	सीमा शुल्क के प्रधान आयुक्त का कार्यालय **सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात** **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS** **CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT** **Email-adj-mundra@gov.in**	

A	**FILE NO.** फ़ाइल संख्या	GEN/ADJ/ADC/539/2025-Adjn-O/o Pr. Commr-Cus-Mundra
B	**OIO NO.** आदेश संख्या	MCH/ZDC/ADC/138/2026-27
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	27.05.2026
E	**DATE OF ISSUE** जारी करने की तिथि	27.05.2026
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	VIII/48-02/ADJ/ADC/MCH/2024-25-Adjn-O/o Pr Commr-Cus-Mundra dated 12.02.2025
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	(i) M/s Venkateshwara Chemical Industries Private Limited (IEC- AAICV1692C) (ii) Shri Arun Kumar Saxena, Director of M/s Venkateshwara Chemical Industries Private Limited (iii) M/s Airtrax Freight Logistics (iv) Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics
H	**DIN/**दस्तावेज़ पहचान संख्या	**20260571MO000000BD54**

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 A 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 128A 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), MUNDRA
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

Intelligence was garnered that M/s Venkateshwara Chemical Industries Private Limited,(IEC-AAICV1692C) 180 Sqf Area at, Unit No B-201, Metro Plaza, Meerut, Uttar Pradesh, 250002 (hereinafter referred to as the *"Importer"* or *"Venkateshwara Chemical"*) were importing restricted products falling under Customs Tariff Heading (CTH) 2710 which as per the import policy can be imported by State Trading Enterprises (STEs) only. All goods, import of which is permitted only with an Authorisation /Permission/License or in accordance with the procedure prescribed in a notification/public notice are '*Restricted*' goods. Restricted items are importable under certain conditions with the necessary approvals from the relevant Competent Authority. According to intelligence, the said entity was resorting to illicit import by mis-declaring the consignments as "Mixed Hydrocarbon Oil (MHO)" and mis-classifying them under

Customs Tariff Item (CTI) 27101990 wherein the import policy is "*Free*." Therefore, 20 containers covered under 2 Bills of Entry, pertaining to the importer were put on hold by DRI Noida Regional Unit (hereinafter referred to as "DRI") on 15.02.2024 for examination by the officers of DRI. Further 14 containers covered under one Bill of Entry were again put on hold by DRI on 27.02.2024. The details of the containers are given as below:

TABLE-'A'

Sl. No.	BE No.	BE date	Name of the Importer	Container No.	CHA
1.	2025444	07/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	MEDU5333141	AIRTRAX FREIGHT LOGISTICS
2.	2025444	07/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	MEDU 6727290	AIRTRAX FREIGHT LOGISTICS
3.	2025444	07/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	MSDU 1325021	AIRTRAX FREIGHT LOGISTICS
4.	2025444	07/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	SEGU 2931085	AIRTRAX FREIGHT LOGISTICS
5.	2025444	07/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	TGBU 3814897	AIRTRAX FREIGHT LOGISTICS
6.	2025444	07/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	TGHU 1691769	AIRTRAX FREIGHT LOGISTICS
7.	2025444	07/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	BMOU 2665861	AIRTRAX FREIGHT LOGISTICS
8.	2025444	07/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	CAIU 3058939	AIRTRAX FREIGHT LOGISTICS
9.	2025444	07/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	GLDU 5136881	AIRTRAX FREIGHT LOGISTICS
10.	2025444	07/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	MEDU 3374820	AIRTRAX FREIGHT LOGISTICS
11.	2071959	09/02/24	VENKATESHWARA CHEMICAL INDUSTRIES	MSDU 2697698	AIRTRAX FREIGHT LOGISTICS

			PRIVATE LIMITED		
12.	2071959	09/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	HPCU 2295375	AIRTRAX FREIGHT LOGISTICS
13.	2071959	09/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	MSDU 2229655	AIRTRAX FREIGHT LOGISTICS
14.	2071959	09/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	MSDU 2734220	AIRTRAX FREIGHT LOGISTICS
15.	2071959	09/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	MSDU 2771650	AIRTRAX FREIGHT LOGISTICS
16.	2071959	09/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	MSMU 1435771	AIRTRAX FREIGHT LOGISTICS
17.	2071959	09/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	MSDU 1880322	AIRTRAX FREIGHT LOGISTICS
18.	2071959	09/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	MSMU 2156560	AIRTRAX FREIGHT LOGISTICS
19.	2071959	09/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	TLLU 3306541	AIRTRAX FREIGHT LOGISTICS
20.	2071959	09/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	TRHU 3769410	AIRTRAX FREIGHT LOGISTICS
21.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	BSIU2447248	AIRTRAX FREIGHT LOGISTICS
22.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	CBHU 3936130	AIRTRAX FREIGHT LOGISTICS
23.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	CCEU2006510	AIRTRAX FREIGHT LOGISTICS
24.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	CRXU 3150867	AIRTRAX FREIGHT LOGISTICS

25.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	GESU 3889196	AIRTRAX FREIGHT LOGISTICS
26.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	GLDU 3866509	AIRTRAX FREIGHT LOGISTICS
27.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	HJCU2100640	AIRTRAX FREIGHT LOGISTICS
28.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	HLXU 3336135	AIRTRAX FREIGHT LOGISTICS
29.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	MOAU 7710466	AIRTRAX FREIGHT LOGISTICS
30.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	NYKU 3344776	AIRTRAX FREIGHT LOGISTICS
31.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	TRLU8948946	AIRTRAX FREIGHT LOGISTICS
32.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	TSTU 0232386	AIRTRAX FREIGHT LOGISTICS
33.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	UETU2029659	AIRTRAX FREIGHT LOGISTICS
34.	2239930	21/02/24	VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED	WHLU 2850196	AIRTRAX FREIGHT LOGISTICS

2. Thereafter, the said containers covered under the above-mentioned 3 Bills of Entrywere subjected to examination on 12.03.2024 and 13.03.2024 in the presence of the following persons/representatives detailed below:

TABLE-'B'

S.No	Bill Of Entry No	No of container	Examination date	CHA/ Authorised Representative	Container Freight Station	Representative of CFS
1	2025444 Dt.	10	13.03.2024	Shri Uttam	Saurashtra,	Shri Radheshyam

	07.02.20224			Kumar Shahi - Authorised Representative of M/s Airtrax Freight Logistics,	CFS	Gupta, Sr Executive of Saurashtra, CFS,
2	2071959 Dt. 09.02.2024	10	13.03.2024		Hind Terminal Pvt Ltd (HTPL) CFS	Shri Uresh Dawada, Sr Executive of Hind Terminal Pvt Ltd (HTPL) CFS
3	2239930 Dt. 21/02/2024	14	12.03.2024		Mundra, CFS	Shri Gurpreet Singh, Sr Manager (Operations) of Mundra, CFS

2.(i) And whereas, during the examination, Shri Uttam Kumar Shahi - Authorised Representative of M/s Airtrax Freight Logistics provided the relevant documents viz Bills of Entry along with the corresponding Invoice and packing list, Chemical Analysis Reports. The details of the consignments as per the documents provided are detailed as under:

S.No	Bill Of Entry No & Date	Goods Description (as per Bill of Entry)	Name of the Supplier (as per Bill of Entry)	Chapter Heading (as per Bill of Entry)	Ass. Value (In Rupees)	Gross Weight (KGs)
1	2025444 Dt. 07.02.20224	Mixed Hydrocarbon Oil	M/s Taurus International(FZE)	27101990	72,52,392/-	188630
2	2071959 Dt. 09.02.2024				73,30,773/-	190660
3	2239930 Dt. 21/02/2024		M/s Sun Star Trading FZE		1,05,86,922/-	276180
TOTAL					**0/-**	**0**

2.(ii). And whereas during the course of examination, it was observed that Flexi bags containing yellow colored liquid substance were kept inside the containers. The images of the container along with the flexi bag are given below:



(Pictures of the flexibag containers in the consignment)



