कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:
CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421.
PHONE : 02838-271426/271163 FAX :02838-271425
E-mail id- adj-mundra@gov.in

A	**FILE NO.** फ़ाइल संख्या	**GEN/ADJ/ADC/786/2026-Adjn-O/o Pr. Commr-Cus-Mundra**
B	**OIO NO.** आदेश संख्या	MCH/ZDC/ADC/266/2026-27
C	**PASSED BY** जारीकर्ता	**Dipak Zala,** Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
D	**DATE OF ORDER** आदेश की तारीख	24.08.2026
E	**DATE OF ISSUE** जारी करने की तिथि	24.08.2026
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	**85/2026-27/ADC/ZDC/MCH dated 08.06.2026**
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/ आयातक	**(i) M/s. Bherunath Traders (IEC No. AJEPC3758N)**

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

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

"सीमाशुल्कआयुक्त (अपील),

चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,

नवरंगपुरा,अहमदाबाद 380 009"

"THE COMMISSIONER OF CUSTOMS (APPEALS)

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

NAVRANGPURA, AHMEDABAD-380 009."

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

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

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

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

5. अपील ज्ञापन के साथ ड्यूटि/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

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

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

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

BRIEF FACTS OF THE CASE

1.1 M/s. Bherunath Traders (IEC No. AJEPC3758N) having its registered office/principal place located at 3rd Floor Shop no. 353, M G Dream, Kamrej Char Rasta, Surat-394185 (hereinafter referred to as *the "Importer"*), imported goods vide Bill of Entry No. 4898490 dated 04.10.2025 at Customs House Mundra.

1.2 Specific intelligence gathered by the Directorate of Revenue Intelligence (DRI) indicated that the aforesaid consignment imported by M/s. Bherunath Traders lying at Mundra Port and declared as **"Mineral Hydrocarbon Oil"** under **CTH 27101990**, was mis-declared with respect to their description and nature, with the deliberate intent to clear prohibited/restricted goods.

The details of the import consignment are as follows:

Table-I

	Details of Bill of Entry

Bill of Entry No.	4898490 dated 04.10.2025
Bill of Lading No.	FFLJEAMUN2501031
Declared Goods in BE	Mineral Hydrocarbon Oil
Declared Quantity	241390 (in KGS)
Customs Broker	M/s DSR Logistics
Country of Origin	UAE
Supplier	M/s. Henkel International Lubricant FZE, Hamriya Free Zone, Hamariya-Sharjah, UAE

1.3 Based on the aforesaid intelligence, the consignment imported by M/s. Bherunath Traders lying at Mundra Port and declared as "Mineral Hydrocarbon Oil" under CTH 27101990 was put on hold by the DRI vide email dated 08.10.2025.

2. <u>Examination and drawl of Samples</u>:

The examination of aforesaid consignment was conducted by the DRI under Panchnama dated 11.10.2025 drawn at M/s. Mundhra CFS Pvt. Ltd., Mundra Port, in the presence of the authorized representative of the Customs Broker appointed by the importer. During the said examination proceedings, representative samples, in duplicate, were drawn from each of the 12 containers (ISO Tanks), for laboratory testing to ascertain the exact nature of the imported goods in the said consignment.

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

3.1 The 12 samples drawn from the 12 Containers (ISO Tanks) covered under Bill of Entry No. 4898490 dated 04.10.2025 were sent to Custom House Laboratory, Visakhapatnam for testing vide Test Memos No. 726/2025 to 737/2025 dated 24.10.2025 respectively.

3.2 The laboratory subsequently submitted their test reports with respect to subject 12 samples, having reference Lab No. from 596-DRI to 607-DRI, all reports dated 08.01.2026 in respect of Bill of Entry No. 4898490 dated 04.10.2025.

3.3 The test reports in respect of all 12 samples pertaining to Bill of Entry No. 4898490 dated 04.10.2025, based on the parameters tested by the Custom House Laboratory, indicated that all the samples conform to the stringent parameters of Automotive Diesel Fuel. Since all the samples yielded similar findings, the report in respect of Lab No. 596-DRI is reproduced hereunder for illustration:

- ***The sample meets all the stringent parameter of Automotive diesel fuel as mentioned in IS:1460:2025 except flash point which is 17 °C Lower than required (decreased by means of using Lighter hydrocarbon) and distillation recovery at 360°C (which is 12% less than 95%).***

- ***The GCMS pattern of sample shows presence of lighter hydro carbons, which can not a part of Diesel fuels, as per standard refinery protocol & classification of petroleum fuels. Minor deviation from the required values of above 02 parameters, does not effects its application as diesel fuel for Automotive purpose (IS 1460).***

- ***The sample is adulterated diesel in respect of the definition of "adulteration" as mentioned in 5.1 of marketing discipline guideline published by PSU's.***

- ***There is no specification available for mineral hydrocarbon oil in National & International standards.***

- ***The samples seem to be adulterated with higher carbon chain hydrocarbons to alter recovery at 360°C.***

3.4 For parameters not covered in the Custom Laboratory's Vishakhapatnam testing, additional sample was forwarded to Mangalore Refinery and Petrochemicals Limited (MRPL) vide Test Memo No. 908/2025 dated 05.02.2026 in respect of Bill of Entry No. 4898490 dated 04.10.2025, to ensure comprehensive testing of all specifications under IS 1460, as mandated by the Hon'ble Supreme Court in ***Gastrade International vs. Commissioner of Customs, Kandla.***

3.5 Thereafter, the Mangalore Refinery and Petrochemicals Limited (MRPL) has submitted test report dated 10.04.2026.

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

Table-II

Sl. No.	Bill of Entry No. & Dated	Quantity	Declared Description	Sample Test Result	IS Standards
01.	4898490 dated 04.10.2025	241390 Kgs.	Mineral Hydrocarbon Oil	Conform to the parameters of Automotive Diesel Fuel (ADF)	IS 1460:2025

4. Whereas, detailed analysis of the MRPL Test Report indicates that the samples meets all parameters of Automotive Diesel Fuel (IS 1460:2025) except for 03 parameters, namely Distillation recovery, Flash Point and slightly higher

Sulphur. However, it is pertinent to mention here the reasons for distillation recovery and flash point being outside the IS 1460 range. The CRCL Visakhapatnam report states that the higher distillation recovery temperature is attributable to adulteration with higher carbon chain hydrocarbons, intended to alter recovery characteristics, while the lower flash point is due to adulteration with lighter hydrocarbons, as evidenced by the GC-MS pattern of the sample. Therefore, the Test Reports highlighted in **Table-II** above suggested that the goods imported meets the requirements Automotive Diesel Fuel (ADF) conforming to standard IS 1460:2025.

