

	<p><b>सीमाशुल्कआयुक्तकाकार्यालय,</b>  <b>Office of the Commissioner of Customs,</b>  <b>नयासीमाशुल्कसदन, New Custom House, Near Balaji Temple,</b>  <b>नयाकांडला – ३७०२१०. New Kandla – 370 210.</b>  <b>दूरभाष /Tel. 02836-271468-469, फ़ैक्स/Fax. 02836-271467</b>  <b>E-mail : adjcustomskandla25@gmail.com</b></p>
-----------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**SHOW CAUSE NOTICE**  
**(UNDER SECTION 124 OF THE CUSTOMS ACT, 1962)**

M/s A.K International, bearing IEC- ABQFA2636P and GSTIN-24ABQFA2636P1ZZ (herein after referred to as “SEZ unit” having its registered address premises at 47C, Sector-II, KASEZ, Gandhidham, Kachchh, Gujarat. The SEZ unit was granted a Letter of Approval (LOA) No. 01/2023-24 on 18.04.2023 **(RUD No-1(a))** vide [F.No.](#) KASEZ/IA/AKI/34/22-23 dated: 21.04.2023 to undertake authorized operations of manufacturing activity with details as mentioned therein. The said SEZ unit was further granted warehousing permission vide letter F.No. KASEZ/IA/AKI/34/22-23 dated 31.05.2023 **(RUD-01(b))** to undertake authorized operations of “warehousing activity” as per the terms and conditions mentioned therein.

**2** Whereas, M/s A.K International, Plot No. 47C, Sector-II, Kandla Special Economic Zone had imported certain goods declared as **“Petroleum Hydrocarbon Solvent (CTH-27101990)** under 03 different Bills of Entry No. 3768178 dated 08.08.2025, 3982086 dated 19.08.2025 and 4455341 dated 12.09.2025. **(RUD-02)**

3.1 Whereas, instructions were received from DP Section Kandla Customs and DP Section Mundra Customs **(RUD-03)** to carry out 100% examination of the containers GATU1176396, GESU2439933, SWIU2262960 and

TIFU1511729 in these Bills of Entry on account of seal mismatch in these containers.

3.2 In compliance with these directions regarding 100% examination of the goods in the 04 containers, the 03 different samples from 04 different containers were drawn and sent for testing purposes to CRCL, Vadodara.

3.3 Whereas, the test reports by CRCL Vadodara (**RUD-04**) were received for these samples, wherein the samples were found to conform to Heating Oil (L D O) as per IS 15770:2021 and Light Diesel Oil as per IS 15770:2008. Details of the test reports as received from CRCL is mentioned as below:

**Table-I**

S. No.	Container No./ BE No.	Quantity (in MTs)	Declared Description	Sample Test Result
01.	GATU1176396/ 3768178 dated 08.08.2025	38.500	Petroleum Hydrocarbon Solvent	Heating Oil (L D O) as per IS 15770:2021
02.	GESU2439933/ 3768178 dated 08.08.2025		Petroleum Hydrocarbon Solvent	Heating Oil (L D O) as per IS 15770:2021
03.	SWIU2262960/ 3982086 dated 19.08.2025	19.800	Petroleum Hydrocarbon Solvent	Light diesel Oil as per IS 15770:2008, RA-2018
04.	TIFU1511729/ 4455341 dated 12.09.2025	19.940	Petroleum Hydrocarbon Solvent	Heating Oil (L D O) as per IS 15770:2021

3.4 Whereas, the specifications of Light Diesel Oil (LDO) as per IS 15770 of the Bureau of Indian Standards (BIS) are reproduced below:-

IS 15770 : 2021

Table 1 Requirement for Heating Oil (LDO)

( Clause 3.2 )