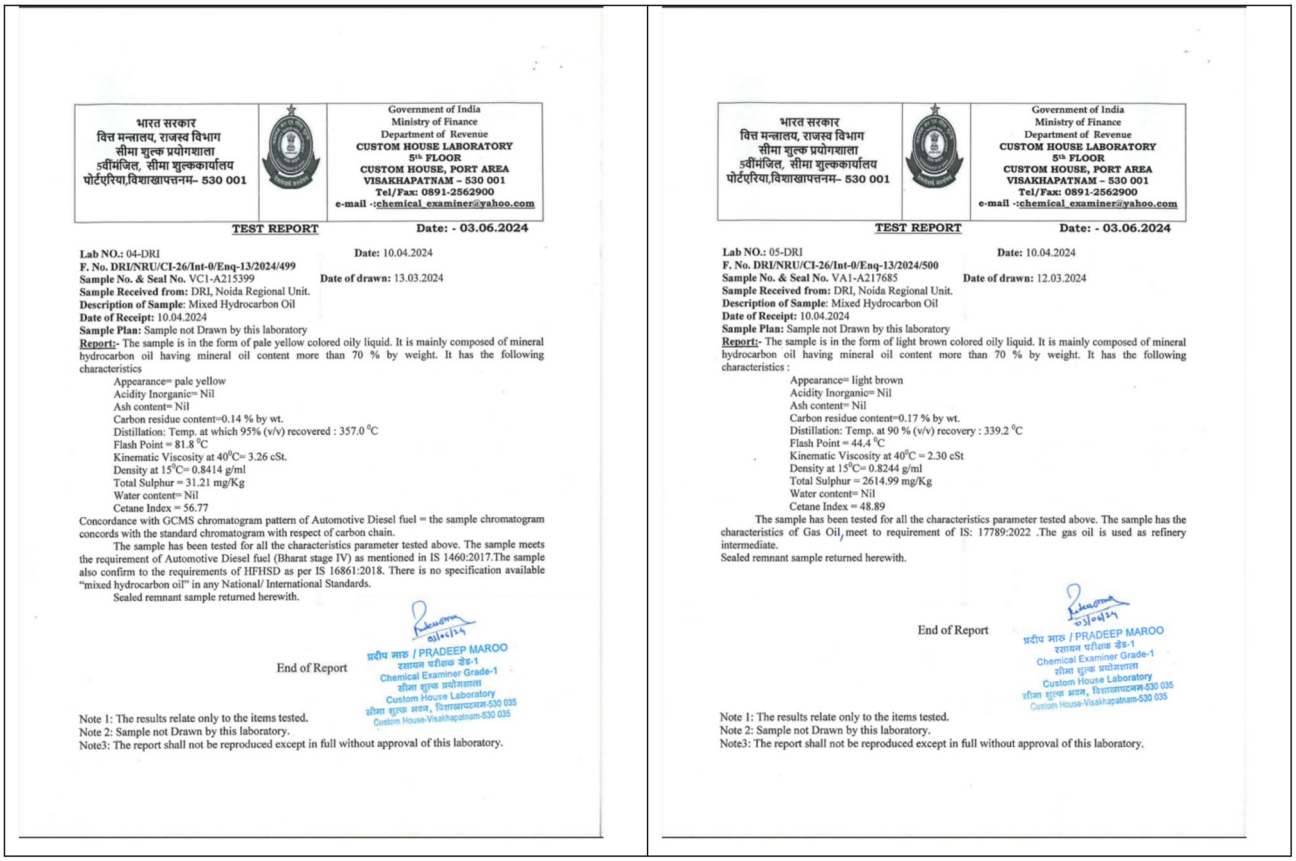
(Graphical representation of a Flexi bag container- picture taken from open source)

2 (iii). Representative samples were drawn from one randomly selected container per Bill of Entry. After collecting the samples, the DRI Officer resealed the container with the bottle seal provided by the custodian. The proceedings were documented in respective panchnamas dated12.03.2024 and 13.03.2024.

3. Samples were sent to the lab of CRCL, Vizag for the testing purpose. The details of the samples sent to the CRCL Lab are as detailed below:

S.No	Bill of Entry No and date	Sample No
1	2025444 Dt. 07.02.2024	VB2- A217716
2	2071959 Dt. 09.02.2024	VC1- A215399
3	2239930 Dt. 21/02/2024	VAl- A217685

4. And whereas CRCL tested the samples and sent the respective Test Reports of the above samples on 03.06.2024. The test reports are reproduced as 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: - 03.06.2024

Lab NO.: 04-DRI **Date:** 10.04.2024
F. No. DRI/NRU/CI-26/Int-0/Enq-13/2024/499
Sample No. & Seal No. VC1-A215399 **Date of drawn:** 13.03.2024
Sample Received from: DRI, Noida Regional Unit.
Description of Sample: Mixed Hydrocarbon Oil
Date of Receipt: 10.04.2024
Sample Plan: Sample not Drawn by this laboratory
Report:- The sample is in the form of pale yellow colored oily liquid. It is mainly composed of mineral hydrocarbon oil having mineral oil content more than 70 % by weight. It has the following characteristics

Appearance= pale yellow
Acidity Inorganic= Nil
Ash content= Nil
Carbon residue content=0.14 % by wt.
Distillation: Temp. at which 95% (v/v) recovered : 357.0 °C
Flash Point = 81.8 °C
Kinematic Viscosity at 40°C= 3.26 cSt.
Density at 15°C= 0.8414 g/ml
Total Sulphur = 31.21 mg/Kg
Water content= Nil
Cetane Index = 56.77

Concordance with GCMS chromatogram pattern of Automotive Diesel fuel = the sample chromatogram concords with the standard chromatogram with respect of carbon chain.

The sample has been tested for all the characteristics parameter tested above. The sample meets the requirement of Automotive Diesel fuel (Bharat stage IV) as mentioned in IS 1460:2017.The sample also confirm to the requirements of HFHSD as per IS 16861:2018. There is no specification available "mixed hydrocarbon oil" in any National/ International Standards.

Sealed remnant sample returned herewith.

End of Report

प्रदीप मारु / PRADEEP MAROO
रसायन परीक्षक ग्रेड-1
Chemical Examiner Grade-1
सीमा शुल्क प्रयोगशाला
Custom House Laboratory
सीमा शुल्क भवन, विशाखापत्तनम-530 035
Custom House-Visakhapatnam-530 035

Note 1: The results relate only to the items tested.
Note 2: Sample not Drawn by this laboratory.
Note3: The report shall not be reproduced except in full without approval of this laboratory.

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: - 03.06.2024

Lab NO.: 05-DRI **Date:** 10.04.2024
F. No. DRI/NRU/CI-26/Int-0/Enq-13/2024/500
Sample No. & Seal No. VA1-A217685 **Date of drawn:** 12.03.2024
Sample Received from: DRI, Noida Regional Unit.
Description of Sample: Mixed Hydrocarbon Oil
Date of Receipt: 10.04.2024
Sample Plan: Sample not Drawn by this laboratory
Report:- The sample is in the form of light brown colored oily liquid. It is mainly composed of mineral hydrocarbon oil having mineral oil content more than 70 % by weight. It has the following characteristics :

Appearance= light brown
Acidity Inorganic= Nil
Ash content= Nil
Carbon residue content=0.17 % by wt.
Distillation: Temp. at 90 % (v/v) recovery : 339.2 °C
Flash Point = 44.4 °C
Kinematic Viscosity at 40°C = 2.30 cSt
Density at 15°C= 0.8244 g/ml
Total Sulphur = 2614.99 mg/Kg
Water content= Nil
Cetane Index = 48.89

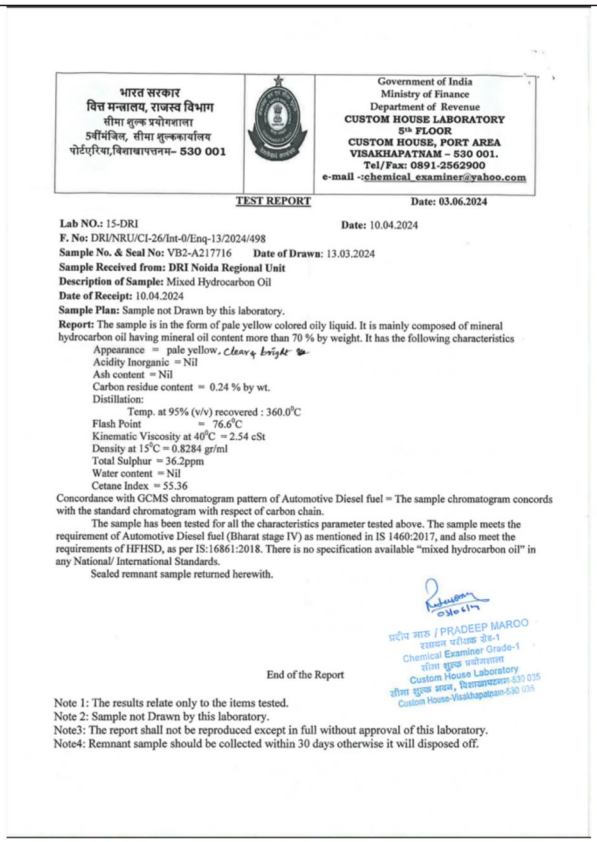
The sample has been tested for all the characteristics parameter tested above. The sample has the characteristics of Gas Oil, meet to requirement of IS: 17789:2022 .The gas oil is used as refinery intermediate.

Sealed remnant sample returned herewith.

End of Report

प्रदीप मारु / PRADEEP MAROO
रसायन परीक्षक ग्रेड-1
Chemical Examiner Grade-1
सीमा शुल्क प्रयोगशाला
Custom House Laboratory
सीमा शुल्क भवन, विशाखापत्तनम-530 035
Custom House-Visakhapatnam-530 035

Note 1: The results relate only to the items tested.
Note 2: Sample not Drawn by this laboratory.
Note3: The report shall not be reproduced except in full without approval of this laboratory.