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

Table 1 Requirement for Automotive Diesel Fuel

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

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

Table 1 (*Concluded*)

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

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

Table-III

Sr. No	**Bill of Entry No.**	**Quantity**	**Product description as per analysis of Test Reports (CRCL+MRPL)**
1	4898490 dated 04.10.2025	241390 Kgs.	Automotive Diesel Fuel (ADF) conforming to Standards IS 1460:2025

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

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

Further, as per ITC(HS), 2022, Schedule 1: Import Policy, Section V: Mineral Products, Chapter 27: Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes: Goods falling under the description of "Automotive Diesel Fuel (ADF) conforming to standard IS 1460", the import policy makes the goods restricted by way of importation by State Trading Enterprises only by virtue of Policy Condition No. 5 which prescribes "Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date". The screenshots of the relevant extracts are as below:

Sl.No.	Notes	Notification No.	Notification Date
1	Import of naphtha is free.		
2	Import of SKO shall be allowed through State Trading Enterprises (STEs) i.e. IOC, BPCL, HPCL and IBP for all purposes with STC being nominated as a State Trading Enterprise (STE) for supplies to Advance Licence holders. Advance Licence holders shall however, have the option to import SKO from the above mentioned STEs including STC		
3	Import is restricted in terms of Interim PIC Procedure of Rotterdam Convention on Prior Informed Consent procedure for hazardous chemicals and pesticides.		
4	Automobile industries, having RandD registration, are allowed to make free import of reference fuels (Petrol and Diesel) which are not manufactured in India, up to maximum of 5 KL per annum, subjects to the condition that the said imported reference fuels shall be used for RandD and emission testing purposes only		
5	Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date.	08/2023	29/05/2023
6	Import of pet coke for fuel purpose is prohibited. However, import of Pet coke of the following categories shall be permitted, subject to conditions : a. Import of Pet coke is free for cement, lime kiln, calcium carbide, gasification industries and graphite electrodo industries for use as feed stock or in the manufacturing process only on Actual User basis. b. Total import of 1.9 Million MTs of Raw Petroleum Coke(RPC) for manufacturing Calcined Petroleum Coke(CPC) and 0.5 Million MTs of CPC for Aluminium Industry respectively shall be permissible during 2024-25, and 1.9 Million MTs of RPC for manufacturing CPC Manufacturing and 0.8 Million MTs of CPC for Aluminium Industry respectively shall be permissible from 2025-26 onwards, subject to the following conditions: i. Import of RPC & CPC shall be permitted only as a feedstock / raw material and under no circumstances shall be used as fuel. ii.Import of RPC and CPC shall be permitted to cater entirely to the domestic needs of aluminium	27/2024-25	04/09/2024

5 <u>Confiscation and Seizure</u>:

5.1 As per the test results as discussed in above paras, it is evident that the importer had imported restricted petroleum products, by mis-declaring the same as "Mineral Hydrocarbon oil". The Custom Laboratory reports confirmed that the goods imported vide Bill of Entry No. 4898490 dated 04.10.2025 were in fact 'Automotive Diesel Fuel', which is restricted for import into India, and permissible only subject to Condition No. 5 of Chapter 27 of ITC (HS), 2022, Schedule 1 Import Policy issued by DGFT. Therefore, having a reasonable belief that the goods mentioned in **Table No-II** above, were liable to be confiscated under the provisions of the Section 111 of the Customs act, 1962, the same were placed under seizure as per the provisions of Section 110(1) of the Customs Act, 1962 vide seizure memo dated 12.01.2026**.**

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

6.1 Statement of Shri Chauhan Rohitkumar Arjunbhai, Proprietor of M/s Bherunath Traders, Surat was recorded on 13.03.2026, wherein he interalia stated that:

- M/s Bherunath Traders is a proprietorship firm engaged in import of hydrocarbon oils, including mineral hydrocarbon oil, industrial oil, lubricating oil, and distillate oil. The firm obtained IEC in 2021 and commenced import operations in 2022. Being the sole proprietor, he manages all aspects of the business including procurement, negotiations, import operations, payments, and sales.

- Regarding procurement, he stated that he directly deals with overseas suppliers, primarily through telephonic communication and Whatsapp calls. No written agreements, emails, or documentary evidence of orders placed with suppliers are maintained, as transactions are conducted verbally. He also confirmed that negotiations with suppliers are carried out by him alone.

- In respect of the consignment covered under Bill of Entry No. 4898490 dated 04.10.2025, he identified the supplier as M/s Henkel International Lubricant FZE, UAE, whom he contacted through a relative residing in UAE. He visited the supplier once in 2025 and dealt with one person Shri Rippi Singh. He further confirmed that this was his first transaction with the said supplier. Payments for the consignment were made almost entirely in advance by him, and he submitted relevant payment documents.

- Further, he stated that the imported goods were declared as “Mineral Hydrocarbon Oil” and classified under CTH 27101990 based on his understanding of the Customs Tariff. The goods were imported as per market demand and sold to domestic trader firms such as M/s Mahadev Oil Industries, M/s Petroline India Pvt. Ltd., and M/s Balaji International. He admitted that no formal contracts or agreements exist with domestic buyers and all transactions are conducted telephonically.

- On being asked about the technical aspects, he admitted limited knowledge regarding the distinction between mineral hydrocarbon oil and industrial oil. He stated that imports were made based on market demand, particularly for products having flash point below 20°C. He claimed that such specifications (flash point 15–20°C, IBP 95–110°C, FBP 390–400°C) were ensured based on supplier's Certificate of Analysis and buyer requirements, though no documentary evidence of such specifications or buyer demand was available with him.

- When confronted with CRCL test reports indicating that the imported goods substantially conform to Automotive Diesel Fuel (ADF) as per IS 1460:2025 (except minor deviations such as reduced flash point due to addition of lighter hydrocarbons), he acknowledged the findings. He admitted that the test report indicates deliberate adulteration of diesel with lighter hydrocarbons to reduce flash point. He further admitted that although he had ordered mineral hydrocarbon oil of low flash point, the supplier appears to have supplied diesel of low flash point.

- He was specifically questioned regarding awareness that such goods fall under restricted/canalised category (ADF/HSD importable only through State Trading Enterprises). In response, he stated that he relied on load port test reports provided by the supplier and only verified flash point therein, without independently ascertaining whether the goods fell under restricted category.

- He also confirmed that sampling of goods was conducted in presence of his authorized representative. He denied any past involvement in import of restricted goods and claimed to be a law-abiding businessman.

- Overall, the statement establishes that:

  - The proprietor exercised complete control over import operations, including supplier selection, negotiation, and payments.

  - Transactions with suppliers and buyers were conducted informally without documentary trail.

- Goods were specifically ordered with low flash point (<20°C), aligning with parameters observed in adulterated diesel.

- The importer lacked technical due diligence and relied solely on supplier documents.

- He acknowledged CRCL findings indicating that goods are essentially adulterated diesel conforming largely to ADF specifications.

- The possibility of misdeclaration and import of restricted petroleum product under the guise of mineral hydrocarbon oil is evident.

6.2 Statement of Shri Chauhan Rohitkumar Arjunbhai, Proprietor of M/s Bherunath Traders, Surat was recorded on 04.05.2026, wherein he interalia stated that:

- When confronted with the MRPL Test Report in respect of the consignment imported vide Bill of Entry No. 4898490 dated 04.10.2025. He acknowledged having perused the report and admitted that, except for a few parameters, the test results indicate that the sample meets the specifications of Automotive Diesel Fuel (ADF) as per IS 1460:2025. He specifically noted that deviations were observed in flash point (below the prescribed limit), distillation recovery (higher than prescribed), and sulphur content.

- He was further confronted with the combined findings of CRCL Visakhapatnam and MRPL test reports, which establish that the imported goods satisfy 18 out of 21 parameters of IS 1460:2025 and that the deviations are attributable to the presence of lighter hydrocarbons (reducing flash point) and higher carbon chain hydrocarbons (increasing distillation recovery), indicating deliberate adulteration to alter the product characteristics. In response, he denied any prior knowledge that the goods were diesel or restricted in nature and stated that the order was placed only for Mineral Hydrocarbon Oil based on the Certificate of Analysis provided by the overseas supplier. However, he admitted that, as per the test reports, the goods are Automotive Diesel Fuel which have been adulterated to deviate certain parameters.

- He further stated that no instructions were given by him to the supplier for any adulteration. He maintained that his firm had no intention to import restricted goods and claimed that the issue arose due to the conduct of the overseas supplier.