Sl No.	Characteristics	Requirements	Methods of Test, Part of IS 1448/ASTM D
(1)	(2)	(3)	(4)
i)	Acid number, mg KOH/gm, <i>Max</i>	0.5	Part 2
ii)	Ash, percent by mass, <i>Max</i>	0.02	Part 4/Sec 1
iii)	Carbon residue, on whole samples, percent by mass, <i>Max</i>	1.5	Part 8
iv)	Pour Point, °C, <i>Max</i>		Part 10/Sec 2
	a) Winter [November to February (both months inclusive)],	12	
	b) Summer (rest of the months in a year)	21	
v)	Copper strip corrosion for 3 h at 100 °C	Not worse than No.2	Part 15
vi)	Flash point, Pensky Martens, °C, <i>Min</i>	66.0	Part 21
vii)	Kinematic viscosity at 40 °C, mm <sup>2</sup> /sec	2.5-15.0	Part 25/Sec 1
viii)	Sediment, percent by mass, <i>Max</i>	0.10	Part 30
ix)	Density at 15 °C, Kg/m <sup>3</sup>	To Report	Part 16
x)	Water content, percent by volume, <i>Max</i>	0.25	Part 40
xi)	Total sulphur, percent by mass	0.005 - 1.50 <sup>2)</sup>	ASTM D 4294

IS 15770 : 2008

Table 1 Requirements of Light Diesel Oil

( Clause 3.2 )

Sl No.	Characteristics	Requirements	Method of Test, Ref to [P:] of IS 1448
(1)	(2)	(3)	(4)
i)	Acidity, inorganic	Nil	[P : 2]
ii)	Ash, percent by mass, <i>Max</i>	0.02	[P : 4]
iii)	Carbon residue (Ramsbottom) on whole sample, percent by mass, <i>Max</i>	1.5	[P : 8]
iv)	Pour point <sup>1)</sup> , <i>Max</i> :		[P : 10]
	a) Winter	12°C	
	b) Summer	21°C	
v)	Copper strip corrosion for 3 h at 100°C	Not worse than No. 2	[P : 15]
vi)	Flash point: Pensky Martens, °C, <i>Min</i>	66	[P : 21]
vii)	Kinematic viscosity cSt, at 40°C	2.5 to 15.0	[P : 25]
viii)	Sediment, percent by mass, <i>Max</i>	0.10	[P : 30]
ix)	Density at 15°C kg/m <sup>3</sup>	To be reported	[P : 16]
x)	Water content percent by volume, <i>Max</i>	0.25	[P : 32] <sup>3)</sup>
xi)	Total sulphur percent by mass, <i>Max</i>	1.5 <sup>3)</sup>	[P : 40]

<sup>1)</sup> Winter shall be the period from November to February (both months inclusive) and rest of the months of the year shall be called as summer.

<sup>2)</sup> In case of dispute [P : 32] shall be the referee test method.

<sup>3)</sup> The stringent limits are applicable in certain areas as notified by the competent authority from time-to-time.

4. Whereas, as per Customs Tariff Act, 1975, it appears that the goods found as Heating Oil (LDO) conforming to standard IS 15770:2021 and Light

Diesel Oil (LDO) conforming to standard IS 15770:2008 RA 2018 are classifiable under CTH 27101943. The relevant descriptions of the above mentioned CTHs as per the Customs Tariff Act, 1975 are as below:

**CTH-27101943**

30.06.2017											
2710 19 41	---	Gas oil and oils obtained from gas oil: --- Gas oil	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 42	---	Vacuum gas oil	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 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 Ntn 12/2018-Cus

5. Whereas, as per DGFT Import policy for goods covered under HSN 27101943, is “STE” (State Trading Enterprise) with policy condition stating “*Import as per Policy Condition (5) of Chapter 27*”. Further, the Policy Condition (5) of Chapter 27 of DGFT Import policy states “*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 from DGFT Import policy are produced as below:

**DGFT Import policy for goods covered under HSN 27101943**

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.
----------	-----	----------------------------------------------------------------------------------------------	--------------------------------	---------------------------------------------------

**Policy Condition (5) of Chapter 27**

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

5.1 In view of the above facts, any imports of the goods falling under CTH 27101943 by an entity other than the ones mentioned in the Policy Condition (5) of Chapter 27 is in contravention of the policy condition prescribed for the said CTH under DGFT Import policy. Accordingly, import of the subject goods by the SEZ unit is in violation of the applicable DGFT Import Policy read with Section 3 of the Foreign Trade (Development and Regulation) Act, 1992, rendering the goods liable for action under the provisions of the Customs Act, 1962 for having been imported contrary to the applicable import policy conditions.

