiner, CRCL, Vadodara vide letter dated 05.07.2025 to provide their valuable opinion on following points:

- (a) What are the parameters / specifications prescribed to qualify the goods as Thinner, General purpose for Synthetic Paints and Varnishes as per Indian Standard (IS) 14314:1995? All such parameters / specifications are tested and met so as to compliant as per IS?

- (b) What are the parameters / specifications prescribed to qualify the goods as Petroleum Hydrocarbon Solvent 125/240 as per Indian Standard (IS) 1745:2018? All such parameters / specifications are tested and met so as to compliant as per IS?
- (c) What are the common or overlapping parameters / specifications under Indian Standard (IS) 14314:1995 and Indian Standard (IS) 1745:2018.
- (d) What are the distinguishing parameters / specifications under Indian Standard (IS) 14314:1995 and Indian Standard (IS) 1745:2018 to differentiate the Petroleum Hydrocarbon Solvent 125/240 from Thinner, General purpose for Synthetic Paints and Varnishes ?
- (e) Whether the sample can be considered as Thinner, General purpose for Synthetic Paints and Varnishes alone?
- (f) Whether the sample can be considered as Petroleum Hydrocarbon Solvent 125/240 alone?
- (g) Whether the sample is a mixture consisting of (a) Thinner, General purpose for Synthetic Paints and Varnishes & (b) Petroleum Hydrocarbon Solvent 125/240 or not?

--- so as to ascertain the correct description of the goods to arrive at exact classification as per Import Tariff for the purpose of levy of duties of customs and policy criteria regarding its importability and to examine the claim of Rule 3 (c) of the GIR.

11. The Chemical Examiner, CRCL, Vadodara vide their email dated 09.07.25 submitted their opinion as follows.

“...it is stated that the issued test reports referenced above are self-explanatory and based on the tested parameters which were found under the limits for the parameters given in IS 1745:2018 of Petroleum Hydrocarbon Solvent vis-à-vis IS 14314:1995 of Thinner General Purpose for Synthetic Paints Varnishes Specification. These test reports were issued based on the available tested parameters in this laboratory.

Further, reply to query no. c & d asked in your office letter, may be verified at your end and reply to query no. e & f has been already given in the test reports. It is reiterated that based on the issued test reports, classification of the product may be decided at your end.”

12. RELEVANT LEGAL PROVISIONS:

12.1 The Import Policy in respect of Solvent 125/240 (petroleum hydrocarbon solvent) as specified under standard IS 1745 classifiable under CTSN 2710 19 20, is as under:-

HS Code	Description of the Goods	Import Policy	Policy Condition	Notification No. & Date

2710 19 20	Solvent 125/240 (petroleum hydrocarbon solvent) as specified under standard IS 1745	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27	08/2023 dated 29.05.2023
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12.2 Thus, Import Policy in respect of Solvent 125/240 (petroleum hydrocarbon solvent) as specified under standard IS 1745 is governed by Policy Condition No. (5) of Chapter 27 of the Import Policy and it reads, as under :-

Sl. No.	Policy Notes	Notification No. & Date
(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 dated 29.05.2023

12.3 The provisions of Chapter 2 of Foreign Trade Policy, 2023 deal with General Provisions regarding Imports and Exports. It also provides Import / Exports through State Trading Enterprises. Para 2.21 envisages as to what is State Trading Enterprises, and reads as under:-

2.21 State Trading Enterprises (STEs)

- (a) State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and /or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may be imported or exported by the concerned STE as per conditions specified in ITC (HS). The list of STEs notified by DGFT is in Appendix-2J.
- (b) Such STE(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale in a non-discriminatory manner and shall afford enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.
- (c) DGFT may, however, grant an authorisation to any other entity to import or export any of the goods notified for exclusive trading through STEs.

12.4 The provisions of Section 2(33) of the Customs Act, 1962 defines "prohibited goods" as under:

“Prohibited goods” means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

12.5 The provisions of Section 111 (d) of the Customs Act, 1962 deals with confiscation of improperly imported goods, and reads as under :-

111. Confiscation of improperly imported goods etc.

The following goods brought from the 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 water 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 the Act *** *** ****

12.6 The provisions of Section 112 (a) of the Customs Act, 1962 deals with the penalty for improper importation of goods, and reads as under :-

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 :

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper

officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;]

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

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

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

13. The importer had imported General Purpose Thinner conforming to IS: 14314 (Industrial Use Only) and classified the same under CTS - 38140019. The Test Result indicated that the said goods also meets the requirement of Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 is classifiable under CTH 27101920. Thus, the goods viz. 2240.290 MTs of "General Purpose Thinner conforming to IS: 14314 (Industrial Use Only)" valued at Rs. 97681814/- (Assessable Value) imported by the importer and stored in warehouse as per Bill of Entry (for Warehousing) No. 9868158 / 04.05.2025 is Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 appears to be classifiable under CTS 2710 19 20. Further, the import of the goods viz. Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 is **RESTRICTED**, as such, the same is permitted to be imported by State Trading Enterprises in view of the Policy Condition No. (5) Of Chapter 27 of the Foreign Trade Policy, 2023 read with Notification No. 08/2023 dated 29.05.2023.