- In conclusion, he reiterated that the order placed was for Mineral Hydrocarbon Oil, but the imported goods have been found to be Automotive Diesel Fuel as per test reports. He denied any deliberate act or intention on his part and attributed the discrepancy to the supplier, while asserting that his firm has no past involvement in import of restricted goods.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. <u>Extension under Section 110(2) of the Customs Act, 1962</u>

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

9. Relevant Legal provisions:

9.1 The relevant portion of ITC(HS), 2022 Schedule 1 Import Policy Section V, MINERAL PRODUCTS Chapter 27 Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes is reproduced as under:

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

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

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

(a) State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export

and /or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may be imported or exported by the concerned STE as per conditions specified in ITC (HS). The list of STEs notified by DGFT is in Appendix-2J.

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

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

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

"(5) Import allowed through IOC subject to Para 2.21 of the Foreign Trade Policy, except for companies who have been granted rights for marking of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2022 for products excluding gasoline conforming to standard IS 2796 (ITC HS Code: 27101241) and Automotive Diesel Fuel, not containing Bio Diesel conforming to standard IS 1460 (ITC HS Code 27101944) which would be allowed to be imported by entities in terms of MoPNG Resolution No. P-12029(11)/2/2018-OMC-PNG dated 08.11.2019.

(B) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

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

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

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

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

Section 2(39): *"smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.*

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

9.5 Section 17 Assessment of duty:

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

.....

....

....

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

9.6 Section 46 Entry of goods on importation:

(4) *The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.*

(4A) *the importer who presents a bill of entry shall ensure the following, namely:*

(a) The accuracy and completeness of the information given therein;
(b) The authenticity and validity of any document supporting it; and
(c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

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

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

………

………….

…………………..

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

………

………….

…………………..

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

9.8 Section 112 Penalty for improper importation of goods, etc.:

Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

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

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

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

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

……..

……………

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rule 12. Rejection of declared value *. - (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.*

10. Valuation:

10.1 From the foregoing paras, it is evident that M/s. Bherunath Traderswas involved in mis-declaration of goods in terms of description and classification and the declared value in the corresponding Bill of Entry appears to be not acceptable as true transaction value and merits rejection in terms of Section

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

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

10.3 As discussed above, the consignment covered under Bill of Entry No. 4898490 dated 04.10.2025 was reported as "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***" by the Custom Laboratory, Vishakhapatnam and MRPL.The outcome of the test reports indicate that the invoice value declared by the importer does not reflect the actual value of the goods. Since the goods were mis-declared in the subject Bill of Entry, the declared assessable value of **Rs 1,06,63,486/-** (Rupees One Crore Six Lakh Sixty Three Thousand Four Hundred Eighty Six Only) in Bill of Entry cannot be accepted as the true "transaction value" under Section 14 of the Customs Act, 1962, and is liable to rejection under Rule 12 of the CVR, 2007.

10.4 Accordingly, for valuation purpose, to arrive at a fair and reasonable value within the framework of law and procedures under the Valuation Rules, ADF data dated 01.10.2025 from the M/s Nayara Energy Limitedwas referred. The base price was noted as **Rs 52,541.75/KL**. Based on this, the re-determined value of the consignment of "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***", having a total quantity of **2,41,390** KGs equivalent to **293.305 KL** (using average density of 0.823 g/ml as reported by Custom House Laboratory, Visakhapatnam), is **Rs. 1,54,10,758/-** (Rupees One Crore Fifty Four Lakh Ten Thousand Seven Hundred Fifty Eight Only), in terms of provisions of Rule 9 of the CVR, 2007.

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

Table-IV

Bill of Entry No.	Sample Test Result	Declared Description	Quantity (in KGs)	Declared value as per BoE	Approx. Market Value
4898490	Automotive Diesel Fuel (ADF)	Mineral Hydrocarbon Oil	2,41,390	Rs. 1,06,63,486/-	Rs. 1,54,10,758/-

Therefore, the said goods having declared value of **Rs 1,06,63,486/-** (Rupees One Crore Six Lakh Sixty Three Thousand Four Hundred Eighty Six Only) and re-determined value of **Rs. 1,54,10,758/-** (Rupees One Crore Fifty Four Lakh Ten Thousand Seven Hundred Fifty Eight Only) as per Table-IV above, appear to be liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.

11. <u>Findings of the investigation</u>:

11.1 Specific intelligence gathered by the Directorate of Revenue Intelligence indicated that M/s. Bherunath Traderswas indulged in import of restricted goods through mis-declaration. The importer had declared the consignment as Mineral Hydrocarbon Oil, whereas examination and sampling carried out by the DRI revealed otherwise. The representative samples drawn in respect of Bill of Entry No. 4898490 dated 04.10.2025 were forwarded to the Custom House Laboratory, Visakhapatnam which confirmed that the goods **met all stringent parameters of Automotive Diesel Fuel (ADF) under IS 1460:2025.**

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

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

Diesel Fuel conforming to IS 1460, and not Mineral Hydrocarbon Oil as declared.

11.2 The sample Test report (CRCL Visakhapatnam, Lab No. 596-DRI, Test Memo No. 726/2025) in respect of Bill of Entry No. 4898490 dated 04.10.2025 is reproduced below:

भारत सरकार
वित्त मन्त्रालय, राजस्व विभाग
सीमा शुल्क प्रयोगशाला
5वींमंजिल, सीमा शुल्ककार्यालय
पोर्टएरिया,विशाखापत्तनम– 530 001

Government of India
Ministry of Finance
Department of Revenue
CUSTOM HOUSE LABORATORY
5th FLOOR
CUSTOM HOUSE, PORT AREA
VISAKHAPATNAM – 530 001.
Tel/Fax: 0891-2562900
e-mail -:chemical_examiner@yahoo.com

TEST REPORT **Date:** 08.01.2026

Lab No: 596-DRI **Date:** 01.11.2025
F.No. DRI/GRU/Int-26/2025 **Date:** 24.10.2025
Test Memo No: 726/2025
B.E. No: 4898490 **Date:** 04.10.2025
Sample Received from: Intelligence officer, (DRI), Gandhidham Regional Unit.
Description of Sample: Mineral Hydrocarbon Oil (For Industrial Use Only) (CTH 27101990)
Date of Receipt: 01.11.2025
Sample Plan: Sample not Drawn by this laboratory
Report: The sample is in the form of pale yellow oily liquid. It is mainly composed of Mineral Hydrocarbon Oils having mineral oil content more than 70 % by weight. It is having following characteristics:

1. Appearance	= Clear & bright, free from sediments, suspended matter & undissolved water
2. Total Acid Number (mg of KOH/gr)	= Less than 0.2% by wt.
3. Ash content	= Nil
4. Carbon residue on 10% Residue	= Less than 0.30% by wt.
5. Cetane Number	= To be done at Refinery end.
6. Cetane Index	= 62.2
7. Pour Point	= below 3^{0}C.
8. Flash Point(Abel), deg. C	= 18.0 ^{0}C
9. Density at 15^0 C	= 0.823 g/ml
10. Kinematic viscosity at 40^0 C	= 3.4010 cSt.
11. Sulphur Content	= Less than 50 ppm.
12. Distillation: IBP	= 78 ^{0}C
50% distilled at, ^{0}C	= 298 ^{0}C
85% Recovery by vol., at ^{0}C	= 367 ^{0}C
%Volume recovered at 360 deg. C	= 83% by vol.
95% Recovery by vol., at ^{0}C	= 394 ^{0}C
13. Cold Filter Plugging Point	= Facilility available at Refinery end only
14. Oxidation stability	= To be done at refinery end only.
15. Lubricity wear scan at 60° C	= Facility available at Refinery end only
16. Fame Content	= Absent
17. PAH % by max	= not determined as it is not an characteristic parameter.
18. Water	= Less than 200 PPM.