5.2 Whereas, the said unit was granted Letter of Approval (LOA) dated 21.04.2023 under Section 15(9) of the SEZ Act, 2005 read with Rule 19 of the SEZ Rules, 2006 for undertaking authorised operations namely manufacturing activity with details as mentioned in the said LoA. As per Section 2(c) read with Section 15(9) of the SEZ Act, only such operations as authorized in the Letter of Approval constitute “authorised operations” for

the SEZ unit. Furthermore, as per Rule 27(1) of SEZ Rules, 2006, the unit is entitled to import goods without payment of duty which are required for its Authorized operations. Further, in terms of Section 26(1)(a) of the SEZ Act read, all the exemptions and concessions are permissible only for goods required to carry on the authorised operations. However, investigation revealed that the unit appears to have imported Heating Oil (LDO)/Light Diesel Oil (by mis-declaring the same as “Petroleum Hydrocarbon Solvents”), which are not permitted/approved raw material for the authorised operations as mentioned in their LoA. By importing goods not permitted/not approved under its LoA for the authorised operations, the unit has also contravened the conditions of its LoA and thereby contravened the provisions of SEZ Act, 2005 readwith SEZ Rules, 2006.

6.1 Whereas, Section 2(33) of the Customs Act, 1962 defines “prohibited goods” to mean any goods the import or export of which is subject to any prohibition under this Act or under any other law for the time being in force.

6.2 Whereas, 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 have been prohibited under Section 11 of the Customs Act, 1962 and all the provisions of that Act shall have effect accordingly.

6.3 Whereas, the same view has been held in *Sheikh Mohd. Omer v. Collector of Customs* (1970) 2 SCC 728, wherein the Hon’ble Supreme Court has held that the expression “any prohibition” under Section 11(d) includes restrictions.

6.4 In the present case, import of goods i.e. Light Diesel Oil(LDO)/Heating Oil(LDO) without complying with the prescribed conditions of DGFT Import policy as well as in contravention to the permissions/approvals granted in

the LoA of the said SEZ unit, renders the goods “prohibited goods” within the meaning of Section 2(33) of the Customs Act, 1962 and consequently liable to confiscation under Section 111(d) of the Customs Act, 1962.

#### **7. Seizure of the subject goods:**

Accordingly, on a reasonable belief that the goods in Table No-1 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 13.10.2025 **(RUD-05)**

#### **Summons and Statements under Section 108 of Customs Act, 1962:**

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

**8.1** Accordingly, the statement of Shri Nimish Kumar Aggarwal, Partner of M/s A.K International, Plot No. 47C, Sector-II, Kandla Special Economic Zone was recorded on 12.01.2026 **(RUD-06)** under Section 108 of Customs Act, 1962 wherein he, inter alia, stated:

- ❖ *that his name is Nimish Agrawal, Partner AK International.*
- ❖ *that, being a partner, he is responsible for all the activities being performed in the said unit.*
- ❖ *that he has been associated with the said unit from last approx. 02 years*
- ❖ *that there are 02 partners 1. Shri Gaurav Kakkar 2. Shri Nimish Kumar Agarwal in the Firm. He is the authorized person to file the BoEs etc. including the said BoEs*
- ❖ *that the unit is in the engaged business of manufacturing activity as per the LoA dated 21.04.2023*
- ❖ *that 02 main raw materials are used for manufacturing of MHO i.e. Petroleum Hydrocarbon Solvent (98.10%), Heavy Aromatic (1.90%)*
- ❖ *that the end use of MHO, is used as raw material for paint industry, pesticide industry and construction industry*
- ❖ *that on the basis of Certificate of Analysis provided by the supplier the goods have been declared as Petroleum Hydrocarbon Solvent and same was intended to use as raw material for manufacturing of MHO*