13.1 The importer is neither covered by any of the State Trading Enterprises (STEs) nor an authorization holder by the DGFT for import of such goods for exclusive trading through STEs, therefore, the importer said to have imported are prohibited goods.

13.2 In view of the above, the importer appeared to have imported the restricted / prohibited goods viz. Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745, by way of mis-declaration in place of "General Purpose Thinner conforming to IS:14314 (Industrial Use Only)" in contravention of various legal provisions of the Foreign Trade Policy, 2023 as well as of the Customs Act, 1962 as discussed hereinabove.

13.3 The imported goods viz. Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 of 2240.290 MTs valued at Rs. 9,76,81,814/- (Assessable Value) were stored at Tank Nos. 308 of M/s. IMC Limited, Pipavav. Further, 1790 MTs valued at Rs. 7,80,48,060/- out of aforementioned 2240.290 MTS have

already been allowed Ex-Bond Clearances on payment of Customs duty. As a result, net quantity of Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 available / lying, as on date, in aforesaid Tanks is 450.290 MTs. Thus, in view of the foregoing facts and circumstance of this matter, the importer said to have been paid Customs duty of Rs. 2,41,79,289/- on 1790 MTs of Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 in the guise of Ex-Bond clearances of "General Purpose Thinner conforming to IS:14314 (Industrial Use Only)" classifiable under CTSH 3814 00 19 from warehouse.

13.4 In view of the foregoing facts and circumstances, 450.290 MTs. of Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 of 450.290 MTs lying / stored at Tank Nos. 308 of M/s. IMC Limited, Pipavav (actual quantity measured and lying in warehouse is 444.434 MTs) as well as 1790 MTs of Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 which were provisionally allowed for Ex-Bond Clearances on execution of test bond under CTSH 3814 00 19, i.e. total quantity of 2240.290 MTs (AV - Rs. 97681814/-) having met the specifications of Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 were placed under seizure vide Panchnama dated 12.07.2025, under the reasonable belief that same were liable to confiscation in view of the contraventions stated hereinabove and handed over to M/s. IMC Limited, Pipavav, with a direction not to move, take away, remove, sell, breach, part with, break of otherwise deal with the said goods in any manner except with the prior permission in writing from competent authority of Customs.

14. In view thereof, a Show Cause Notice bearing No. ADC-07/2025-26 dated 22.07.2025 was issued to M/s Sainath Industrial Fuels Pvt. Ltd., 205, Second Floor, Turning Point, Waghawadi Road, Bhavnagar to show cause as to why:

- (i) the declared description of the goods i.e. "General Purpose Thinner conforming to IS:14314 (Industrial Use Only)" should not be rejected and the correct description of the imported goods should not be held as Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 ?
- (ii) the declared classification of the imported goods under Custom Tariff Item 3814 00 19 should not be rejected and should not be classified under Custom Tariff Item 2710 19 20 of the Customs Tariff ?
- (iii) the imported goods mis-declared as "General Purpose Thinner conforming to IS:14314 (Industrial Use Only)" weighing viz. 2240.290 MTs valued at Rs. 97681814/- (Assessable Value), which includes the goods weighing 1790 MTs valued at Rs. 7,80,48,060/- already provisionally allowed for Ex-Bond Clearances on execution of test bond on payment of Customs duty should not be confiscated under Section 111(d) and 111(m) of the Customs Act, 1962;
- (iv) Penalty should not be imposed under Section 112 of the Custom Act, 1962 for the reasons discussed hereinabove ;

DEFENCE REPLY:

15. The importer, M/s Sainath Industrial Fuels Private Limited, Bhavnagar vide letter dated 28.07.2025 submitted that,

I. The goods imported under Bill of Entry No. 9868158 dated 04.05.2025 was declared as “General Purpose Thinner conforming to IS 14314:1995.” The CRCL, Vadodara test report dated 09.06.2025 (Ref: IMP/102/25-26) explicitly states:

“On the basis of above tested parameters, the sample meets the requirements of the Thinner, General Purpose for Synthetic Paints and Varnishes specification as per IS:14314:1995.”