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: 03.06.2024

Lab NO.: 15-DRI Date: 10.04.2024
F. No: DRI/NRU/CI-26/Int-0/Enq-13/2024/498
Sample No. & Seal No: VB2-A217716 Date of Drawn: 13.03.2024
Sample Received from: DRI Noida Regional Unit
Description of Sample: Mixed Hydrocarbon Oil
Date of Receipt: 10.04.2024
Sample Plan: Sample not Drawn by this laboratory.
Report: The sample is in the form of pale yellow colored oily liquid. It is mainly composed of mineral hydrocarbon oil having mineral oil content more than 70 % by weight. It has the following characteristics

Appearance = pale yellow, clear & bright
Acidity Inorganic = Nil
Ash content = Nil
Carbon residue content = 0.24 % by wt.
Distillation:
Temp. at 95% (v/v) recovered : 360.0°C
Flash Point = 76.6°C
Kinematic Viscosity at 40°C = 2.54 cSt
Density at 15°C = 0.8284 gr/ml
Total Sulphur = 36.2ppm
Water content = Nil
Cetane Index = 55.36

Concordance with GCMS chromatogram pattern of Automotive Diesel fuel = The sample chromatogram concords with the standard chromatogram with respect of carbon chain.

The sample has been tested for all the characteristics parameter tested above. The sample meets the requirement of Automotive Diesel fuel (Bharat stage IV) as mentioned in IS 1460:2017, and also meet the requirements of HFHSD, as per IS:16861:2018. There is no specification available "mixed hydrocarbon oil" in any National/ International Standards.

Sealed remnant sample returned herewith.

प्रदीप मारु / PRADEEP MAROO
रसायन परीक्षक ग्रेड-1
Chemical Examiner Grade-1
सीमा शुल्क प्रयोगशाला
Custom House Laboratory
सीमा शुल्क भवन, विशाखापत्तनम-530 035
Custom House-Visakhapatnam-530 035

End of the Report

Note 1: The results relate only to the items tested.
Note 2: Sample not Drawn by this laboratory.
Note3: The report shall not be reproduced except in full without approval of this laboratory.
Note4: Remnant sample should be collected within 30 days otherwise it will disposed off.

5.(a) And whereas the parameters of the Test Reports suggested that the goods being imported in the said containers of Bills of Entry 2025444 Dt. 07.02.2024 and 2071959 Dt. 09.02.2024 meets the requirements of both Automotive Diesel Fuel conforming to standard IS 1460 and High Flash High Speed Diesel Fuel conforming to standard IS:16861 and for Bill of Entry 2239930 Dt. 21/02/2024 are Gas Oil.

5.(b) As per Customs Tariff Act it appears that the goods imported Bills of Entry 2025444 Dt. 07.02.2024 and 2071959 Dt. 09.02.2024 are classifiable under two different CTIs- i.e. 27101944 [which pertains to "Automotive Diesel Fuel] and 27101949 [which pertains to High Flash High Speed Diesel]. As per General Rules for the Interpretation of the Harmonized System (hereinafter referred to as "GIR") there are certain principles which shall govern the classification of goods in the Nomenclature. The rules are to be followed sequentially to classify goods. In the instant case, the goods cannot be classified under any rule up to Rule 3(c) of GIR. As per Rule 3(c) of the GIR, in such cases where goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. Thus, in view of above it appears that in the instant case the goods covered under Bill of Entry No 2025444 Dt. 07.02.2024 and 2071959 Dt. 09.02.2024 are appropriately classifiable under CTI 27101949 which pertains to High Flash High Speed Diesel conforming to IS 16861.

Further, Gas Oil which is appropriately classifiable under Customs Tariff Heading 27101941 does not stipulate any import condition of conforming to any BIS standard. However, the parameters of Gas oil as per BIS IS 17789:2022 have been taken here for reference purposes. The specifications of Gas Oil as per IS 17789 are reproduced below:

Table 1 Requirements for Gas Oil

(*Clauses Foreword,* 4.3 *and* 7.1)

Sl No.	Characteristic	Requirement	Methods of Test, Ref to Part of IS 1448/ISO
(1)	(2)	(3)	(4)
i)	Density at 15 °C, kg/m^3	780 to 900	Part 167/ Part 16[1)]
ii)	Kinematic viscosity at 40 °C, mm^2/s, *Max*	10	Part 25/Sec 1
iii)	Total sulphur, mass percent	0.004-3.5	Part 153 (For sulphur range – 30 to 500 ppm) ISO 8754 (For sulphur range – 0.03 percent to 3.5 percent)
iv)	Flash point, °C, *Min.*	40.0	Part 20[1)]/Part 21
v)	Pour point, °C, *Max*	+ 24	Part 10/Sec 2
vi)	Distillation:		
	a) 10 percent recovery at °C (T-10)	To report	Part 18
	b) 50 percent recovery at °C (T-50)	To report	
	c) 90 percent recovery at °C (T-90), *Max.*	390	
vii)	Cetane index, *Min*	30	Part 174
viii)	Water and sediments, volume percent	To report	Part 41

[1)] In case of dispute, this shall be the referee method.

Specifications of Gas Oil as per IS 17789

Furthermore, as per the amendment to the Gas Oil Standard BIS IS:17789 dated January 2023, the sulphur content range has been revised to 1.5-3.5. However, it is mentioned in the amendment that Indian refineries may opt for a lower sulphur content based on mutual agreement between the seller and the purchaser. Accordingly, it can be inferred that the sulphur content in Gas Oil is not a characteristic parameter and may vary according to usage and agreements between the user and the seller. The amendment of Gas Oil dated January 2023 is reproduced below for ready reference.

AMENDMENT NO. 1 JANUARY 2023

TO

IS 17789 : 2022 GAS OIL — SPECIFICATION

(*Page* 2, *Clause* **3.1**, *Para* 2, *line* 2) — Add following line at the end:

'This gas oil used as refinery intermediate and not intended to be used as a fuel.'

[*Page* 2, *Table* 1, *Sl No.* (iii), *col* 2] — Substitute 'total sulphur, mass percent[2)]' *for* 'Total sulphur, mass percent'

[*Page* 2, *Table* 1, *Sl No.* (iii), *col* 3] — Substitute '1.5-3.5' for '0.004-3.5'

(*Page* 2, *Table* 1) — Add the following below Table 1,[1)]:

'[2)] Indian refineries may opt for lower sulphur content on the basis of agreement between seller and purchaser.'

Amendment to Gas Oil dated January 2023

Further, the specifications of HFHSD as mentioned in IS 16861:2018 of the Bureau of Indian Standards (BIS) are reproduced below:

Table 1 Requirements for High Flash High Speed Diesel (HFHSD)
(*Clauses* 3.3)

Sl No.	Characteristics	Requirement	Method of test, Ref to [P:] of IS1448/ISO/ASTM/IP
(1)	(2)	(3)	(4)
i)	Appearance	Clear and Bright	Visual
ii)	Acid Number, mg KOH/g, *Max*	0.5	[P : 2][7]/D 664/D 974
iii)	Ash, percent by mass, *Max*	0.01	[P : 4][7]/ISO 6245/D 482
iv)	Carbon residue on the 10 percent Volume Distillation Residue, mass %, *Max*	0.3	[P : 8][7]/ISO-10370/D 4530/D 524
v)	Cetane index[1], *Min*	45	ISO 4264[7]/D 4737
vi)	Pour Point[2], *Max*		[P : 10][7]/ISO 3016/D 97
	a) Winter	3°C	
	b) Summer	15°C	
vii)	Copper strip Corrosion for 3 h at 100°C	Not worse than No.1	[P : 15][7]/ISO 2160/D 130
viii)	Distillation, percent (*v/v*), recovered		[P : 18][7]/ISO 3405/D 86
	a) at 350°C, *Min*	85	
	b) at 370°C *Min*	95	
ix)	Flash Point Pensky Martens closed cup °C, *Min*	66	[P : 21][7]/ISO 2719/D 93
x)	Kinematic viscosity, cSt, at 40°C	2.0 to 5.0	[P : 25][7]/ISO 3104/D 445/D 7042
xi)	Density[3] at 15°C, kg/m^3, *Max*	860	[P : 16][7]/ISO 3675/ISO 12185/D 4052
xii)	Total sulphur[4], % by mass, *Max*	0.20	D 4294[7]/ISO 14596/D 2622/ISO 8754
xiii)	Water content, ppm, max.	500	ISO 12937[7]/ISO 6296/D 6304
xiv)	Cold filter plugging point (CFPP), °C	To report	[P : 110][7]/D 6371/IP 309
xv)	Oxidation Stability[5], g/m^3, *Max*	25	[P : 154][7]/D 2274/IP 388
xvi)	Lubricity[6], Corrected WSD at 60°C, microns max	520	ISO 12156-1/D 6079