- ❖ *that the supplier, having an in-house laboratory, conducts analysis in accordance with the specified requirements prior to loading each consignment. No defects have been observed in our finished/manufactured goods to date (CRCL test reports of the finished goods are attached herewith), which are manufactured based on Certificates of Analysis provided by the supplier. The said facts established that the Certificate of Analysis provided by the supplier is credible and reliable*
- ❖ *that he is fully aware about the characteristics of the raw material*
- ❖ *that they have ordered for the Petroleum Hydrocarbon Solvent and filed the 3 BoEs containing a total of 30 containers accordingly. It is pertinent to mention that all said BoEs pertaining to these 30 containers were RMS facilitated.*
- ❖ *that it is further submitted that the remaining 26 containers were of raw material (PHS) as mentioned in the description and were RMS facilitated. Further, they were facing acute shortage of the storage space as well as of raw material which would have resulted in shut down of the plant, hence in view of the circumstances and risk associated, the goods of the remaining 26 containers have to be put to use in the manufacturing process.*
- ❖ *that he don't have any such documentary evidence to prove that the remaining consignments were materially different from the samples drawn and tested*

### **Findings of the investigation::**

9.1 Whereas, as discussed in the foregoing paras, for the subject imported goods declared as "Petroleum Hydrocarbon Solvent" the samples were drawn and sent to CRCL, Vadodara for testing. As per the test reports received, the samples were found to conform to Heating Oil (L D O) as per IS 15770:2021 and Light Diesel Oil as per IS 15770:2008, RA-2018 with details as mentioned in Table-I above. Thus, the imported goods appeared to be materially different from the declared descriptions in the subject Bills of Entry.

9.2 It appears that the goods which are actually imported viz, Heating Oil (L D O) as per IS 15770:2021 and Light Diesel Oil as per IS 15770:2008, RA-2018 under the subject consignments have been misclassified in different

CTIs which do not put any restriction on the import of goods covered under the said CTIs. It appears that the goods have been deliberately given description as "Petroleum Hydrocarbon Solvent", so that the same can be classified in the category of Chapter Heading 27101990 as there is no restriction in the import of commodities falling in the said CTI . While the import policy for the goods actually imported makes them restricted for import by way of importation by State Trading Enterprises (STE) 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*". It thus appears that the SEZ unit deliberately resorted to misdeclaration and misclassification of restricted petroleum products as freely importable goods to circumvent the import restrictions applicable on the same.

9.3 Whereas it is further observed that the all the containers including the subject containers covered within each individual Bill of Entry were imported from the same overseas supplier and were supported by same commercial invoice, packing list and import documents, bearing identical product description, specifications, grade and tariff classification. The same holds true for all 3 aforesaid Bills of Entry individually. Further, the said Bills of Entry were self-assessed by the importer under Section 17 of the Customs Act, 1962 and were facilitated by the Risk Management System (RMS) without physical examination or testing at the time of import.

9.4 Whereas, the importer has not declared any variation in quality, composition, grade, specification, or end-use in respect of the goods covered under the said Bills of Entry. Furthermore, no contemporaneous evidence has been produced by the importer to establish that the remaining consignments were materially different from the samples drawn and tested. Thereby, in the absence of any evidence indicating variation in the

remaining consignments and in absence of counter-evidence from the importer, all the goods declared within each Bill of Entry appear to be identical, homogeneous and uniform in all material and commercial respects. Accordingly, it appears reasonable to treat the samples as representative of the entire consignments covered under the said Bills of Entry. Consequently, the test results obtained for these samples are liable to be applied to all the goods imported vide the aforesaid Bills of Entry.

9.5 It is further observed that Out of Charge (OOC) has not been granted in respect of any of the three subject Bills of Entry which is a legal prerequisite for clearance/utilization of the goods. However, without obtaining the requisite OOC or authorization, the SEZ unit has utilized/consumed the remaining 26 containers covered under the said 3 Bills of Entry (other than the seized containers). The same is mentioned in the statement of Sh. Nimish Kumar Agarwal, partner, as well. Accordingly, it appears that the goods contained in these 26 containers have been utilized/consumed through unauthorized removal, in circumvention of the prescribed SEZ procedures.