This conclusively affirms the declared classification under CTS 3814 00 19.

II That, the CRCL report also notes that, the sample conforms to IS 1745:2018 (Solvent 125/240), it does not recommend classification under HS Code 2710 19 20. Furthermore, the clarification issued by CRCL on 09.07.2025 reiterates:

“The issued test reports are self-explanatory. Classification of the product may be decided at your end.”

Thus, a technical overlap in specifications does not negate conformity with IS 14314:1995, which is the basis of our declared classification.

III According to Rule 3(c) of the General Rules for the Interpretation of the Customs Tariff:

“When goods are classifiable under two or more headings... classification shall be under the heading which occurs last in numerical order.”

In this context, when both headings—CTSH 2710 and 3814—are potentially applicable, the goods should be classified under CTS 3814 00 19, which occurs later. It is submitted that classification must be made in accordance with tariff rules and not at the discretion of the department.

IV. That, the present below a comparative analysis of the applicable duty structures:

Description	HS Code	BCD	SWS	IGST	Total Duty
General Purpose Thinner (IS 14314)	3814 00 19	10%	1%	18%	30.98%
Solvent 125/240 (IS 1745)	2710 19 20	5%	0.5%	18%	24.49%

It is evident that their declared classification attracts a higher customs duty, thereby negating any allegation of revenue loss.

V. For the 1790 MTs cleared under ex-bond Bills of Entry, we have already remitted a total customs duty of ₹2,41,79,289/- under CTS 3814 00 19. This assessment was conducted provisionally under Section 18 of the Customs Act, 1962 with full transparency and bond execution.

VI That, the test report from CRCL confirms compliance with IS 14314:1995. There is no conclusive finding that the product is exclusively Solvent 125/240.

There is:

- No revenue evasion;
- No willful misstatement;
- No suppression of facts.

The classification was made in good faith, transparently, and duties were paid accordingly. Therefore, invoking Section 111(d), 111(m), or Section 112 is unwarranted and not legally sustainable.

In light of the above facts and legal provisions, they request to:

- Accept the declared classification under CTS 3814 00 19;
- Drop all allegations of misdeclaration and import policy violation;
- Revoke the seizure of 450.290 MTs and permit its clearance.

PERSONAL HEARING:

16. Personal hearing in the matter was held on 28.07.2025. Shri Jay N. Mandaviya, duly Authorized Representative of the Importer, M/s. Sainath Industrial Fuels Pvt. Ltd. had appeared for Personal Hearing. He stated that the imported goods are 'General Purpose Thinner IS 14314' and rightly classifiable under HSN 38140019. Further, CRCL report also confined the same, that the seizure on the basis of CRCL report stating that the goods also fulfill requirement of Solvent 125/240 is illegal and not proper. Further, even as per GIR 3(c), their goods are rightly classifiable under HSN 38140019. Accordingly, he requested to release the cargo as they are facing financial hardships.

DISCUSSION AND FINDINGS:

17. I have carefully gone through the facts of the case, Show Cause Notice and written Defense submissions and submission made during the personal hearing held on 28.07.2025 as well as available records on hand.

18. I find that, the issues to be decided in the instant case are as follows:

- (i) Whether the declared description of the goods i.e. "General Purpose Thinner conforming to IS:14314 (Industrial Use Only)" imported vide Bill of Entry (for Warehousing) No. 9868158 dated 04.05.2025 should be rejected and the description of the imported

goods should be taken as Petroleum Hydrocarbon Solvent 125/240 conforming IS 1745 or otherwise;

- (ii) Whether the declared classification of the goods imported vide Bill of Entry (for Warehousing) No. 9868158 dated 04.05.2025 under Custom Tariff Item 3814 00 19 should be rejected and same should be classified under Custom Tariff Item 2710 19 20 of the Customs Tariff or otherwise;
- (iii) Whether the goods imported vide Bill of Entry (for Warehousing) No. 9868158 dated 04.05.2025 declared as "General Purpose Thinner conforming to IS:14314 (Industrial Use Only)" weighing viz. 2240.290 MTs valued at Rs. 97681814/- (Assessable Value), which includes the goods weighing 1790 MTs valued at Rs. 7,80,48,060/- already provisionally allowed for Ex-Bond Clearances on payment of Customs duty should be confiscated under Section 111(d) and 111(m) of the Customs Act, 1962 or otherwise;
- (iv) Whether penalty under Section 112 of the Custom Act, 1962 should be imposed or otherwise.