The sample has been tested for all the characteristics parameters tested above & which are stringent parameters also to characterize petroleum fuels.

The sample meets all the stringent parameter of Automotive diesel fuel as mentioned in IS:1460:2025 except flash point which is 17 °C Lower than required (decreased by means of using Lighter hydrocarbon) and distillation recovery at 360^{0}C (which is 12% less than 95%).

The GCMS pattern of sample shows presence of lighter hydro carbons, which can not a part of Diesel fuels, as per standard refinery protocol & classification of petroleum fuels. Minor deviation from the required values of above 02 parameters, does not effects its application as diesel fuel for Automotive purpose (IS 1460).

The sample is adulterated diesel in respect of the definition of "adulteration" as mentioned in 5.1 of marketing discipline guideline published by PSU's.

There is no specification available for mineral hydrocarbon oil in National & International standards.

The sample also meets the specification of HFHSD (IS 16861) up to the extent of parameter tested above except, flash point and distillation recovery at 370^{0}C (which is 6% less than 95%).

The sample seem to be adulterated with higher carbon chain hydrocarbons to alter recovery at 360 ^{0}C.

Sealed remnant sample returned herewith.

The above test reports in respect of Bill of Entry No. 4898490 dated 04.10.2025 clearly establish, as the intelligence had suggested, that the importer had in fact imported restricted goods, namely Automotive Diesel Fuel (ADF), conforming to the parameters and specifications of **IS 1460:2025.**

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

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

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

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

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4898490 (Result / Match) with IS 1460:2025	Remarks
1	Flash Point (°C)	Min. 35°C	<20°C/ NOT	**Deliberately**

Sr. No.	**Parameter**	**IS 1460:2025 Limit**	**B.E. No. 4898490 (Result / Match) with IS 1460:2025**	**Remarks**
			MATCHING	**Lowered by addition of lighter hydrocarbons**
2	Sulphur Content (ppm)	Max. 10 ppm	14.5 ppm / NOT MATCHING	**Addition of Sulphur/not undergone Desulfurization**
3	Appearance (Visual)	Clear, bright, free from sediments, suspended matter & un-dissolved water	Clear & bright, free from sediments	Within range
4	Total Acid Number (mg KOH/g)	Max. 0.20	Less than 0.20% by wt.	Within range
5	Ash Content (% by mass)	Max. 0.01	Nil	Within range
6	Carbon Residue on 10% Residue (% by mass)	Max. 0.30	Less than 0.30% by wt.	Within range
7	Cetane Number	Min. 51	59.1	Within range
8	Cetane Index	Min. 46	61	Within range
9	Pour Point (°C)	Max. +3°C (Winter)	-9°C	Within range
10	Copper Strip Corrosion (3h at 50°C)	Max. Class 1	Class 1	Within range
11	Distillation, 95% v/v Recovery (°C)	Max. 360°C	398°C	**Above IS 1460 range, due to adulteration with higher carbon chain hydrocarbons to alter recovery.**
12	Kinematic Viscosity @40°C (mm^2/s)	2.0 – 4.5	3.43 cSt	Within range
13	Total Contamination (mg/kg)	Max. 24	10	Within range

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4898490 (Result / Match) with IS 1460:2025	Remarks
14	Density @15°C (kg/m³)	810 – 845	823.7	Within range
15	Water Content (mg/kg)	Max. 200	Less than 200 PPM	Within range
16	Cold Filter Plugging Point (CFPP) (°C)	Max. +6°C (Winter)	-5°C	Within range
17	Oxidation Stability (min)	Min. 60 min	>60 min	Within range
18	Polycyclic Aromatic Hydrocarbon (PAH) (% by mass)	Max. 8.0	1.1	Within range
19	Lubricity, WSD @60°C (µm)	Max. 460	410 µm	Within range
20	FAME Content (% v/v)	Max. 7	Absent	Within range
21	Oxidation Stability (with FAME above/below 2%)	Required only if blended with biodiesel	Not applicable – FAME absent	Within range
TOTAL	**21 Parameters tested**	**—**	**18/21 Matching;**	**18/21 parameters found meeting**

11.4.1 The Flash Point of the imported goods was found to be less, 20°C in (MRPL) report & 21°C in (CRCL) reports against the mandatory minimum of 35°C under IS 1460 for B.E. No. 4898490. The Custom House Laboratory, Visakhapatnam categorically concluded that the flash point was decreased by the adulteration of lighter hydrocarbons. This finding was explicitly upheld by the Hon'ble Gujarat High Court in its judgment dated 09.03.2026 in the matter of R/Special Civil Application No. 16799 of 2025 and allied matters. The Hon'ble High court categorically recorded the following finding:

"*Thus, out of 21 parameters, the 18 parameters tested by CRCL, Visakhapatnam and MRPL, there is a clear opinion by the laboratory that the* *sample meets all characteristics of ADF, except the flash point, which is lowered by mixing lighter hydrocarbons.*"

The intentional lowering of the flash point is a clear indicator of adulteration, undertaken to pass off Automotive Diesel Fuel. The combined reports from CRCL and MRPL conclusively established that the imported goods were in fact Automotive Diesel Fuel conforming to IS 1460:2025 and not Mineral Hydrocarbon Oil as declared.

11.4.2 The Distillation recovery of the imported goods was found to be 398°C (MRPL) / 392°C (CRCL) against the mandatory 95% Distillation recovery at 360°C under IS 1460 for B.E. No. 4898490. Such elevated final boiling temperatures clearly suggest the presence of heavier hydrocarbon fractions in the product. The Custom House Laboratory, Visakhapatnam has specifically opined that this increase in distillation recovery temperature is attributable to deliberate adulteration of the product with higher carbon chain hydrocarbons. These heavier fractions artificially extend the distillation range of the product, thereby altering its recovery profile.

11.4.3 Sulphur Content and BS-VI (Euro VI) Standards: The sulphur parameter is a critical quality and environmental compliance marker for diesel fuel. It may be noted that in Automotive diesel, sulphur parameters are quality parameters only and their focus is on reducing emissions, as required by latest emission standards (BS-VI/Euro V-VI) requiring Ultra-Low Sulphur Diesel (ULSD) at less than 10 ppm, introduced through e-Gazette Notification dated 16.09.2016 (Central Motor Vehicles (11th Amendment) Rules, 2016),issued by Ministry of Road Transport and Highways. This limit is designed to significantly reduce Sulphur Dioxide (SO2) and particulate emissions from vehicles, thereby safeguarding public health and meeting India's environmental commitments. The reduction of sulphur to these levels ordinarily requires a process known as Desulfurization (generally through hydro-desulfurization). In the present case, the sulphur content of the imported goods was found to be 14.5 ppm, which is slightly above the maximum permissible 10 ppm under IS 1460:2025. In the instant case, since lab reports have pointed out towards adulteration of diesel to make it fall out of IS standard parameters, the deviation of the said parameters by way of adulteration with Sulphur and lower hydrocarbons are expected to lead to these specious results in the aforesaid reports.