9.6 Whereas, during the statement, Sh. Nimish Kumar Agarwal, partner, M/s. AK International, has admitted that he is responsible for all the activities being performed in the said unit. He further stated that he is the authorized person to file the BoEs etc. including the said BoEs.

**Valuation:**

10. Whereas in the case of Varsha Plastics Pvt. Ltd. Versus Union Of India, 2009 (235) E.L.T. 193 (S.C.), it was stated that once the nature of goods has been mis-declared, the value declared on the imported goods becomes unacceptable. In view of the above, the assessable value of imported goods is required to be re-determined in accordance with Section 14 of the Act read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

11. Based on the above, as the subject goods were imported into SEZ after mis-declaration in terms of description and classification and accordingly, the declared value in the corresponding Bills 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. Therefore, the assessable value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Since exact comparative data in respect of the import goods covered under the subject consignments are not available in the 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 are not able to be fully compared with similar/identical imports on account of the same being 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 the purpose of determining the value of the seized Light Diesel Oil (LDO), benchmark price data was obtained from the Petroleum Planning and Analysis Cell (PPAC), Ministry of Petroleum & Natural Gas, Government of India (**RUD-07**) read with notified exchange rate issued from time to time by CBIC (**RUD-08**). As per the said data, the benchmark price of LDO for the month of August 2025 is found to be approx. Rs. 46,187 per KL, calculated by applying the prevailing dollar exchange rate of ₹88.6 per US Dollar, and for the month of September 2025, the benchmark price of LDO was approx. Rs. 48,097 per KL, calculated by applying the prevailing dollar exchange rate of ₹89 per US Dollar. Subsequently, the price per MT is calculated by dividing the price per KL with the density as per the corresponding test reports. Further, the benchmark price for Heating Oil (LDO) may be considered as similar to the

benchmark price of Light Diesel Oil (LDO) as both are considered equivalent or similar in commercial and technical aspects (IS specifications etc.).

12. Accordingly, as per the said prices, the assessable value of the goods covered in the subject Bills of Entry, is re-determined as below.

**Table-2**

Sl. No.	Bill of Entry No.	Declared Description	Sample Test Result	Quantity (in MT)	Declared Assessable value as per BoE (in Rs.)	Re-determined Assessable Value for the BE (in Rs.)
01.	Bill of Entry No. 3768178 dated 08.08.2025	Petroleum Hydrocarbon Solvent	Heating Oil (LDO)	192.72	70,57,795	1,05,38,904
02.	Bill of Entry No. 3982086 dated 19.08.2025	Petroleum Hydrocarbon Solvent	Light Diesel Oil (LDO)	191.80	70,28,156	1,05,43,521
03.	Bill of Entry No. 4455341 dated 12.09.2025	Petroleum Hydrocarbon Solvent	Heating Oil (LDO)	199.18	73,23,206	1,13,50,664
<b>Total</b>				583.7	2,14,09,157	3,24,33,089

13. In the present case, the goods declared as “*Petroleum Hydrocarbon Solvent*” were found on testing to be Heating Oil (LDO)/Light Diesel Oil, whose import is governed by specific import policy conditions. The SEZ unit, being engaged in activities relating to subject goods, was reasonably expected to be fully aware of the nature, specifications, valuation, classification, import policy conditions applicable to such goods and has to ensure compliance with the approvals/permissions granted in the LoA. The incorrect declaration of the goods by the SEZ unit and its partner Shri Nimish Kumar Agarwal in the Bills of Entry, coupled with non-compliance and non-observance of DGFT Import policy conditions applicable on import of the actual goods at the time of import and importing goods not permitted/not approved under its LoA for the authorised operations has rendered the impugned goods liable for confiscation in terms of Section 111(m), 111(o) and 111(d) of the Customs Act, 1962 and makes the said SEZ unit and its partner Shri Nimish Kumar Agarwal liable for penalties under Section 112 and 114AA of the Customs Act, 1962.