19. In this context, I observe that,

- (i) M/s. Sainath Industrial Fuels Private Limited had imported goods vide Bill of Entry (for Warehousing) No. 9868158 dated 04.05.2025 declaring the same as "General Purpose Thinner conforming to IS:14314 (Industrial Use Only)" by *classifying the same under CTSH – 3814 00 19*, which attracts BCD @ 10%, SWS @ 10% of BCD and IGST @ 18% and freely importable without any FTP Restrictions. The importer had filed Bill of Entry (for Warehousing) No. 9868158 dated 04.05.2025 through their Custom Broker M/s. Taffrail Marine, which was cleared / assessed through RMS/FAG.
- (ii) At the material point of time, the importer had executed Warehousing Bond / Consignment Bond No. 2002460783 as per Section 59(1) of the Customs Act, 1962 for the sum of Rs. 70,00,00,000/- to bind themselves to comply the conditions laid down thereunder i.e. to fulfil all the provisions of the Act, the rules and regulations made thereunder and to pay on demand all duties and interest payable under Section 61(2) and to pay all penalties and fines incurred for contravention of the provisions of the Act or the rules or regulations made thereunder.
- (iii) Subsequent to the passing of the said W/H Bills of Entry through RMS/FAG, it was re-called for the purpose of provisional assessment for want of Test Result of the goods to ascertain the correct description of the goods. The importer had executed P.D. Bond / T. B. Bond (Individual Importation) No. 2002460784 as per Section 18 of the Customs Act, 1962 for the sum of Rs. 70,00,00,000/- for provisional assessment of the goods pending Chemical Test result and bind themselves to pay the difference between the duty finally assessed and the duty provisionally assessed. Accordingly, the said Bill of Entry was assessed provisionally and RSS (Representative Sample) drawn by Boarding

Officer was sent for Chemical Test to the Chemical Examiner, CRCL, Vadodara vide Test Memo No. IMP/68/25-26 dated 10.05.2025, with the following queries:

- (a) Whether the sample conform the description of the goods s above or otherwise?
- (b) Nature & Composition,
- (c) Whether sample confirms the description of goods as GENERAL PURPOSE THINNER conforming to Standard IS: 14314?
- (d) Whether the sample falls under any of the canalized items like diesel, petrol or kerosene?
- (e) Special observation, if any, found.

(iv) Meanwhile, the importer had filed following Ex-Bond Bills of Entry for removal of the said goods stored in warehouse, which were assessed provisionally awaiting test report and were granted Out of Charge on the date mentioned against such Bills of Entry as detailed below:

S. No.	Ex-Bond B/E No. & Date	Quantity removed from warehouse.	Assessable Value (Rs.)	Duty Paid (Rs.)	OOC granted on
1	9986389/10.05.2025	500 MTs	21801134/-	6753991/-	12.05.2025
2	9986388/10.05.2025	500 MTs	21801134/-	6753991/-	16.05.2025
3	9986385/10.05.2025	500 MTs	21801134/-	6753991/-	19.06.2025
	9986391/10.05.2025	290 MTs	12644658/-	3917316/-	20.05.2025
	TOTAL	1790 MTs	78048060/-	24179289/-	

19.1 I observe that, the Chemical Examiner, CRCL, Vadodara vide its Test Result dated 09.06.2025 reported / opined based on various tested parameters as under:

TEST REPORT

The sample as received is in the form of clear colour-less liquid, having following constant.

Sr. No.	Tested Parameters	IMP/68/25-26
1	<i>Density at 27 Degree Centigrade, gm/ml</i>	0.7752
2	<i>Flash Point (Abel), Degree Centigrade</i>	45.0
3	<i>Water content</i>	NIL
4	<i>Distillation range : IBP</i>	154.3 Degree Centigrade
5	<i>95% Distillation at Temp.</i>	206.8 Degree Centigrade
6	<i>FBP</i>	217.0 Degree Centigrade.
7	<i>Hydrocarbon content</i>	More than 95%.

On the basis of above tested parameters sample u/r meets the requirements of the Thinner, General purpose for Synthetic Paints and Varnishes specification as per IS: 14314:1995 and it also meets the requirement of petroleum hydrocarbon solvent 125/240 as IS:1745:2018. Further classification of the product may be verified at your end.