11.5 In this regard, it is pertinent to refer to the definition of "adulteration" as contained in Section 2(a) of the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005 (hereinafter referred to as the "Malpractices Order, 2005"), issued by the Government of India in exercise of powers conferred by Section 3 of the Essential Commodities Act, 1955. The said provision defines "adulteration" as follows:

> *"2(a) 'adulteration' means [presence of marker in motor spirit and high speed diesel and/or] the introduction of any foreign substance into motor spirit or high speed diesel illegally or unauthorisedly with the result that the product does not conform to the requirements of the Bureau of Indian Standards specifications number IS 2796 and IS 1460 for motor spirit and high speed diesel respectively or any other requirement notified by the Central Government from time to time;"*

Thus, in terms of the aforesaid statutory definition, any introduction of a foreign substance into high speed diesel, illegally or without authorisation, which results in the product failing to conform to the BIS specification IS1460, constitutes adulteration. The Hon'ble Gujarat High Court in its judgment dated 09.03.2026 expressly applied this definition and held that the lowering of the flash point through mixing of lighter hydrocarbons constituted adulteration of HFHSD within the meaning of Section 2(a) of the Malpractices Order, 2005.

11.6 In sum, viewed collectively, the deviations in sulphur content alongside the deviation in flash point and distillation recovery are not independent anomalies but form a coherent pattern consistent with deliberate adulteration of Automotive Diesel Fuel. The selective parameter deviations serve only to confirm that an otherwise conforming diesel product was manipulated with lighter hydrocarbons and other substances, with the deliberate design to render it non-compliant with IS 1460 specifications, so as to facilitate its illegal import as "Mineral Hydrocarbon Oil".

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

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

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

11.8 And whereas the provisions of Section 17(1) of the Customs Act, 1962 read with Section 2(2) of the Customs Act lay down onus on the importer to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. By furnishing incorrect and wrong information in the import documents, it appears that the importer has violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act, 1962.

11.9 And whereas in terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bill of Entry. Further, in terms of Section 46(4A) of the Customs Act, 1962, the importer who presents a bill of entry shall ensure the accuracy and completeness of the information given therein; shall ensure the authenticity and validity of any document supporting it; and shall ensure compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force. In the instant case it appears that the importer was fully aware of the actual goods imported by them. Thus, in view of the facts discussed in the foregoing paras and material evidences available on records, it appears that M/s Bherunath Traders has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, in as much as they had intentionally mis-declared the description of the goods imported by them with a malafide intention to import restricted goods under the garb and guise of freely importable goods.

12. Role and Culpability:

12.1 Role played by M/s. Bherunath Traders (IEC No. AJEPC3758N), 3rd Floor Shop no. 353, M G Dream, Kamrej Char Rasta, Surat-394185:

- From the facts narrated in foregoing paras and evidences gathered during investigation, it appears that M/s Bherunath Traders, Surat imported consignment covered under 4898490 dated 04.10.2025 filed at Mundra Port, by mis-declaring the imported goods as "Mineral Hydrocarbon Oil" classified under CTH 27101990. The investigation conducted by DRI revealed that the actual goods were "***Automotive Diesel Fuel (ADF) as per IS 1460***", which is a '***Restricted***' commodity permitted for import only into India under Policy Condition No. 5 of the Customs Tariff. The inquiry further established that the importer deliberately adulterated the goods by mixing higher carbon chain hydrocarbons in order to manipulate certain parameters, thereby attempting to disguise the restricted product as 'Mineral Hydrocarbon Oil'.

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

- Therefore, in view of the above, M/s Bherunath Traders has rendered themselves liable to penalty under Sections 112(a) and 112(b) of the

Customs Act, 1962. Further, it appears that M/s Bherunath Traders deliberately filed false and incorrect documents before the Customs authorities, suppressing the actual nature of the goods in order to import restricted goods; hence, they are also liable to penalty under Section 114AA of the Customs Act, 1962.

13. Accordingly, M/s. Bherunath Traders (IEC No. AJEPC3758N), 3rd Floor Shop no. 353, M G Dream, Kamrej Char Rasta, Surat-394185' were hereby called upon to Show cause in writing to **the Additional Commissioner of Customs, Customs House, Mundra**, having office situated at office of the Pr. Commissioner of Customs, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421 within 30 (thirty) days from the date of receipt of this notice, as to why:

(i) The classification of goods covered under Bill of Entry No. 4898490 dated 04.10.2025 filed at Mundra Port, declared as 'Mineral Hydrocarbon Oil', under CTH 27101990, should not be rejected and the same should not be re-classified as 'Automotive Diesel Fuel (ADF) as per IS 1460:2025' under CTH 27101944;

(ii) The declared value of the said goods declared as 'Mineral Hydrocarbon Oil', as **Rs 1,06,63,486/-** (Rupees One Crore Six Lakh Sixty Three Thousand Four Hundred Eighty Six Only) should not be rejected in terms of Rule 12 of the CVR, 2007 and the same should not be re-determined as **Rs. 1,54,10,758/-** (Rupees One Crore Fifty Four Lakh Ten Thousand Seven Hundred Fifty Eight Only) as discussed in foregoing paras;

(iii) The goods declared as 'Mineral Hydrocarbon Oil', under the Bill of Entry No. 4898490 dated 04.10.2025 filed at Mundra Port having re-determined value of Rs. 1,54,10,758/- as discussed in Table-IV, should not be held liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.

(iv) Penalty should not be imposed upon the importer under Sections 112(a), 112(b), and114AA of the Customs Act, 1962, separately.

WRITTEN SUBMISSION AND PERSONAL HEARING

14. M/s. Bherunath Traders (IEC No. AJEPC3758N) vide their letter dated 27.07.2026 submitted that they do not wish to avail the opportunity of personal hearing in this matter and requested to allow them to re-export the goods back to the supplier. Along with the said letter, the Noticee also enclosed a letter dated 27.07.2026 issued by the overseas supplier, M/s. Henkel International Lubricant FZE, UAE, confirming that the consignment covered under Commercial Invoice No. 1015 dated 23.09.2025 and Bill of Lading No. FFLJEAMUN2501031 pertains to "Mineral Hydrocarbon Oil (For Industrial Use Only)" under HS Code 27101990, and that the consignee had informed the said supplier that the material received was not in accordance with the agreed product description/specification and had accordingly rejected the shipment. The supplier, vide the said letter, confirmed its acceptance of the return of the consignment and requested Customs authorities to permit re-export of the entire shipment to the exporter.

DISCUSSION AND FINDINGS

15. I have carefully gone through the Show Cause Notice No. 85/2026-27/ADC/ZDC/MCH dated 08.06.2026, the relied upon documents, the voluntary statements of Shri Chauhan Rohitkumar Arjunbhai, Proprietor of M/s. Bherunath Traders, the letter dated 27.07.2026 filed by the Noticee together with the enclosed letter dated 27.07.2026 of the overseas supplier M/s. Henkel International Lubricant FZE, UAE, and all other documentary evidence available on record. The Noticee, M/s. Bherunath Traders, vide their letter dated 27.07.2026, has stated that it does not wish to avail the opportunity of Personal Hearing in the present matter and has requested permission to re-export the goods back to the supplier, relying upon the supplier's letter of even date acknowledging the consignee's rejection of the consignment on grounds of specification mismatch. No written submissions on the merits of the Show Cause Notice — including on the classification, valuation, or confiscation issues raised therein — have been filed by the Noticee; the submissions on record are confined to the request for re-export. The principles of natural justice as provided in Section 122A of the Customs Act, 1962 have been duly complied with, inasmuch as the Noticee has voluntarily waived the Personal Hearing opportunity under the provisions of the Customs Act, 1962. I accordingly proceed to decide the case on the basis of the facts and evidence on record, read with the submissions contained in the Noticee's letter dated 27.07.2026 and the enclosed letter of the overseas supplier.