14. Whereas, Section 17 of the Customs Act, 1962 provides for self-assessment of duty on imported and export goods by the importer and exporter himself by filing a bill of entry or shipping bill, as the case may be. Further, Rule 75 of the SEZ Rules, 2006 also provides that unless and otherwise specified in these rules all inward or outward movements of the goods into or from SEZ by the Unit/Developer shall be based on self-declaration made by the Unit/Developer. Under this trust based system of self-assessment, it is the responsibility and duty of the importer/exporter to ensure correct classification, applicable rate of duty, value and compliance with relevant policy conditions, if any, in respect of imported /exported goods while presenting a bill of entry or shipping bill. While importing the subject goods, the said SEZ unit and its partner were bound for true and correct declaration with respect to description, classification, valuation, applicable duty and ensuring import of subject goods are in accordance with DGFT Policy conditions as well as authorization/permissions/approvals granted in their Letter of Approval.

15.1 As the said SEZ unit and its partner Shri Nimish Kumar Agarwal have been engaged in the business of activities related to the subject goods, they were fully aware of specifications, characteristics, nature, classification, duty applicability, importability and approvals and other regulatory compliances in respect goods dealt by them in the SEZ area. From the above, it appears that the said SEZ unit and its partner were fully aware that goods falling under CTI 27101943 are restricted for import under the DGFT Policy conditions by way of import through STE, whereas such restriction is not applicable to goods falling under CTI 27101990 as well as that the fact that they did not possess the requisite authorization/permissions/approvals to import goods classifiable under CTI 27101943 under the Letter of Approval granted to them, thus resorting to wilfully mis-state and suppress the material facts while filing the subject Bills of Entry.

15.2 As the SEZ unit and its partner Shri Nimish Kumar Agarwal have willfully mis-declared and mis-classified the imported goods with a malafide intention to avail undue exemption, circumvent the DGFT Policy condition as well as importing the subject goods in contravention of the authorizations/permissions/approvals granted under their Letter of Approval, accordingly, as discussed above, on account of subject import being not covered under authorized operations of the said SEZ unit, the SEZ unit is not entitled for availing exemptions from Customs duty in terms of Section 26 of SEZ Act, 2005 for the said imports. Accordingly, on account of

misdeclaration, misclassification and on account of availing exemption without observance of condition for availing exemption (i.e. for carrying on the authorised operations), the subject goods imported vide aforesaid Bills of Entry appear to be liable for confiscation under Section 111(m), Section 111(o) and Section 111 (d) of the Customs Act, 1962. Consequently, said acts of omission and commission by the SEZ unit and its partners appear to make them liable for penalty under Section 112 and 114AA of the Customs Act, 1962.

16. Whereas, Section 46(4A) of the Customs Act, 1962, the importer, who is presenting the bill of entry should ensure, inter-alia, accuracy and completeness of the information given, authenticity and validity of the document supporting it as well as the 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, which includes compliance/observance with the DGFT import policy conditions applicable on the subject goods and ensuring import of subject goods are in accordance and observance with authorization/permissions/approvals granted in their Letter of Approval. However, the SEZ unit and its partner Sh. Nimish Kumar Agarwal has wilfully mis-declared the imported goods in the relevant Bills of Entry with respect to (i) description, (ii) classification under the First Schedule to the Customs Tariff Act, 1975, and (iii) assessable value, with a malafide intention to give effect to the import in contravention of DGFT Import policy as well as permissions/approvals granted in the LoA. Accordingly, it appears the said the SEZ unit and its partner Shri Nimish Kumar Agarwal have violated the provisions of Section 46(4A) and Section 46(4) of Customs Act, 1962, by providing false or incorrect information and documents, non-complying with restrictions applicable on import of such goods and effecting import against the permissions/approvals granted in the LoA. Such omission and commission on their part makes the impugned goods liable for confiscation in terms of Section 111(m), 111(o) and 111(d) of the Customs Act, 1962 and makes the said SEZ unit and its partner Shri Nimish Kumar

Agarwal liable for penalties under Section 112 and 114AA of the Customs Act, 1962.