6. And whereas on analysis of the parameters detailed in the Test Reports vis-à-vis the parameters stipulated in the BIS standards of Gas Oil (IS:17789), High Flash High Speed Diesel fuel conforming to standard IS:16861, it appeared in accordance with the intelligence, that the goods being imported appeared to be mis-declared and following conclusion appeared to flow from the analysis:

Sl. No.	Bill of Entry No.	Date of Bill of Entry	No. of containers	Product description as per the analysis of the Test report
1.	2025444	07.02.2024	10	High Flash High Speed Diesel fuel conforming to standard IS: 16861
2.	2071959	09.02.2024	10	High Flash High Speed Diesel fuel conforming to standard IS: 16861
3.	2239930	21/02/2024	14	Gas Oil

Thus, it appeared that the samples drawn from consignments pertaining to two BEs viz–2025444 Dt. 07.02.20224 and 2071959 Dt. 09.02.2024, appear to conform to specification of IS:16861 which pertains to High Flash High Speed Diesel fuel, while

consignments pertaining to the BE 2239930 Dt. 21/02/2024 appear to conform to specification of IS: 17789, which pertains to Gas Oil. Gas Oil, which is appropriately classifiable under Customs Tariff Heading 27101941 does not stipulate any import condition conforming to IS 17789:2022 and the aforementioned parameters of IS: 17789:2022 have been taken for reference purposes only and that the items High Flash High Speed Diesel fuel and Gas Oil are restricted and can be imported by the State Trading Enterprises(STEs) only.

7. In the light of the parameters of the Test Reports of the CRCL, the goods imported under BE2239930 Dt. 21/02/2024, appear to be liable to be classified under CTH: 27101941 under the description Gas Oil while the goods imported under BEs 2025444 Dt. 07.02.20224 and 2071959 Dt. 09.02.2024 appeared to be liable to be classified under CTH 27101949. The relevant description of CTH 27101941 and 27101949 as per Customs Tariff Act'1985 are as below:

2710 19 39	--- Aviation turbine fuels, kerosene type conforming to standard IS 1571	kg.	5.00	5.00	—	11.00	0.50	17.105	State Trading Enterprises	*Exemption: See Ntfn 52/2017-Cus. dated 30.06.2017 Import as per Policy Condition (5) of Chapter 27 ACD Nil by Ntfn 32/2022-Cus. Excise Duty by Ntfn 11/2017-CE dated 30.06.2017*
	--- Gas oil and oils obtained from gas oil:									
2710 19 41	--- 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*

Chapter Heading 27101941

2710 19 43	---- Light diesel oil conforming to standard IS 15770	kg.	10.00	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.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27*
2710 19 49	---- High flash high speed diesel fuel conforming to standard IS 16861	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	*12/2018-Cus. Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn*

Chapter Heading 27101949

8. 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 *"Gas oil*

and oils obtained from gas oil:---- High Flash High-Speed Diesel fuel conforming to standard 16861"and "Gas Oil" 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:

27101949	---	Gas oil and oils obtained from gas oil: ---- High flash high speed diesel fuel conforming to standard IS 16861	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.

27101941	---	Gas oil and oils obtained from gas oil: ---- Gas oil	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.

Product Description and Import Policy

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

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

9. Further, during the course of the investigation, it appeared that the authorised CHA of the Importer was actively involved in assisting and facilitating the improper import and clearance of the restricted goods namely "Gas Oil", "High Flash High-Speed Diesel fuel conforming to standard IS 16861" as mentioned above, therefore the search was attempted at the premises of CHA M/s Airtrax Freight Logistics, however the address of the firm M/s Airtrax Freight Logistics was found non-existent. Outcome of the visit was submitted by the Intelligence Officer, DRI in his visit note dated 30/04/2024**.**

10. And whereas, summons were issued to the importer M/s Venkateshwara Chemical Industries Private Limited on 21.06.2024 for appearance on 04.07.2024. No one appeared on the said date so further summons were again issued to M/s Venkateshwara Chemical Industries Private Limited on 05.07.2024 for appearance on 17.07.2024. On non-compliance of the said summons, fresh summons were again issued for the importer on 24.07.2024 for appearance on 02.08. 2024. Shri Arun Kumar Saxena, S/o Shyam Bihari Lal Saxena, director of M/s Venkateshwara Chemical Industries Private Ltd, appeared on 06.08.2024 and tendered his voluntary statement on 06.08.2024 under Section 108 of the Customs Act 1962 wherein he inter-alia stated:

- *I hereby state that I am the one of the Directors of the company M/s Venkateshwara Chemical Industries Private Ltd. Other Director of the company is Shri Prakash Paswan, who however is not actively involved in the running of the business and I look after all the work related to the company.* ***M/s Venkateshwara Chemical Industries Private Ltd****. was established in 2021 and was involved in the manufacturing and trading of various chemical items such as smoke remover, perfuming items, etc then in the year 2022 the company got its IEC code and eventually started the import of various oils such as Distillate Oil, Base Oils and Mix Hydrocarbon Oil in Feb 2023. The registered office of the Company is -201, metro Plaza, Meerut City, Meerut, Uttar Pradesh- 250002. There are currently two employees working for the firm who looks after the accounting and normal routine work related to the company.*

  As far as my personal details are concerned, I am a B.Com graduate from Meerut University, I worked various jobs as accountant in various companies, and in year 2014 I started a small business of Tour and travels. Then in year 2020 I started working for M/s Venkateshwara Chemical Industries Private Ltd and in February 2023 I became the director of the company and started the Import of various oils as mentioned above. I am married to Ms Shraddha Saxena and I live with my wife, onbe daughter and one Son at the above-mentioned address only.

- *Question 1: Please provide a certified copy of the Buyer-seller agreement for the consignments.*
  Answer: There is no buyer-seller agreement between us and the overseas supplier.

- *Question 2: Please state with whom and how do you place an order with the overseas supplier.*

Answer: The order is generally placed by me with the overseas suppliers over the Mobile phone.

- *Question 3: How many consignments have you imported till now.*
  Answer: We have imported approx. 40 consignments of oil till now including the ones that have been put on hold by DRI Noida.

- *Question 4: Please submit the details of the overseas suppliers of MHO (Mineral Hydrocarbon Oil) imported by you which have been put on hold by DRI at Mundra.*
  Answer: We import through various suppliers which are mentioned in th table below along with the contact persons details who looks after the sales of these suppliers:

S.No	Supplier	Contact Person Details:
1	M/s Emit International FZ LLC	Sh. Karan - +971504251901
2	M/s Chevron General Trading	Sh Gulshan - +971509630447
3	M/s AAR Energy FZE	Sh. Ajay Gupta- +971585838144
4	M/s Kwality Lubricant and GR	Sh Rajesh - +971569828008
5	M/s Prolific Energy FZE	Sh Das - +971569919192
6	M/s Sun Star Trading FZE	Sh Rajesh - +971569828008
7	M/s Bright Commodities FZE	ShWasi- +971529937433
8	M/s Prime Petroleum FZC	ShWasi- +971529937433
9	M/s Taurus International FZE	Sh Arvind Awasthi- +971509463963

- *Question.5: What is the status of the overseas supplier of the import of MHO(Mineral Hydrocarbon Oil)?*
  Answer: To my knowledge all the overseas suppliers, are traders only.

- *Question 6: What are your payment terms with the overseas supplier?*
  Answer: Once an order is finalized over the mobile phone, full advance payment is made through SWIFT then the overseas suppliers send the consignment to the designated port in India.

- *Question 7: Please describe your product viz MHO (Mix Hydrocarbon Oil) and state the characteristic parameters/specifications based on which the declaration has been made.*

Answer: To my understanding, MHO is Mix Hydrocarbon Oil. As far as the parameters/ specification of the product i.e. MHO is concerned I do not know in detail. MHO is used in various industries for industrial purpose only.

- *Question 8: If you are not aware of the parameters/ specifications of the MHO (Mineral Hydrocarbon Oil) then on what basis it is being imported by you?*
  Answer: The requirement of oil (MHO) is communicated to us by our clients and based on the requirement we place orders with overseas suppliers. After that, we communicate the same requirement to the overseas supplier from Dubai. We are just traders of the product and work on the market demand.

- *Question 9: Please provide certified copies of the Chemical Analysis report or Test report of the consignment of MHO (Mix hydrocarbon Oil) imported by you.*
  Answer: I am submitting copies of the chemical analysis report provided by the suppliers in respect of the consignments that are put on hold by your office.

- *Question 10: Your kind attention is invited to the said Chemical Analysis reports which have been issued by the suppliers viz. M/s Taurus International FZE and M/s Sun Star Trading FZE of the consignment and not any Technically qualified laboratory. In such a case how can this be termed as chemical analysis report?*
  Answer: This is the only report that has been provided by the supplier and therefore are submitted for information.

- *Question 11: In the said reports it has been mentioned that the test reports are as per ASTM testing standards. In the light of your reply to question no.5 wherein you had mentioned that all your suppliers are traders, is the report of the supplier without any technical qualification mentioned therein, is valid and proper?*
  Answer: I am not aware of his technical qualification and competency to issue the lab report but since these reports were provided by the supplier, I have submitted the same.