15.1 On a careful perusal of the Show Cause Notice and the case records, I find that the following main issues are involved in this case, which are required to be decided at the stage of adjudication:

(i) Whether the classification of goods covered under Bill of Entry No. 4898490 dated 04.10.2025 filed at Mundra Port, declared as 'Mineral Hydrocarbon Oil' under CTH 27101990, should be rejected and re-classified as 'Automotive Diesel Fuel (ADF) as per IS 1460:2025' under CTH 27101944;

(ii) Whether the declared value of the said goods, namely **Rs. 1,06,63,486/-** (Rupees One Crore Six Lakh Sixty Three Thousand Four Hundred and Eighty Six Only), should be rejected in terms of Rule 12 of the CVR, 2007 and re-determined as **Rs. 1,54,10,758/-** (Rupees One Crore Fifty Four Lakh Ten Thousand Seven Hundred and Fifty Eight Only);

(iii) Whether the goods declared as 'Mineral Hydrocarbon Oil', under the Bill of Entry No. 4898490 dated 04.10.2025 filed at Mundra Port having re-determined value of Rs. **1,54,10,758/-** as discussed in Table-IV, are liable for confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962; and

(iv) Whether penalty is imposable on the Noticee under Sections 112(a), 112(b) and 114AA of the Customs Act, 1962.

16. CLASSIFICATION

16.1 Regarding the first issue, I find that M/s. Bherunath Traders filed Bill of Entry No. 4898490 dated 04.10.2025 at Mundra Port declaring the goods as 'Mineral Hydrocarbon Oil' and classifying the same under Customs Tariff Item 27101990 ('Others' — import policy: Free). The said Bill of Entry covered a consignment of 2,41,390 KGs in 12 ISO Tank containers, with declared assessable value of **Rs. 1,06,63,486/-**, imported from M/s. Henkel International Lubricant FZE, Hamriya Free Zone, Hamariya-Sharjah, UAE.

16.2 I find that DRI, Gandhidham Regional Unit, intercepted the consignment and drew representative samples from each of the 12 containers (ISO Tanks) covered under Bill of Entry No. 4898490 dated 04.10.2025 under Panchnama dated 11.10.2025 at M/s. Mundhra CFS Pvt. Ltd., Mundra Port. The samples were forwarded to the Custom House Laboratory, Visakhapatnam vide Test Memos No. 726/2025 to 737/2025 dated 24.10.2025. The CRCL, Visakhapatnam issued test reports bearing Lab No. 596-DRI to 607-DRI, all dated 08.01.2026. Additional samples were thereafter forwarded to MRPL, Mangalore vide Test Memo No. 908/2025 dated 05.02.2026 for testing of remaining parameters, to ensure comprehensive testing of all 21 parameters as mandated by the Hon'ble Supreme Court in *Gastrade International v. Commissioner of Customs, Kandla*. MRPL submitted its test report dated 10.04.2026.

16.3 I find that the CRCL, Visakhapatnam and MRPL test reports, read conjunctively, establish that the impugned goods conform to the specifications of Automotive Diesel Fuel (ADF) as per IS 1460:2025 in respect of 18 out of 21 parameters tested. The findings are as follows:

(i) **Flash Point**: Found to be 21°C as per CRCL, Visakhapatnam and below 20°C as per MRPL, against the mandatory minimum of 35°C under IS 1460:2025. CRCL, Visakhapatnam has categorically concluded that the flash point was decreased by adulteration with lighter hydrocarbons, as evidenced by the GCMS pattern of the sample which shows the presence of lighter hydrocarbons that cannot be part of diesel fuels as per standard refinery protocol and classification of petroleum fuels.

(ii) **Distillation Recovery at 360°C**: Found to be 392°C (CRCL) and 398°C (MRPL) against the mandatory 95% distillation recovery at 360°C under IS 1460:2025. CRCL, Visakhapatnam has specifically opined that this elevated distillation recovery temperature is attributable to deliberate adulteration with higher carbon chain hydrocarbons, which artificially extend the distillation range of the product.

(iii) **Sulphur Content**: Found to be 14.5 ppm, slightly above the maximum permissible limit of 10 ppm under IS 1460:2025 — attributable to the absence of desulfurization or addition of sulphur compounds, consistent with deliberate manipulation of product parameters.

(iv) The remaining **18 out of 21 parameters** — including Density at 15°C (823.7 kg/m³, within 810–845 range), Cetane Number (59.1, above minimum 51), Cetane Index (61, above minimum 46), Pour Point (-9°C, below maximum +3°C), Kinematic Viscosity at 40°C (3.43 cSt, within 2.0–4.5 range), Cold Filter Plugging Point (-5°C, below maximum +6°C), Lubricity WSD at 60°C (410 μm, below maximum 460 μm), FAME Content (Absent), and all other parameters — conform to IS 1460:2025 specifications.

CRCL, Visakhapatnam has categorically recorded that there is no specification available for 'Mineral Hydrocarbon Oil' in any National or International Standard. The three deviating parameters — flash point, distillation recovery and sulphur — are each directly attributable to deliberate adulteration and manipulation, and not to any inherent characteristic of a distinct and separately classifiable product. The goods are therefore correctly classifiable under CTH 27101944.

16.4 I note that the testing in this case covers all 21 parameters prescribed under IS 1460:2025, as mandated by the Hon'ble Supreme Court in *Gastrade International v. Commissioner of Customs, Kandla* — CRCL, Visakhapatnam having tested the majority of parameters and MRPL having tested the remaining parameters. The Hon'ble Gujarat High Court in its common judgment dated 09.03.2026 in R/SCA No. 16799 of 2025 and allied matters has specifically held:

"Hence, even if there are two or more Test Reports from different laboratories, so long as they conform to the directions of the Supreme Court in the case of

Gastrade International (supra) and test the parameters prescribed under the relevant Indian Standards, such test results cannot be discarded merely because they were undertaken by different laboratories."

The combined test results of CRCL, Visakhapatnam and MRPL accordingly satisfy the requirements of *Gastrade International* and are fully admissible and reliable.

16.5 I find that the provisions of Section 17(1) of the Customs Act, 1962 read with Section 2(2) of the Customs Act, 1962, lay down the onus on the importer to determine duty, classification, etc. by way of self-assessment. By furnishing incorrect and false information in the import documents, I find that M/s. Bherunath Traders has violated the provisions of Section 17(1) read with Section 2(2) of the Customs Act, 1962. In terms of Section 46(4) and 46(4A) of the Customs Act, 1962, the importer is required to certify the truth of the contents of the Bill of Entry and to ensure accuracy, authenticity and compliance with restrictions. I find that the importer has contravened the provisions of Sections 46(4) and 46(4A) of the Customs Act, 1962. In this context, I note that Shri Chauhan Rohitkumar Arjunbhai, Proprietor of M/s. Bherunath Traders, in his voluntary statements dated 13.03.2026 and 04.05.2026, has himself admitted that: (a) the imported goods were specifically ordered with a flash point below 20°C; (b) he acknowledged the CRCL findings indicating the goods substantially conform to ADF except for parameters attributable to adulteration; (c) he admitted that as per the test reports, the goods are Automotive Diesel Fuel which have been adulterated to deviate certain parameters; and (d) he admitted that no documentary evidence of buyer demand or specifications is available, as all transactions are conducted telephonically.