17. It is further observed that Out of Charge (OOC) has not been granted in respect of any of the three subject Bills of Entry which is a legal prerequisite for clearance/utilization of the goods. However, the SEZ unit has utilized/consumed the remaining 26 containers covered under the said 3 Bills of Entry (other than seized containers) without obtaining the requisite OOC or any authorization. Accordingly, it appears that the goods contained in these 26 containers have been utilized/consumed through unauthorized removal, in circumvention of the prescribed SEZ procedures. Accordingly, the goods belonging to these 26 containers (having total assessable value as Rs. 2,81,02,960/- as per Annexure-A(RUD-09)) are liable for confiscation under Section 111(j) of the Customs Act, 1962. For the said act of omission and commission, the said SEZ unit and its partner Shri Nimish Kumar Agarwal are liable for penalties under Section 112, 114AA and 117 of the Customs Act, 1962.

**18. Now therefore,**

**18.1 M/s A.K International**, located at Plot No. 47C, Sector-II, Kandla Special Economic Zone, Gandhidham, Kachchh, Gujarat, 370230, hereby called upon to Show Cause in writing to the Joint/Additional Commissioner of Customs, Customs House Kandla having office situated at Office of the Commissioner of Customs, Custom House, Near Balaji Temple, Kandla-370210 within 30 (thirty) days from the date of receipt of the notice, as to why-

- I. The declared classification and description of the goods imported vide Bill of Entry No. 3768178 dated 08.08.2025, and Bill of Entry No. 4455341 dated 12.09.2025 should not be rejected and reclassified from Petroleum Hydrocarbon Solvent (CTH-27101990) to Heating Oil (L D O) as per IS 15770:2021 (CTH-27101943) for reasons as discussed above;

- II. The declared classification and description of the goods imported vide Bill of Entry No. 3982086 dated 19.08.2025 should not be rejected and reclassified from Petroleum Hydrocarbon Solvent (CTH-27101990) to Light Diesel Oil (LDO) as per IS 15770:2008, RA-2018 (CTH-27101943) for reasons as discussed above;
- III. The declared assessable value in Bill of Entry No. 3768178 dated 08.08.2025, and Bill of Entry No. 4455341 dated 12.09.2025, totalling Rs. 1,43,81,001/- (Rupees One Crore Forty-Three Lakh Eighty-One Thousand One Only) should not be rejected and re-assessed as Rs. 2,18,89,568/- (Rupees Two Crore Eighteen Lakh Eighty-Nine Thousand Five Hundred Sixty Eight Only) (as mentioned in Table-2 above) for reasons as discussed above;
- IV. The declared assessable value in the Bill of Entry No. 3982086 dated 19.08.2025, totalling approx. Rs. 70,28,156/- (Rupees Seventy Lakh Twenty Eight Thousand One Hundred Fifty Six Only) should not be rejected and re-assessed as Rs. 1,05,43,521 /- (Rupees One Crore Five Lakh Forty-Three Thousands Five Hundred Twenty One Only) (as mentioned in Table-2 above) for reasons as discussed above;
- V. The goods imported vide Bill of Entry No. 3768178 dated 08.08.2025, Bill of Entry No. 3982086 dated 19.08.2025 and Bill of Entry No. 4455341 dated 12.09.2025 (belonging to the 4 seized containers) (with details as mentioned in Annexure-A (RUD-09)), having total re-determined Assessable value of Rs. 43,30,129/- (Rupees Forty Three Lakhs Thirty Thousand and One Hundred Twenty Nine Only) should not be confiscated under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962 for reasons as discussed above;
- VI. The goods imported vide Bill of Entry No. 3768178 dated 08.08.2025, Bill of Entry No. 3982086 dated 19.08.2025 and Bill of Entry No. 4455341 dated 12.09.2025 (belonging to the 26 remaining containers) (with details as mentioned in Annexure-A (RUD-09)) having total re-determined assessable value as Rs. 2,81,02,960/- (Rs. Two Crore

Eighty One Lakh Two Thousand and Nine Hundred Sixty Rupees only) should not be confiscated under Section 111(d), 111(m), 111(j), 111(o) of the Customs Act, 1962 for reasons as discussed above;

- VII. Penalties should not be imposed on the SEZ unit under Section 112, 114AA and 117 of the Customs Act, 1962 for the reasons discussed above, and;
- VIII. Bond-cum-Legal Undertaking in Form-H executed by the said SEZ Unit should not be enforced towards its above liabilities.