20. I further observe that, M/s. Sainath Industrial Fuels Pvt. Ltd. vide their letter dated 28.06.2025 has requested that their product is falling under HS Code 38140019 (Thinner of kind used for the paints etc.) and attracts duty to the tune of 10% BCD, 10% SWS on BCD and 18% IGST and freely importable i.e. no Import license is required for import of the said goods. The Importer added that, the Test Result issued by CRCL Vadodara confirms the description with compliance to IS: 14314:1995 and further stated that only based on overlaps in properties, the cargo can't be alleged to be related to Petroleum Hydrocarbon Solvent 125/240 (as per IS:1745:2018) which falls under HS Code 27101920 and is restricted for importation except by State Trading Enterprises (STEs).

21. I observe that the imported goods were got tested to arrive at the exact description and correct classification of the goods but as the Test Result issued by Chemical Examiner appeared to be dual in nature, the matter was referred back to Chemical Examiner, CRCL, Vadodara vide letter dated 05.07.2025 to provide their valuable opinion on following points:

- (a) What are the parameters / specifications prescribed to qualify the goods as Thinner, General purpose for Synthetic Paints and Varnishes as per Indian Standard (IS) 14314:1995? All such parameters / specifications are tested and met so as to compliant as per IS?
- (b) What are the parameters / specifications prescribed to qualify the goods as Petroleum Hydrocarbon Solvent 125/240 as per Indian Standard (IS) 1745:2018? All such parameters / specifications are tested and met so as to compliant as per IS?
- (c) What are the common or overlapping parameters / specifications under Indian Standard (IS) 14314:1995 and Indian Standard (IS) 1745:2018.
- (d) What are the distinguishing parameters / specifications under Indian Standard (IS) 14314:1995 and Indian Standard (IS) 1745:2018 to differentiate the Petroleum Hydrocarbon Solvent 125/240 from Thinner, General purpose for Synthetic Paints and Varnishes ?
- (e) Whether the sample can be considered as Thinner, General purpose for Synthetic Paints and Varnishes alone?
- (f) Whether the sample can be considered as Petroleum Hydrocarbon Solvent 125/240 alone?
- (g) Whether the sample is a mixture consisting of (a) Thinner, General purpose for Synthetic Paints and Varnishes & (b) Petroleum Hydrocarbon Solvent 125/240 or not?

21.1 I observe that, the Chemical Examiner, CRCL, Vadodara vide their email dated 09.07.2025 stated that,

"the issued test reports referenced above are self-explanatory and based on the tested parameters which were found under the limits for the parameters given in IS 1745:2018 of Petroleum Hydrocarbon Solvent vis-a-vis IS 14314:1995 of Thinner General Purpose for Synthetic Paints Varnishes Specification.

These test reports were issued based on the available tested parameters in this laboratory. Further, reply to query no. c & d asked in your office letter, may be verified at your end and reply to query no. e & f has been already given in the test reports. It is reiterated that based on the issued test reports, classification of the product may be decided at your end."

22. On going the content of the aforesaid test reports, I find that, the Chemical Examiner, CRCL, Vadodara in his test report dated 09.06.2025 and subsequently vide his email dated 09.07.2025 reiterated that based on the issued test reports, classification of the product may be decided at the end of the Assessing Officer i.e. Assistant Commissioner, CH Pipavav.

23. I find that, in this peculiar situation when the imported goods meet the specifications /parameters of two commodities simultaneously and as the Chemical Examiner has opined that classification of the product may be decided at the end of the Assessing Officer, then customs tariff classification of the imported product should be derived on the basis of (i) Technical characteristics of the product (test results); (ii) Relevant Indian Standards (IS); and (iii) HS classification rules (General Rules for Interpretation - GRIs).

24. W.r.t. technical characteristics of imported product, I find that, as per test result dated 09.06.2025 issued by the Chemical Examiner, CRCL, Vadodara, the product imported by the Importer vide Bill of Entry No. 9868158 dated 04.05.2025 accurately meets the specifications of "General Purpose Thinner".

25. I also notice that, HSN Explanatory Notes to the Chapter heading 3814 stipulates, *"this heading covers organic solvents and thinners (whether or not containing 70% or more by weight of petroleum oil) provided that they are not separate chemically defined compounds and are not covered by a more specific heading. They are more or less volatile liquids which are used, inter alia, in the preparation of varnishes and paints or as degreasing preparations for machinery parts, etc."* I further notice that, in instant case, as per CRCL Report, the goods contain more than 95% of hydrocarbons; hence, they are organic chemicals in nature. Hence, *prima-facie* the goods appear to be falling under CTH 3814.