16.6 In view of the above discussion and the combined findings of CRCL, Visakhapatnam and MRPL, I find that the goods imported by M/s. Bherunath Traders under Bill of Entry No. 4898490 dated 04.10.2025 are **Automotive Diesel Fuel (ADF) conforming to IS 1460:2025**, correctly classifiable under **CTH 27101944**. The declared classification under CTH 27101990 as 'Mineral Hydrocarbon Oil' is accordingly rejected.

17. VALUATION

17.1 Regarding the second issue, I find that as the goods have been found to be mis-declared in respect of their description and classification, the value declared by the Noticee in Bill of Entry No. 4898490 dated 04.10.2025 and the accompanying invoice of the overseas supplier M/s. Henkel International Lubricant FZE, UAE, cannot be accepted as the true transaction value under Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Since the declared description of the goods is itself false — the goods being Automotive Diesel Fuel and not Mineral Hydrocarbon Oil — the invoice price premised on such false description cannot represent the authentic transaction value of the goods. The declared value of **Rs. 1,06,63,486/-** is accordingly liable to be rejected under Rule 12 of the CVR, 2007.

17.2 Since the goods were mis-declared and are restricted goods, exact comparative data in respect of the imported goods are not available in the absence of clear descriptions and mis-declaration on the part of the importer. The value of the subject consignment accordingly cannot be determined under the provisions of Rules 4 to 8 of the CVR, 2007, as ADF is a canalized commodity importable only through State Trading Enterprises and is not freely traded in the import market, rendering comparable transaction value data for identical or similar goods unavailable. The value is accordingly determinable under **Rule 9 (Residual Method)** of the CVR, 2007, read with sub-section (1) of Section 14 of the Customs Act, 1962 and on the basis of objective and quantifiable data available in India.

17.3 For re-determination of assessable value under Rule 9 of CVR 2007, the prevailing market price of ADF in the 1st week of October 2025 as per the invoice generated by M/s. Nayara Energy Limited at **Rs. 52,541.75 per KL** has been adopted as the reference price. The total imported quantity is **2,41,390 KGs**, equivalent to **293.305 KL** using the average density of 0.823 g/ml as reported by CRCL, Visakhapatnam. The re-determined assessable value accordingly works out to **Rs. 1,54,10,758/-** (Rupees One Crore Fifty Four Lakh Ten Thousand Seven Hundred and Fifty Eight Only) [i.e. 293.305 KL × Rs. 52,541.75 per KL]. The details of the calculation are as under:-

17.4 I accordingly hold that the declared assessable value of **Rs. 1,06,63,486/-** (Rupees One Crore Six Lakh Sixty Three Thousand Four Hundred and Eighty Six Only) in respect of Bill of Entry No. 4898490 dated 04.10.2025 is rejected under Rule 12 of CVR 2007, and the assessable value is re-determined at **Rs. 1,54,10,758/-** (Rupees One Crore Fifty Four Lakh Ten Thousand Seven Hundred and Fifty Eight Only) under Rule 9 of CVR 2007, as discussed in the foregoing paras.

18. CONFISCATION

18.1 Regarding the third issue, I find that the Show Cause Notice has proposed confiscation of the impugned goods under Sections 111(d) and 111(m) of the Customs Act, 1962. The relevant provisions read as under:

> *"(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;"*
>
> *"(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77."*

18.2 I find that M/s. Bherunath Traders declared the goods as 'Mineral Hydrocarbon Oil' under CTH 27101990 in the Bill of Entry. Upon testing by CRCL, Visakhapatnam and MRPL, the goods were found to be Automotive Diesel Fuel (ADF) conforming to IS 1460:2025, classifiable under CTH 27101944 — a restricted commodity importable only by State Trading Enterprises under Policy

Condition No. 5 of Chapter 27 of ITC(HS), 2022. The said Policy Condition No. 5 reads as under:

> *"Import allowed through IOC subject to Para 2.21 of the Foreign Trade Policy, except for companies who have been granted rights for marketing of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2002."*

From above, it is seen that import of restricted goods is allowed subject to Para 2.21 of Foreign Trade Policy and the same is reproduced below:

> "*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.*"

18.3 M/s. Bherunath Traders (IEC: AJEPC3758N), Surat, is neither a State Trading Enterprise nor does it possess any authorisation from DGFT for import of ADF. The import of ADF by a non-STE entity in violation of Policy Condition No. 5 of Chapter 27 of ITC(HS), 2022 renders the goods liable for confiscation under **Section 111(d)** of the Customs Act, 1962.

18.4 Further, the goods declared as 'Mineral Hydrocarbon Oil' under CTH 27101990 in the Bill of Entry do not correspond with the actual goods found on testing — namely, ADF conforming to IS 1460:2025 (CTH 27101944). The description, classification, import policy status and value declared in the Bill of Entry are completely at variance with the actual nature of the goods. The declared value of Rs. 1,06,63,486/- also does not correspond to the re-determined value of Rs. 1,54,10,758/- of the actual goods. The goods are therefore also liable for confiscation under **Section 111(m)** of the Customs Act, 1962.

18.5 Accordingly, I find that the imported goods covered under Bill of Entry No. 4898490 dated 04.10.2025, namely **2,41,390 KGs of Automotive Diesel Fuel (ADF) conforming to IS 1460:2025** in 12 ISO Tank containers, having re-determined assessable value of **Rs. 1,54,10,758/-** (Rupees One Crore Fifty Four Lakh Ten Thousand Seven Hundred and Fifty Eight Only), seized vide Seizure Memo dated 12.01.2026, are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962.

18.6 As I have already held the goods liable for confiscation under Section 111 of the Customs Act, 1962, I find it necessary to consider as to whether redemption fine under Section 125 of the Customs Act, 1962 should be imposed in lieu of confiscation. Section 125(1) of the Customs Act, 1962 reads as under:

> *"Section 125. Option to pay fine in lieu of confiscation.— (1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

18.7 A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. In the present case, M/s. Bherunath Traders, vide their letter dated 27.07.2026, supported by a letter of even date from the overseas supplier M/s. Henkel International Lubricant FZE, UAE confirming rejection of the consignment by the consignee on grounds of specification mismatch, has specifically requested permission to re-export the goods back to the supplier. The goods have remained under Customs control at Mundra Port and have not been cleared for home consumption.

18.8 I find that import of Automotive Diesel Fuel (CTH 27101944) is canalized through State Trading Enterprises and requires authorisation under Policy Condition No. 5 of Chapter 27 of the ITC(HS), which the Noticee admittedly does not possess. The infirmity in the present case lies in the Noticee's failure to comply with the prescribed statutory conditions. In the absence of fulfilment of these conditions, the goods cannot be permitted to be cleared into the domestic market.

18.9 I further observe that ordering confiscation without allowance for re-export would not serve any meaningful revenue purpose, as it would only result in prolonged detention of the containers at the port without yielding any revenue to the Government. The goods in question are not per se banned items; their import is regulated and conditional. The confiscation ordered herein is a legal consequence of non-fulfilment of statutory conditions and absence of requisite authorisation. I also note that the Hon'ble Gujarat High Court in its order dated 09.03.2026 in R/SCA No. 16799 of 2025 and connected matters (para 56) clarified that *"in case the petitioners file an application for re-export of goods, the DRI shall consider the same, and pass appropriate orders on such application"*, thus recognising the option of re-export as a legitimate course of action.

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

19. PENALTY ON M/s. BHERUNATH TRADERS:

19.1 Regarding the fourth issue, I find that Section 112(a) of the Customs Act, 1962 provides for imposition of penalty upon 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, in the case of goods in respect of which any prohibition is in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is greater. I have held above that the goods are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. M/s. Bherunath Traders, by filing a Bill of Entry with incorrect description and classification of restricted goods as freely importable 'Mineral Hydrocarbon Oil', has clearly rendered the goods liable to confiscation under Section 111 and has thereby rendered itself liable to penalty under **Section 112(a)(i)** of the Customs Act, 1962.