- *Question 12: Please state whether the goods pertaining to the said consignment has been declared as MHO (Mix/ mixed Hydrocarbon Oil) in the invoice, packing list on the basis of the parameters mentioned in the chemical analysis report?*
  Answer: I am not sure but I think the supplier has considered these parameters while declaring the goods declared so in the import documents.

- *Question 13: Do you have any literature or documents that can help you classify your product as MHO according to the chemical analysis report provided by the overseas supplier?*

  Answer: We do not have any documents or literature that helped us in the classification of the product as MHO. Our CHA only guided us in the classification of the same as MHO.

- *Question 14: Please provide the Details of the refinery/oil firm from where each consignment has originated/been manufactured.*

  Answer: I am not aware of the source of purchase of MHO by my overseas supplier.

- *Question 15: Please provide the Chemical Analysis Report issued by the Original manufacturer/refinery/oil firm for each of the consignments that are put on hold by the office of DRI, along with a Certified copy of the invoice generated by the firm to the overseas supplier and Details (contact details and correspondence addresses) of all traders between the overseas supplier and the Original manufacturer/ refinery for each consignment.*

  Answer: I have submitted copies of the chemical Analysis/test report provided by the overseas suppliers for the Bill of Entries that have been put on hold by your office. I do not have the Chemical Analysis Report provided by the original manufacturer. I have submitted the invoices pertaining to the consignment that was put on hold by your office. Further, I am not aware of the address and details of the traders as sought by you.

- *Question 16:In the light of your reply to question no 13 above. Kindly detail the basis of the classification of the consignment under CTI 27101990 and declaration of the same as Mix Hydrocarbon Oil.*

  Answer:We declared the product as MHO (Mineral Hydrocarbon Oil) and classified it under CTH 27101990 as per the discussions with the CHA and as per the general practice of the trade.

- *Question 17: Please provide a Certified copies of each :*

  Load Port report

  surveyor report of the port

  Compliance report.

  Answer: No such document or report is available with me, nor has been provided by the overseas supplier.

- *Question 18: Please refer to the reply of Question 02 above and provide the certified copies of communication (emails/letters etc.) with the overseas suppliers w.r.t. the consignments.*
  Answer: As stated by me above all the communication with the supplier happens telephonically over mobile phone and hence no such copies of communication (emails/letters etc.) are available with me

- *Question 19: Please provide details of key officials (name and designation) of your company.*
  Answer: I look after all the work related to the firm. There are two employees in the company who looks after the accounting-related works of the company.

- *Question 20: Please provide a Certified copy of the Invoice for each consignment, including itemized description, quantities, values, and any applicable discounts or rebates.*
  Answer: M/s Venkateshwara Chemical Industries Private Ltd, has imported about 40 Consignments of Mix/mixed Hydrocarbon oil since june 2023, including the ones that have been put on hold by DRI. I am submitting the documents such as Bill of Lading, Bill of Entry, invoice and packing list of the consignment that has been put on hold by DRI Noida Regional Unit.

- *Question 21: Please provide a Certified copy of bank statement indicating payments made to suppliers for consignments.*
  Answer: I am submitting the SWIFT transaction receipt related to my consignments, that have been put on hold by your office.

- *Question 22. Please provide the details of the warehouse/storage place where the imported goods are stored after their import by your firm.*
  Answer. M/s Venkateshwara Chemical Industries Private Ltd does not have any warehouse/storage place where the imported goods are stored, as the MHO imported by the firm after customs clearance is delivered directly to the buyers..

- *Question 23. Please peruse the test report submitted by CRCL Vizag dated 03.06.2024 with regard to the test memo dated 09.04.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 2239930 Dt. 21/02/2024. As per the parameters described in the test report, the*

conclusion arrived at, regarding the goods is "Gas Oil". Please peruse the said report and offer your comments.

Answer. I have seen the copy of the test report dated 03.06.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 2239930 Dt. 21/02/2024 pertaining to M/s Venkateshwara Chemical Industries Private Ltd and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the parameters of the report of CRCL and that the goods can be concluded as "Gas Oil".

- *Question 24. Please peruse the test report submitted by CRCL Vizag dated 03.06.2024 with regard to the test memo dated 09.04.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 2071959 Dt. 09.02.2024. As per the parameters described in the test report, the conclusion arrived at, regarding the goods is "HFHSD as per IS 16861:2018". Please peruse the said report and offer your comments.*

  Answer. I have seen the copy of the test report dated 03.06.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 2071959 Dt. 09.02.2024 pertaining to M/s Venkateshwara Chemical Industries Private Ltd and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the parameters of the report of CRCL and that the goods can be concluded as "HFHSD as per IS 16861:2018".

- *Question 25. Please peruse the test report submitted by CRCL Vizag dated 03.06.2024 with regard to the test memo dated 09.04.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 2025444 Dt. 07.02.20224. As per the parameters described in the test report, the conclusion arrived at, regarding the goods is "HFHSD as per IS 16861:2018". Please peruse the said report and offer your comments.*

  Answer. I have seen the copy of the test report dated 03.06.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 2025444 Dt. 07.02.20224 pertaining to M/s Venkateshwara Chemical Industries Private Ltd and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the parameters of the report of CRCL and that the goods can be concluded as "HFHSD as per IS 16861:2018".

- *Question 26. Your kind attention is invited to the conclusion of the test report wherein it suggests that the oil is "Gas Oil". whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 2239930 Dt. 21/02/2024, filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*
  Answer. I agree that the description given in BOE no 2239930 Dt. 21/02/2024, and the conclusions of the test reports of CRCL dated 03.06.2024 are different. The Bill of Entry was filed on the basis of the order placed by me with the overseas supplier and the import documents provided by me. I had specifically ordered for Mix Hydrocarbon oil but as per the report I can see that the supplier has sent wrong item by mistake and not the one that I ordered. I regret for the mistake and having accept the findings of the CRCL, I request that the same may be re-exported back to the supplier.

- *Question 27. Your kind attention is invited to the conclusion of the test report wherein it suggests that the oil is "HFHSD as per IS 16861:2018". whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 2071959 Dt. 09.02.2024, filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*
  Answer. I agree that the description given in BOE no 2071959 Dt. 09.02.2024, and the conclusions of the test reports of CRCL dated 03.06.2024 are different. The Bill of Entry was filed on the basis of the order placed by me with the overseas supplier and the import documents provided by me. I had specifically ordered for Mix Hydrocarbon oil but as per the report I can see that the supplier has sent wrong item by mistake and not the one that I ordered. I regret for the mistake and having accept the findings of the CRCL, I request that the same may be re-exported back to the supplier.

- *Question 28. Your kind attention is invited to the conclusion of the test report wherein it suggests that the oil is "HFHSD as per IS 16861:2018". whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 2025444 Dt. 07.02.20224, filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*
  Answer. I agree that the description given in BOE no 2025444 Dt. 07.02.20224, and the conclusions of the test reports of CRCL dated 03.06.2024 are different. The Bill of Entry was filed on the basis of the order placed by me with the overseas supplier and the import documents provided by me. I had specifically ordered for Mix Hydrocarbon oil but as per the report I can see that the supplier has sent wrong item by mistake and not the one that I ordered. I regret for the mistake and having accept the findings of the CRCL, I request that the same may be re-exported back to the supplier.

- *Question 29. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 2239930 Dt. 21/02/2024 wherein the oil has been found to be "Gas Oil", on the basis of the test report of CRCL, Vizag. In light of the test report and your reply to question No 26 above, do you agree that the Gas Oil, imported by you in consignment covered under BOE no 2239930 Dt. 21/02/2024 is correctly classifiable under CTH 27101941 and not 27101990 as classified by you in the bill of entry filed by you?*

  Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2239930 Dt. 21/02/2024 is under CTH 27101941, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.

- *Question 29. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 2071959 Dt. 09.02.2024 wherein the oil has been found to be "HFHSD as per IS 16861:2018", on the basis of the test report of CRCL, Vizag. In light of the test report and your reply to question No 27 above, do you agree that HFHSD as per IS 16861:2018, imported by you in consignment covered under BOE no 2071959 Dt. 09.02.2024 is correctly classifiable under CTH 27101949 and not 27101990 as classified by you in the bill of entry filed by you?*

  Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2071959 Dt. 09.02.2024 is under CTH 27101949, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.

- *Question 30. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 2025444 Dt. 07.02.20224 wherein the oil has been found to be "HFHSD as per IS 16861:2018", on the basis of the test report of CRCL, Vizag. In light of the test report and your reply to question No 27 above, do you agree that HFHSD as per IS 16861:2018, imported by you in consignment covered under BOE no 2025444 Dt. 07.02.20224 is correctly classifiable under CTH 27101949 and not 27101990 as classified by you in the bill of entry filed by you?*

  Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2025444 Dt. 07.02.20224 is under CTH 27101949, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.