26. I further find that the imported goods being declared as "General Purpose Thinner", is also conforming to IS: 14314 (Industrial Use Only) under CTH 38140019 as per Indian Standard (IS) 14314:1995 as declared by the Importer & reported by the Chemical Examiner, CRCL Vadodra, although the same may also be having technical specifications of petroleum hydrocarbon solvent 125/240 as per Indian Standard (IS) 1745:2018 classifiable under CTH

27101920. For the sake of brevity, the requirement for "General Purpose Thinner" as per Indian Standard (IS) 14314:1995 is reproduced as follows:

Table 1 Requirements for Thinner, General Purpose
(Clause 4.2)

Sl No.	Characteristic	Requirement	Method of Test, Ref to	
			IS 82 : 1973	Annex
(1)	(2)	(3)	(4)	(5)
i)	Colour	Not darker than a freshly prepared solution of 0.003 0 g of potassium dichromate in one litre of distilled water	5	—
ii)	Odour	The material shall be free from acid/pungent odour	—	—
iii)	Spot test	The material shall show complete evaporation from white filter paper without leaving any stain or oily spot when tested at ambient temperature	—	—
iv)	Relative density at 27°C	0.76 to 0.81	6	—
v)	Distillation range with a minimum 95 percent recovery by volume	120°C to 240°C	7	—
vi)	Flash Point (Abel), Min	30°C	IS 101 (Part 1 / Sec 6) : 1986	—
vii)	Residue on evaporation, mg/100 ml, Max	25	8	—
viii)	Hydrocarbon content, Min	95	—	B
ix)	Water content, Max	0.5	IS 101 (Part 2 / Sec 1) : 1988	—
x)	Copper corrosion	The material shall not blacken or corrode clean metallic copper	11	—

1

26.1 Further, the requirements for Petroleum Hydrocarbon Solvent 125/240 as per Indian Standard (IS) 1745:2018 classifiable under CTH 27101920 are as follows:

Table 1 Requirements for Petroleum Hydrocarbon Solvents
(Clauses 3.1.1 and 5.2)

Sl No.	Characteristic	Solvent 60/80	Solvent 50/120	Solvent 90/135	Solvent 125/240	Solvent 145/205 Low Aromatic	Solvent 145/205 High Aromatic	Solvent 150/300	Method of Test [Ref to P. of IS 1448]
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
i)	Colour (Saybolt), Min	+25	+25	+25	+21	+20	+20	—	P : 14
ii)	Colour (ASTM), Max	—	—	—	—	—	—	3.5	P : 12
iii)	Density at 15°C, g/ml	Not limited but to be reported						—	P : 16 / ISO 12185
iv)	Flash point (Abel), Min	—	—	—	30°C	35°C	35°C	35°C	P : 20
v)	Distillation range								
a)	Initial boiling point, Min	60°C	50°C	90°C	125°C	145°C	145°C	150°C	—
b)	50 percent by volume recovered at, in °C	—	—	—	—	—	—	—	—
c)	95 percent by volume recovered at, in °C	—	—	—	—	—	—	—	—
d)	Final boiling point, Max	—	—	—	240°C	205°C	205°C	300°C	—
e)	Dry point, Max	80°C	120°C	135°C	—	—	—	—	—
vi)	Aromatic content, percent by volume	6 Max	3.5 Max	20 Min	40 Max	40 Max	45 Min	50 Min	P : 23
vii)	Sulphur, total, percent by mass, Max	0.05	—	—	—	—	—	—	P : 34* / ISO 8754 / ISO 20846
viii)	Copper strip corrosion for 3 h at 50°C	—	—	—	—	—	—	—	P : 15
ix)	Residue on evaporation, mg/100 ml, Max	5	5	5	5	5	5	—	P : 29 (AirJet)

* In case of dispute, Method P 34 shall be used a referee method.

2

26.2 The comparison of both requirements and parameters reported as per CRCL Vadodara are as follows:

Sl. No.	Test-Parameters.	Ranges of the values as per the IS 14314:1995, prescribed for the test parameters of General Purpose Thinner	Ranges of the values as per the IS 1745:2018 prescribed for the test parameters of Petroleum Hydrocarbon Solvent 125/240	Values as reported by the test-report, dated 24.06.2025 by Central Excise & Customs Lab, Vadodara.
1	Density at 27 degrees C, gm/ml	0.76 to 0.81	Not limited	0.7752
2	Flash Point (Abel), degrees C	Minimum of 30 degrees C.	Minimum of 30 degrees C	45.0 degrees C.
3	Water Content	Max of 0.5	(Not specified)	Nil
4	Distillation Range: • IBP • 95% Distillation at Temp. • FBP	120-240 degrees C.	Distillation Range: • IBP – 125 degree Celsius • 95% Distillation at Temp.: Not limited • FBP – 240 degree Celsius	• IBP – 154.3 degree Celsius • 95% Distillation at Temp.: 206.8 degree Celsius • FBP – 217 degree Celsius
5	Hydrocarbon content	Minimum of 95%	(Not specified)	More than 95%.