I further find that imposition of penalty simultaneously under both Section 112(a) and Section 112(b) of the Act would amount to double penalty for the same act, which is not warranted. I therefore refrain from imposing penalty under Section 112(b) of the Act.

19.2 I have carefully considered the Noticee's request for re-export and the position stated in the letter dated 27.07.2026, read with the enclosed letter of even date from the overseas supplier, M/s. Henkel International Lubricant FZE, UAE. I find that the supplier's letter is confined to confirming the consignee's rejection of the consignment on grounds of specification mismatch and to facilitating the logistics of return of the goods; it does not constitute a submission on the merits of the Show Cause Notice and neither addresses nor rebuts the findings recorded herein on classification, valuation, or confiscation, which rest on the combined test reports of CRCL, Visakhapatnam and MRPL. Accordingly, this submission does not detract from the mens rea analysis undertaken below, which is based independently on the voluntary statements of Shri Chauhan Rohitkumar Arjunbhai, Proprietor of M/s. Bherunath Traders, and finds the importer's conduct clearly establishes the following:

(i) 'Mineral Hydrocarbon Oil' is not a recognised product under any Indian or International Standard. CRCL, Visakhapatnam has categorically recorded that there is no specification available for 'Mineral Hydrocarbon Oil' in any National or International Standard. An importer who imports goods described under a category for which no defined specification exists in any National or International Standard, in the petroleum hydrocarbon sector — which is governed by detailed BIS standards — cannot credibly claim to have undertaken a legitimate commercial transaction.

(ii) Shri Chauhan Rohitkumar Arjunbhai, in his statement dated 13.03.2026, specifically admitted that the goods were imported with a flash point below 20°C. A flash point below 20°C is a distinctive and identifying characteristic of adulterated diesel fuel — not of any defined or legitimate product category. An importer who specifically orders goods with a flash point below 20°C, well below the minimum 35°C prescribed for ADF under IS 1460:2025, cannot credibly claim ignorance of the nature of the goods being imported. The specifications admitted to have been sought — flash point 15–20°C, IBP 95–110°C, FBP 390–400°C — are precisely the specifications that result from adulteration of ADF with lighter hydrocarbons and higher carbon chain hydrocarbons simultaneously, as found in the test reports.

(iii) Shri Chauhan Rohitkumar Arjunbhai further admitted in his statement dated 04.05.2026 that, as per the combined test reports, the goods are Automotive Diesel Fuel which have been adulterated to deviate certain parameters. This is a direct admission by the proprietor — who controls all aspects of the business — that the imported goods are essentially ADF.

(iv) Transactions with both overseas suppliers and domestic buyers were conducted exclusively telephonically, without any documentary trail, written agreements, purchase orders or correspondence. No Certificate of Analysis specifying legitimate non-diesel product parameters was obtained from the supplier before placing the order. No independent pre-shipment inspection or testing was conducted. The complete absence of any documentary basis for the alleged 'Mineral Hydrocarbon Oil' procurement, combined with the proprietor's own admission of ordering goods with a flash point below 20°C, demonstrates that the declaration of goods as 'Mineral Hydrocarbon Oil' was not a bona fide error but a deliberate misclassification.

19.3 As regards penalty under **Section 114AA** of the Customs Act, 1962, I find that the said provision provides for penalty upon any person who 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. In the present case, the Bill of Entry filed under Section 46 of the Customs Act, 1962 declared the goods as 'Mineral Hydrocarbon Oil' under CTH 27101990, whereas the actual goods are Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 under CTH 27101944, as conclusively established by the combined test reports of CRCL, Visakhapatnam and MRPL. The commercial invoice, packing list and Certificate of Analysis of the overseas supplier M/s. Henkel International Lubricant FZE, UAE — all describing the goods as 'Mineral Hydrocarbon Oil' — were used to support the Bill of Entry, whereas the actual goods were ADF, a restricted commodity. These declarations and documents are false and incorrect in material particulars. I find that the false declarations in the Bills of Entry were made knowingly and intentionally with the deliberate design to import restricted ADF under the guise of freely importable Industrial Oil. I accordingly find that M/s. Bherunath Traders is liable for penalty under **Section 114AA** of the Customs Act, 1962.

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

ORDER

(i) I reject the classification of goods covered under Bill of Entry No. 4898490 dated 04.10.2025, declared as 'Mineral Hydrocarbon Oil' under Customs Tariff Item 27101990, and **re-classify the same as 'Automotive Diesel Fuel (ADF) conforming to IS 1460:2025' under Customs Tariff Item 27101944**;

(ii) I reject the declared assessable value of **Rs. 1,06,63,486/-** (Rupees One Crore Six Lakh Sixty Three Thousand Four Hundred and Eighty Six Only) under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods)

Rules, 2007, and **re-determine the same as Rs. 1,54,10,758/-** (Rupees One Crore Fifty Four Lakh Ten Thousand Seven Hundred and Fifty Eight Only) under Rule 9 of CVR, 2007, read with Section 14 of the Customs Act, 1962;

(iii) I order confiscation of the impugned goods i.e. **2,41,390 KGs of Automotive Diesel Fuel (ADF) conforming to IS 1460:2025**, imported by M/s. Bherunath Traders under Bill of Entry No. 4898490 dated 04.10.2025 at Mundra Port, having re-determined assessable value of **Rs. 1,54,10,758/-** (Rupees One Crore Fifty Four Lakh Ten Thousand Seven Hundred and Fifty Eight Only), seized vide Seizure Memo dated 12.01.2026, under Sections **111(d) and 111(m)** of the Customs Act, 1962. However, I give an option to M/s. Bherunath Traders to redeem the said goods only for **re-export** under Section 125(1) of the Customs Act, 1962, on payment of Redemption Fine of **Rs. 15,00,000/- (Rupees Fifteen Lakh Only)**;

(iv) I impose a penalty of **Rs. 7,50,000/- (Rupees Seven Lakh Fifty Thousand Only)** on M/s. Bherunath Traders (IEC No. AJEPC3758N) under **Section 112(a)(i)** of the Customs Act, 1962; I do not impose penalty under Section 112(b) of the Customs Act, 1962 simultaneously, for the reasons discussed above.

(v) I impose a penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on M/s. Bherunath Traders (IEC No. AJEPC3758N) under **Section 114AA** of the Customs Act, 1962.

21. This order is issued without prejudice to any other action that may be taken against the Noticee or any other person under the provisions of the Customs Act, 1962 or rules made thereunder, or under the Foreign Trade (Development and Regulation) Act, 1992 or any other law for the time being in force.

22. Show Cause Notice No. 85/2026-27/ADC/ZDC/MCH dated 08.06.2026 stands disposed of on the above terms.

Digitally signed by
Dipakbhai Zala
Date: 24-08-2026
18:13:27

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

To,

(1) M/s Bherunath Traders,
Third Floor, Shop No. 353,
M G Dream Kamrej Char Rasta,
Kamrej Surat-394185
(Email-rochouhan1257@gmail).

Copy to:

(1) The Joint Director, Directorate of Revenue Intelligence, Regional Unit, Gandhidham (Kutch).
(2) The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra
(3) The Dy./Asstt. Commissioner (EDI), Customs House, Mundra
(4) The Deputy/Assistant Commissioner of Customs, Group-I, Custom House, Mundra