- *Question 31. Please refer to your reply to questions number 28, 29 and 30 above wherein you have agreed that as per the correct classification of the oils i.e. HFHSD as per IS 16861:2018 is 27101949 and Gas Oil is 27101941, These however are restricted items and can only be imported by STEs (State Trading Enterprise). Please offer your comments about this.*
  Answer. Yes, I have been shown the said provisions and I have come to know that HFHSD as per IS 16861:2018 and Gas Oil are restricted items and can only be imported by STE (State Trading Enterprise). In view of this fact and also as stated by me, since it is not as per my order and as requested by me in reply to questions no 26, 27 and 28 above, I once again request that the consignment may be reexported back to the overseas supplier.

11. And whereas, summons were also issued to CHA M/s Airtrax Freight Logistics on 05.07.2024 for appearance on 17.07.2024. On non-compliance of the summons, a further fresh summons was issued to CHA M/s Airtrax Freight Logistics on 24.07.2024 for appearance on 09.08.2024. Shri Shri Bhupathi Maddu S/o Late Shri M Kamaraju, Manager of M/s Airtrax Freight Logistics, appeared on 09.08.2024 and tendered his voluntary statement under Section 108 of the Customs Act'1962 wherein he inter-alia stated:

- *I submit that I completed my B. Com from Andhra University, Vishakhapatnam in the year 2009, after that I worked in Oil Field Warehouse, Mundra till 2017. Then I started working with M/s Mundra Oil Pvt Ltd from 2017 to 2022. After that, I switched my job and started working with M/s Airtrax Freight Logistics at Mundra Port. I am handling documentation work and providing customs clearance services to various importers on behalf of M/s Airtrax Freight Logistics at Mundra Port. I am living with my wife Ms Raveena Maddu along with my son on the above-mentioned local address in Mundra:*

- *Question 1: Please explain the business of M/s Airtrax Freight Logistics.*
  Answer: M/s Airtrax Freight Logistics is Proprietorship Firm in which, Shri Ramakrishnan Murugan is the Proprietor of the firm. As per my knowledge the firm is engaged in the custom clearance of import and export consignments at Nhava Sheva Port, Chennai port, Mundra port and Delhi. I am the manager of M/s Airtrax Freight Logistics and handled all the customs clearance related work at Mundra Port.

- *Question 2: Please state the present location of M/s Airtrax Freight Logistics.*
  Answer: The local office of M/s Airtrax Freight Logistics was located at Rishabh Corner, 2nd floor, Office No. 93, Sector-8, Gandhidham, which was closed in March 2024. Right now, there is no office at Mundra port. The head office of M/s Airtrax Freight Logistics situated at Plot No. 59/60, Masilamani Nagar, Thirumazhisai, Chennai.

- *Question 3: How many people are working in M/s Airtrax Freight Logistics? Please provide their details, designation, responsibilities and Mobile no.*
  Answer: There are 7 employees including me working in M/s Airtrax Freight Logistics at Mundra Port. Their details are as under:

Name	*Designation/ Work Assigned*	*Mobile No.*
Shri Uttam Kumar	*Executive, Field Work at Mundra Port*	*6306358733*
Shri Gopal Krishna	*Executive, Field Work at Mundra Port*	*8962602390*
Shri Bharat Malam	*Executive, Field Work at Mundra Port*	*8160288652*
Shri Satyanarayan	*Documentation Executive*	*9979889463*
Shri Avinash	*Field Work at Mundra Port*	*8638737296*
Ms. Preeti Joshi	*G-Card Hold, Customs related*	*9727655425*

- *Question No 4: Please elaborate the nature of field work of the staff detailed above?*
  Answer. These employees mainly handle logistic work like loading and unloading of cargo, grounding of container for examination and, dispatch of the consignment after examination and out of charge is given by the Customs.

- *Question 5: Please name the companies/firms for whom M/s Airtrax Freight Logistics are providing customs clearance services?*
  Answer: Our major clients include:
  M/s Venkateshwara Chemical Industries pvt Ltd
  M/s Shree Ram Trading.
  M/s Sardar Trading.
  M/s Venkateshwara Mint.
  M/s Penta Tradelink
  M/s Airtrax Freight Logistics provides customs clearance services at Mundra Port. But I have no knowledge regarding the head office client's details. Only Shri Ramakrishnan Murugan Proprietor of the firm can provide this information.

- *Question 6: What are the other ports where you are providing customs clearance services?*

Answer: Our major business is at Nhava Sheva, Mundra, Chennai and Delhi.

- *Question 7: How do M/s Airtrax Freight Logistics provide customs clearance facilities? Please explain the same with regard to the functioning of your firm.*
  Answer :The clients forward the import documents on our emailairtraxfreightmundra@gmail.com and sometimes they deliver the documents on WhatsApp also. Documents are examined by the staff who later on prepare check list which is sent to the clients for approval. Once the checklist is approved, the bill of entry is filed online on the ICEGATE website. Shri Satyanarayan employee files Bill of entry online. After it is approved, the examination of the cargo is conducted by the customs officers in the presence of the Authorised representative of the firm. After the examination and out-of-charge given by the customs the documents are handed over to the transporter who is engaged by the importer only for delivery at the designated address.

- *Question 8: Please define payment terms of M/s Airtrax Freight Logistics with the mentioned firms in SI. No.5. What is the amount of salary that you get from the said firm.*
  Answer: M/s Airtrax Freight Logistics charge a fee of Rs 59000/- plus GST per container from the importer. I get 50,000/- per month as salary.

- *Question 9: Please state, who gets the examination conducted at the port for the import consignment of M/s Airtrax Freight Logistics?*
  Answer: The examination at the Mundra port iS conducted by Sh. Uttam Kumar, Shri Gopal Krishna and Shri Bharat Malam facilitate customs clearance at Mundra port

- *Question 10: Are you aware that some containers which have been declared to contain MHO have been put on hold by the DRI Noida Regional unit at Mundra port ?*
  Answer: Yes, DRI Noida Regional Unit has put on hold some consignments of MHO as detailed below:

SI. No	*IEC Name*	*BOE No.*	*No of containers*
1	*M/S Shree Ram Trading,*	*2239931 Dt. 21/02/2024*	*20*

		2240118 Dt. 21/02/2024	10
		2014315 Dt. 06.02.2024	4
2	M/S Venkateshwara Chemical Industries Private Limited,	2025444 Dt.	10
		2071959 Dt. 09.02.2024	10
		2239930 Dt. 21/02/2024	14

- *Question 11: What were the documents that were provided by the importer in respect of containers put on hold and as mentioned in question above?*
  Answer: M/s Shree Ram Trading and M/S Venkateshwara Chemical Industries Private Limited provided invoices, packing list and Bill of Lading through mail on the basis of which we file the respective bill of entry.

- *Question 12: What is the Item "MHO/ Mix Hydrocarbon Oil/Mixed Hydrocarbon Oil/Mineral Hydrocarbon Oil", mentioned in the Bills of entries filed by you on behalf of M/s Shree Ram Trading and M/S Venkateshwara Chemical Industries Private Limited?*
  Answer: As per my knowledge mixture of all kind of petroleum products is MHO..

- *Question 13: Please state, what is the use of MHO?*
  Answer: As per the information provided by the importer it is for industrial Use.

- *Question 14: Please specifically state and clarify the industrial use as mentioned in your reply to question no 13 above.*
  Answer: I am not aware of the specific industrial use of the product. This can be clarified by the importer only.

- *Question 15: Have you been provided with any chemical analysis report/ test report of the product by the importer issued by the supplier.*
  Answer: Yes, we have been provided with chemical analysis reports or test reports by the importer which was provided by the supplier, which were filed along with Bill of entry. However, I'm submitting copies of the same again for your information

- *Question 16: On perusal of the said test reports submitted by you in reply to above question, it is seen that the same are simply parameters which have been*

mentioned by the supplier on his letter pad which cannot be considered as test reports. Please elaborate.

Answer: These are the only test reports which were provided by the importer at the time of filing of the Bills of entry.

- *Question 17: What was the basis of classification of the product under Chapter Heading 27101990 in the category of item "Others"*

  Answer: The CTH was mentioned on the invoice and the packing list of the supplier itself which were provided by the importer. On the basis of these documents, the Bill of entry was filed.

- *Question 18: Please peruse the respective test reports of consignments that have been put on hold by DRI Noida regional Unit and are mentioned in reply to question 10 above. The test results of each of the consignment have been summarized in the table below:*

S.No	IEC Name	BOE Name	Sample NO	Test Report	Lab
1	M/S Shree Ram Trading, -	2239931 Dt. 21/02/2024	SRA1-A217681	Kerosene	CRCL
2		2240118 Dt. 21/02/2024	SRC3-A215387	HFHSD	
3		2014315 Dt. 06.02.2024	SRB2-A217707	HFHSD	
4	M/S Venkateshwara Chemical Industries Private Limited	2025444 Dt. 07.02.20224	VB2-A217716	HFHSD	
5		2071959 Dt. 09.02.2024	VC1-A215399	HFHSD	
6		2239930 Dt. 21/02/2024	VAl-A217685	Gas Oil	

Please peruse the test reports and offer your comments.