26.3 From the above comparative analysis, I notice that the impugned goods are of the nature that meets the requirement of both "General Purpose Thinner" and "Petroleum Hydrocarbon Solvent 125/240". Further, the requirement of hydrocarbon content (min.), which is specified for "General Purpose Thinner" but not specified for "Petroleum Hydrocarbon Solvent 125/240", is also met, the same being more than 95%.

26.4 In view of above, I notice that, there is no mis-declaration on the part of the Noticee. However, as the goods are also meeting requirements of "Petroleum Hydrocarbon Solvent 125/240", which is restricted goods under ITC (HS) Foreign Trade Policy and the goods are seized for the said reason, I

proceed to examine the matter further by applying General Rules for Interpretation (GRIs) of Harmonized System of Nomenclature (HSN) Classification.

27. I note that General Rules for Interpretation of Harmonized System of Nomenclature (HSN) Classification are applicable to Customs Tariff as well as Indian Trade Classification (Harmonized System). Accordingly, for the purpose of determination of Foreign Trade Policy restrictions also, the goods are to be classified in terms of General Rules for Interpretation when there is dispute in classification. In view thereof, I hereby reproduce the General Rules for Interpretation (GRI) in verbatim:

"GENERAL RULES OF INTERPRETATION

Classification of goods in the tariff schedule shall be governed by the following principles:

1. The table of contents, alphabetical index, and titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions:

2(a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also include a reference to that article complete or finished (or failing to be classified as complete or finished by virtue of this rule), entered unassembled or disassembled.

2(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule

*3. When, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:*

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) *Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.*

(c) *When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.*

4. *Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.*

5. *In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein: (a) (b) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and entered with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This rule does not, however, apply to containers which give the whole its essential character; Subject to the provisions of rule 5(a) above, packing materials and packing containers entered with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.*

6. *For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, mutatis mutandis, to the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires.”*

27.1 I observe that, Rule 1 of the General Rules for Interpretation (GRI) refers to Classification of the goods by Heading Description i.e. the goods must be classified according to the terms of the headings and any relevant section or chapter notes. Here, it is to mention that, Chapter heading 3814 refers to “organic composite solvents and thinners, not elsewhere specified or included; prepared paint or varnish removers” while Chapter heading 2710 is for petroleum oils or distillation fractions thereof, typically not prepared or formulated for specific industrial use like paint thinning. I find, since the product is declared and proven to conform to IS 14314:1995 (thinner for paints), this functional description supports heading 3814 under GRI 1.

27.2 I notice that going sequentially; Rule 3 of the General Rules for Interpretation is applicable in this case. Further, as per Rule 3(a), the heading which is more specific description should be preferred over headings providing a more general description. I reproduce both headings below:

CHAPTER HEADING 2710 : Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils

CHAPTER HEADING 3814: Organic composite solvents and thinners, not elsewhere specified or included; prepared paint or varnish removers.

27.3 I notice that Solvent and thinner are mention in heading 3814. Further, as mentioned in CRCL Report, the goods contains more than 95% of hydrocarbons, hence, they are organic chemicals in nature. Hence, the imported goods *prima facie* appears to be falling under the Chapter heading 3814. Further, second part of Rule 3(a) states that, “*when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.*” Hence, I proceed to examine the classification of imported goods in terms of Rule 3(b) of the General Rules for Interpretation.

27.4 Further, I note that, Rule 3(b) is also not applicable in this case because the goods under question are not mixtures or composite goods consisting of different materials or made of different components. The goods under consideration are mixtures of hydrocarbons only, which as a whole gives it essential character. The hydrocarbons which constitute more than 95% of the goods, all taken together as a whole gives the goods its essential character and no specific hydrocarbon can be said to be giving goods its essential character. Hence, Rule 3(b) of G.R.I. is not applicable in this case.

27.5 I also observe that Rule 3(c) of the General Rules for Interpretation (GRI) stipulates, “When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.” As per Rule 3(c), I notice that, even though Rule 3(a) is in support of classification under heading 3814, it is still not conclusive. Accordingly, I proceed to Rule 3(c) and find that, CTH 3814 occurs last in numerical order vis-à-vis the CTH 2710, which equally merits consideration. The imported goods as per CRCL test report meet the requirement of “General Purpose Thinner” (Industrial Use Only) under CTH 38140019 as per Indian Standard (IS) 14314:1995 as well as “Petroleum Hydrocarbon Solvent 125/240 under CTH 27101920. Hence, the goods are classifiable under heading 3814, which is occurring last in numerical order. Further, the goods fall under the tariff item 38140019 by applying Rule 6 of the General Rules for Interpretation (GRI).