**18.2** Shri Nimish Kumar Agarwal, partner of M/s A.K International located at Plot No. 47C, Sector-II, Kandla Special Economic Zone, Gandhidham, Kachchh, Gujarat, 370230, hereby called upon to Show Cause in writing to the Joint/Additional Commissioner of Customs, Customs House Kandla having office situated at Office of the Commissioner of Customs, Custom House, Near Balaji Temple, Kandla-370210 within 30 (thirty) days from the date of receipt of the notice, as to why:

- I. Penalties should not be imposed on them under Section 112, 114AA and 117 of the Customs Act, 1962 for the reasons discussed above;

19. The Noticees are required to submit their reply in writing to the Adjudicating Authority, as above, within 30 days from the date of receipt of this notice. In their written reply, the Noticee may also state as to whether they would like to be heard in person. In case, no reply is received within the time limit stipulated above or any further time which may be granted to them by the Adjudicating Authority and/or if they fail to appear for personal hearing, when the case is posted for the same, the case will be decided ex-parte on the basis of evidence on record and without any further reference to the Noticees. Further, the Noticees are advised to mention their email address in writing for virtual hearing as per CBIC's Instruction dated 21.08.2020 issued vide F.No. 390/Misc/3/2019-JC.

20. This notice is issued without prejudice to any other action that may be taken in respect of the above goods and / or the persons / firms mentioned

in the notice under the provisions of the Customs Act, 1962 and / or any other law for the time being in force, in the Republic of India.

21. The department reserves the right to add, amend, modify, delete any part or the portion of this notice any such addendum, amendment, modification, deletion, if made, shall be deemed to be part and parcel of this notice.

22. The list of relied upon documents (RUDs) in this case is as per Annexure-R.

Commissioner (In-situ)  
Custom House, Kandla.

**By Speed Post/Email/Courier/Hand Delivery:**

**To,**

1. M/s A.K International, located at Plot No. 47C, Sector-II, Kandla Special Economic Zone, Gandhidham, Kachchh, Gujarat, 370230.
2. Shri Nimish Kumar Agarwal, partner of M/s A.K International located at Plot No. 47C, Sector-II, Kandla Special Economic Zone, Gandhidham, Kachchh, Gujarat, 370230

**Annexure-R ( List of Relied upon Documents)**

**RUD-01 (a):-** Letter of Approval (LOA) No. 01/2023-24 on 18.04.2023 vide [F.No.](#) KASEZ/IA/AKI/34 dated: 21.04.2023.

**RUD-01(b):-** Addition of Warehousing permission vide letter F.No. KASEZ/IA/AKI/34 dated 31.05.2023.

**RUD-02:-** Subject Bills of Entry.

**RUD-03:-** Letters from DP Section Kandla and DP Section Mundra to carry out 100% examination of Containers due to seal mismatch.

**RUD-04:-** Test reports received from CRCL Vadodara.

**RUD-05:-** Seizure Memo dated 13.10.2025.

**RUD-06:-** Statement of Shri Nimish Kumar Aggarwal Partner of M/s A.K International, Plot No. 47C, Sector-II, Kandla Special Economic Zone recorded on 12.01.2026.

**RUD-07:-** Benchmark price data obtained from the Petroleum Planning and Analysis Cell (PPAC), Ministry of Petroleum & Natural Gas, Government of India.

**RUD-08:-** CBIC exchange rate notifications.

**RUD-09:-** Annexure -A (Calculation of Re-determined Assessable Value of Seized(4) Containers and Remaining (26) Containers)