Answer: I have perused all the test reports detailed above. I have also gone through the parameters mentioned in the test reports and signed the test reports as a token of having seen the same. After testing of the sample, the lab has come to a conclusion that the consignment does not consist of MHO but a different oil as mentioned in the respective report.

- *Question 19: Do you agree with the outcome of the test reports and the result mentioned therein?*
  Answer: Yes, I agree with the result arrived at by the lab as mentioned in all the test reports

- *Question 20: Please give Your opinion on whether MHO as declared by you in the bills of entry and the item identified as per the test result of the respective item are same or different?*
  Answer: I agree that the goods identified by the laboratory as per the test reports and the declaration made in the Bill of Entry are different.

- *Question 21. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Ram Trading wherein the oil has been found to be "Kerosene as per IS 1459:1974 (Reaffirmed 2006)", on the basis of the conclusion of CRCL lab, and hence are classifiable under CTH 27101932. Do you agree that the Kerosene imported in consignment covered under BOE no 2239931 Dt. 21/02/2024 filed by M/s Airtrax Freight Logistics and imported by M/S Shree Ram Trading, is correctly classifiable under CTH 27101932 and not 27101990 as classified in the bill of entry filed by you.*
  Answer: in view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2239931 Dt. 21.02.2024 should be under CTH 27101932. The declaration of the item made in the bill of entry is incorrect and wrong.

- *Question 22. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Ram Trading wherein the oil has been found to be "HFHSD as per IS 16861:2018", On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per IS 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no 2240118 Dt. 21/02/2024 filed by M/s Airtrax Freight Logistics and imported by M/S Shree Ram Trading, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.*
  Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2240118 Dt. 21/02/2024 should be under CTH 27101949. The declaration of the item made in the bill of entry is also incorrect and wrong

- *Question 23. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Ram Trading wherein the oil has been found to be"HFHSD as per IS 16861:2018", On the basis of the conclusion of CRCL lab, the goods are actually HFHSD a^{s} p^{er} IS 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no 2014315 Dt. 06.02.2024 filed by M/s AirtraxFreight Logistics and imported by M/S Shree Ram Trading, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.*
  Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2014315 Dt. 06.02.2024 should be under CTH 27101949. The declaration of the item made in the bill of entry is also incorrect and wrong

- *Question 24. Your kind attention is invited to the conclusion of the test report for the sample of M/S Venkateshwara Chemical Industries Private Limited wherein the oil has been found to be "HFHSD as per IS 16861:2018"9 On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per is 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no.2025444 Dt. 07.02.20224 filed by M/s Airtrax Freight Logistics and imported by M/S Venkateshwara Chemical Industries Private Limited, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.*
  Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2025444 Dt. 07.02.2024 should be under CTH 27101949. The declaration of the item made in the bill of entry is also incorrect and wrong

- *Question 25. Your kind attention is invited to the conclusion of the test report for the sample of M/S Venkateshwara Chemical Industries Private Limited wherein the oil has been found to be "IIFHSD as per IS 16861:2018", On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per is 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no. 2071959 Dt. 09.02.2024 filed by M/s Airtrax Freight Logistics and imported by M/S*

Venkateshwara Chemical Industries Private Limited, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.
Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2071959 Dt. 09.02.2024 should be under CTH27101949. The declaration of the item made in the bill of entry is also incorrect andwrong .

- *Question 26. Your kind attention is invited to the conclusion of the test report for the sample of M/S Venkateshwara Chemical Industries Private Limited wherein the oil has been found to be "Gas Oil", On the basis of the conclusion of CRCL labs the goods are actually Gas Oil and are hence classifiable under CTH 27101941. Do You agree that the Gas Oil imported in consignment covered under BOE no. 2239930 Dt. 21/02/2024 filed by M/s Airtrax Freight Logistics and imported bY M/S Venkateshwara Chemical Industries Private Limited, is correctly classifiable under CTH 27101941 and not 27101990 as classified in the bill of entry filed by you.*
  Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2239930 Dt. 21/02/2024should be under CTH27101941. The declaration of the item made in the bill of entry is also incorrect andwrong

- *Question 27: Please take cognizance of your reply to the question no 21 and 26 above and state whether the goods declared in the Bills of entries were misdeclared.*
  Answer: I agree that the goods identified by the labs and the one declared in the Bills of entry are different. However, I wish to submit that the declaration and classification in the bill of entry was made on the basis of the documents and information provided by importer.

- *Question 28: Please take cognizance of the reply to question no 27 above. The items identified by the lab comprising the consignments and classifiable under the said headings are not freely importable as they are restricted in nature and can only be imported by STEs (State Trading Enterprises). Then why Bill of Entry has been filed by way of misdeclaration for restricted items.*
  Answer: I again submit that the Bill of entry was filed on the basis of documents and information provided by the importer in which the CTH was already mentioned and declared in the invoice and the packing list of the supplier. The issue of mis_ declaration can only be explained by the importer and the supplier.

12. And whereas, investigation and other proceedings of the case could not be completed within stipulated period of six months, an extension of further six months was sought from the Competent Authority which was accordingly granted vide letter dated 14.08.2024**.**

13. Further, in view of the Test Reports, it appeared that the imported goods were mis-declared as *"Mixed Hydrocarbon Oil"* and mis-classified under CTH: 27101990 instead of CTH: 27101941 and CTH: 27101949 by the importer with the intent of importing "Gas Oil" and "High Flash High Speed Diesel fuel conforming tostandard IS 16861" which are restricted commodities and *can be imported by STEs only as per the import policy as brought out above.* As a result, it seems that they attempted to import the restricted commodities by mis-declaring the same. Consequently, the imports made by the importer under 2025444 Dt. 07.02.20224, 2071959 Dt. 09.02.2024 and 2239930 Dt. 21/02/2024 appeared to be illicit and in gross violation of the relevant provisions of the Foreign Trade Policy 2023, the Import Policy conditions, and the Customs Act of 1962. Therefore, the goods imported under the aforementioned Bills of Entry at Mundra Port seemed liable for confiscation under the provisions of Section 111(d), (f), (l), and (m) of the Customs Act, 1962. As a result, the consignments were seized vide Seizure memos as detailed below:

S.No	Bill Of Entry No and Date	Seizure memo DIN no.	Seizure date
1	2025444 Dt. 07.02.20224	**202409DDZ800000156670**	13.09.2024
2	2071959 Dt. 09.02.2024		
3	2239930 Dt. 21/02/2024	**202409DDZ80000444A33**	13.09.2024

14. LEGAL PROVISIONS

14.1 From the foregoing it appears that the goods in the instant case, Gas Oil is correctly classifiable under CTH 2710 1941, High Flash High Speed Diesel is correctly classifiable under CTH 27101949. The relevant portion of the Customs tariff head 2710 reads as under:

SECTION-V CHAPTER-27

(1)		(2)	Policy	Remarks
2710		Petroleum oils and oils obtained from bituminous minerals, (other than crude) preparations not elsewhere specified or included, containing by		

		weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations other than those containing bio-diesel and other than waste oils		
		Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, other than those containing biodiesel and other than waste oils:		
2710 19	--	Other :		
2710 19 41	---	Gas Oil	State trading enterprises	Import as per policy conditions (5) of Chapter 27
27101949	---	Gas oil and oils obtained from gas oil: ---- High flash high speed diesel fuel conforming to standard IS 16861	State trading enterprises	Import as per policy conditions (5) of Chapter 27

14.2 Policy Conditions of Chapter 27:

(1) ----.

(2) ----.

(3) ----.

(4) ----.

(5) *Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NG's Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL & IBP who have been marketing transportation fuels before this date.*

14.3. Section 3 of The Foreign Trade (Development and Regulation) Act, 1992 :

Powers to make provisions relating to imports and exports. –

(1) -----

(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods.

(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

14.4. Section 2(2) of the Customs Act, 1962:

"assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to-

- *(a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;*
- *(b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;*
- *(c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefore under this Act or under the Customs Tariff Act or under any other law for the time being in force;*
- *(d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;*
- *(e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods;*
- *(f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods, and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;*

14.5 Section 2(14) of the Customs Act, 1962:*"dutiable goods" means any goods which are chargeable to duty and on which duty has not been paid;*

14.6 Section 2(16) of the Customs Act, 1962:*"entry" in relation to goods means an entry made in a bill of entry, shipping bill or bill of export and includes the entry made under the regulations made under Section 84.*

14.7 Section 2 (33) of the Customs Act 1962 :

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

14.8 Section 2(39) of the Customs Act'1962- *"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;*

14.9 Section 17 of the Customs Act, 1962:

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.*

(2) ……..

(3) ……

(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.

14.10. **Section 46(4) and 46(4A) of the Customs Act, 1962** :

(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, and such other documents relating to the imported goods as may be prescribed

(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.