28. In view of the discussion, I find that, the imported goods are rightly classifiable under Customs Tariff Item/ITC (HS) 38140019. Further, the goods are ‘Free’ to import under import policy and does not fall under the definition of “prohibited goods” under Section 2(33) of the Customs Act, 1962. Further, as there is no violation of Foreign Trade Policy, the goods are not liable for confiscation under Section 111(d) of the Customs Act, 1962.

28.1 With respect to allegation of mis-declaration, I notice that goods are rightly described as “General Purpose Thinner conforming to IS: 14314 (Industrial Use Only)”. The CRCL report also confirmed the same. It is not the case of Department or CRCL that goods are not “General Purpose Thinner” or “other than General Purpose Thinner”. The CRCL report clearly stated that the goods meet requirement of “General Purpose Thinner”. Accordingly, I find that, there is no mis-declaration on part of the Noticee; hence, the question of confiscation under Section 111(m) of the Customs Act, 1962 doesn’t arise.

29. I further observe that, reason to believe that imported goods falling under CTH 27101920 on the basis of dual characteristics as reported by the Chemical Examiner, CRCL Vadodra may be sufficient for the purpose of seizure of the goods by virtue of Section 123 of the Customs Act, 1962 but the same is not sufficient for confiscation under Section 111 of the Customs Act, 1962.

30. In this regard, I also rely upon the judgment of the Hon’ble Supreme Court of India in the case of HPL Chemicals Limited Vs. CCE, Chandigarh: 2006 5 SCC 208, wherein it is held that,

“28. This apart, classification of goods is matter relating to chargeability and the burden of proof is squarely upon the Revenue. If the Department intends to classify the goods under a particular heading or sub-heading different from that claimed by the assessee, the Department has to adduce proper evidence and discharge the burden of proof. In the present case the said burden has not been discharged at all by the Revenue. On the one hand, from the trade and market enquiries made by the Department, from the report of the Chemical Examiner, CRCL and from HSN, it is quite clear that the goods are classifiable as “denatured salt” falling under Chapter Heading 25.01. The Department has not shown that the subject product is not bought or sold or is not known or is dealt with in the market as denatured salt. The Department’s own Chemical Examiner after examining the chemical composition has not said that it is not denatured salt. On the other hand, after examining the chemical composition has opined that the subject-matter is to be treated as sodium chloride.”

31. In the present case, the goods are tested in CRCL and found to be same as declared by the Noticee in Bill of Entry. The Department could not prove any mis-declaration. Further, the classification under HSN 38140019 is also found to be correct as per CRCL report, Indian Standard 14314/1995 and by applying General Rules of Interpretation. Accordingly, none of the ingredients for confiscation under Section 111 of the Customs Act, 1962 are fulfilled. Hence, in view of detailed discussion above, I refrain from confiscation of seized goods and the goods merit to be released.

32. Further, with respect to penalty under Section 112 of the Customs Act, 1962, I find that, penalty under Section 112 of the Customs Act, 1962 is imposed as natural corollary consequent to the confiscation of goods under the provisions of Section 111 of the Customs Act, 1962. In instant case, when the imported goods are not liable for confiscation in view of discussion supra, the penalty under Section 112 of the Customs Act, 1962 is not invokable.

33. Accordingly, I hereby order as follows:

ORDER

I hereby drop the proceedings initiated against the Noticee vide SCN No. ADC-07/2025-26 dated 22.07.2025 and order to release the impugned goods seized vide Panchnama dated 12.07.2025 subject to payment of applicable duty of customs.

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



(N. Srujan Kumar)
Additional Commissioner

DIN- 20250771MM0000522387
F. No. CUS/16923/2025-Adjn
Date: 31.07.2025

BY Hand/RPAD/Speed Post To,
M/s. Sainath Industrial Fuels Private Limited,
205, Second Floor, Turning Point,
Waghawadi Road, Bhavnagar.

Copy to:

1. The Commissioner, Customs (Preventive), Commissionerate, Jamnagar
2. The Assistant Commissioner, Customs Division, Pipavav.
3. The Superintendent (RRA), Customs (Prev.), Jamnagar.
4. The Superintendent(TRC), Customs (Prev.), Commissionerate Jamnagar
5. Guard File.