14.11. Section 112 of the Customs Act, 1962 :

Penalty for improper importation of goods, etc.- Any person, - (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

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

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

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;

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

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

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

14.12. Section 114AA of the Customs Act, 1962 – *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.*

14.13 Section 3 of the Petroleum Act, 1934

Import, transport and storage of petroleum.—(1) No one shall import, transport or store any petroleum save in accordance with the rules made under section 4. (2) Save in accordance with the conditions of any licence for the purpose which he may be required to obtain by rules made under section 4, no one shall import petroleum Class A, and no one shall transport or store any petroleum.

14.14 Section 4 of the Petroleum Act, 1934*Rules for the import, transport and storage of petroleum*.—

The Central Government may makes rules—

a) *prescribing places where petroleum may be imported and prohibiting its import elsewhere;*
b) *regulating the import of petroleum;*
c) *prescribing the periods within which licences for the import of petroleum Class A shall be applied for, and providing for the disposal, by confiscation or otherwise, of any [petroleum Class A] in respect of which a licence has not been applied for within the prescribed period or has been refused and which has not been exported;*
d) *regulating the transport of petroleum;*
e) *specifying the nature and condition of all receptacles and pipe-lines in which petroleum may be transported;*
f) *regulating the places at which and prescribing the conditions subject to which petroleum may be stored;*
g) *specifying the nature, situation and condition of all receptacles in which petroleum may be stored;*
h) *prescribing the form and conditions of licences for the import of 5 [petroleum Class A], and for the transport or storages of any petroleum, the manner in which applications for such licences shall be made, the authorities which may grant such licences and the fees which may be charged for such licences;*
i) *determining in any class of cases whether a licence for the transport of petroleum shall be obtained by the consignor, consignee or carrier;*
j) *providing for the granting of combined licences for the import, transport and storage of petroleum, or for any two of such purposes;*
k) *prescribing the proportion in which any specified poisonous substance may be added to petroleum, and prohibiting the import, transport or storage of petroleum in which the proportion of any specified poisonous substance exceeds the prescribed proportion; and*

l) generally, providing for any matter which in its opinion is expedient for proper control over the import, transport and storage of petroleum including the charging of fees for any services rendered in connection with the import, transport and storage of petroleum.

14.15 Rule 4 of Petroleum Rules, 2002: Approval of containers. –

(1) Containers exceeding one litre in capacity for petroleum Class A and five litres in capacity forpetroleum Class B or petroleum class C, shall be of a type approved by the Chief Controller.

(2) Where the approval of the Chief Controller is sought to a type of container not previously

approved, an application together with copies of drawings thereof to scale showing the design,materials to be used, the method of construction and capacity of the container together with twosamples containers and a fee of rupees one thousand for scrutiny shall be submitted to theChief Controller.

(3) Nothing in sub-rules (1) and (2) shall apply to containers in the possession of theDefence Forces of the Union.

14.16 Rule 6 of Petroleum Rules, 2002: Containers for petroleum Class B and Class C

(1) Containers for petroleum class B or petroleum class C shall be constructed of steel or iron and be of a type approved by the Chief Controller.

(2) An air space of not less than 5 percent of its capacity shall be kept in each container for

petroleum Class B and not less than 3 percent of its capacity in each container for petroleum

Class C.

(3) Nothing in this rule shall apply to containers in the possession of the Defence Forces of theUnion.

14.17 Rule 25 of Petroleum Act, 2002: Petroleum to be imported by land only at authorized places.

No petroleum shall be imported into India by land except at places specially authorized for thepurpose by the Central Government.

14.18 Rule 30 of Petroleum Act, 2002: Restriction on passengers, combustible and inflammable cargo –

Save as provided in rules 38,39 and 52 and clause, (b) of rule 60, no ship, vessel or vehicle shall carry petroleum petroleum Class A or petroleum Class B and Class C in bulk if it is carrying passengers or any combustible cargo other than petroleum: Provided that nothing in this rule shall prohibit the use of dunnage for packing purposes in the case of coastwise transport ofpetroleum Class A otherwise than in bulk.

14.19 Rule 35: Tank fittings on ships or vessels. –

The following provisions shall apply for the transport of petroleum other than petroleum Class C in ship or other vessels, namely: -

(a) All tanks shall be fitted with independent approved filling and suctions pipes and valves, or with stand pipes with blank flanges, all pipes being carried down nearly to the bottom of the tanks, and no petroleum in bulk shall be taken on board or discharged except through such pipes and valves, unless otherwise permitted by the Chief Controller in writing;

(b) All tanks shall be fitted with manholes having screw-down cover with petroleum-tight joints and, in the case of tanks intended for use with petroleum class A, with ventilators or relief valves of approved pattern properly protected with wire gauge of a mesh not less than 11 meshes to linear centimeter; and

(c) Ventilators similarly protected shall be fitted to all spaces, around tanks.

15. Whereas it appears from the foregoing paras that:

(i) As per Condition No.5 of Import Policy of Chapter 27, the import of High Flash High Speed Diesel Fuel and Gas Oil which were imported by way of mis-declaration by M/S Venkateshwara Chemical Industries Private Limited in the consignment seized by DRI, is allowed only 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 the said date. Thus it is evident that the said goods are not freely importable but can be imported only by State Trading Enterprises such as IOCL, HPCL, BPCL and IBP.

(ii) M/s Venkateshwara Chemical Industries Private Limited appeared to be well aware about the said restrictions imposed by the Policy. As such in order to circumvent the said provision, in collusion with the CHA namely Airtrax Freight Logistics, as

well as Overseas Suppliers namely M/s Taurus International (FZE) and M/s Sun Star Trading FZE in Dubai devised a modus operandi to import High Flash High Speed Diesel fuel and Gas Oil - (restricted commodities), in the garb of importing freely importable goods.

(iii) In accordance with the said modus operandi, the importer resorted to the import of High Flash High Speed Diesel fuel and Gas Oil by declaring the same as "Mix/Mixed Hydrocarbon Oil (MHO)". They classified the said goods i.e "Mix/Mixed Hydrocarbon Oil (MHO)"under Customs Tariff Heading (CTH) 27101990 which pertains to "Others" where no restriction is prescribed in the Import Policy. In accordance with said modus operandi, the suppliers namely M/s Taurus International (FZE) and M/s Sun Star Trading FZE in Dubai appear to have deliberately declared the said goods in the import documents viz invoices and the corresponding packing list as "Mix/Mixed Hydrocarbon Oil (MHO)".

(iv) It appears that on the basis of fudged and fabricated documents namely invoice, Packing List and Chemical Analysis Report, the Importer namely M/s Venkateshwara Chemical Industries Private Limited filed Bill of Entries wherein they declared the goods as "Mix/Mixed Hydrocarbon Oil (MHO))"and classified the same under Chapter Heading 27101990 wherein no restriction was in force in terms of the Import Policy.

(v) It further appears that M/s Venkateshwara Chemical Industries Private Limited all along were aware of the fact that the items which they sought to import actually were restricted items and as such they were not eligible to import the High Flash High Speed Diesel fuel and Gas Oil. The documents were manipulated so that the same could be cleared on the basis of the mis-declaration and mis-classification of the goods with the Customs at Mundra Port.

(vi) During the course of the investigations, M/s Venkateshwara Chemical Industries Private Limited as well as their related entities involved in the case were asked to submit supporting and related relevant documents like buyer seller agreement, details of refinery/oil firm from where the consignment originated, copies of communication made with the supplier, copies of export declaration form filed in the supplier country etc pertaining to the said consignments vide summons issued to them. The said documents were called for as they would have enabled the identification of the commodity imported by M/s Venkateshwara Chemical

Industries Private Limited in the consignment under investigation. It appears that the documents were deliberately not submitted by them so as to prevent the identification of the commodity by the Officers of the DRI.

(vii) In order to ascertain the exact nature of the goods and to confirm the identity, samples were drawn from the consignment which were sent to Government Lab namely CRCL, Vizag. The parameters of the test conducted by the Labclearly suggest that the commodity covered under the consignments pertaining to the importer as declared in the import documents and the Bill of Entry were different and not as per the import documents filed by the importer. The parameters of the samples drawn from the consignments covered under BEs viz –2025444 Dt. 07.02.20224 and 2071959 Dt. 09.02.2024 on being tested and analysed, indicate that they conform to specification of IS:16861 which pertains to High Flash High Speed Diesel fuel. As there is no deviation in all the parameters as mentioned in the Test reports vis-a vis parameters prescribed under IS:16861, there appears to be no doubt about the identity of the said commodity. Further, the parameters of the samples drawn from the consignments covered under BE 2239930 Dt. 21/02/2024 on being tested and analysed, suggests that "The sample has the characteristics of Gas Oil, meet to the requirement of IS:17789:2022". Further the Amendment to IS:17789 dated 2023 specifically mentions that Indian Refineries may opt for lower sulphur content as per the agreement between the seller and purchaser. The sulphur content in the commodity is only a quality parameter and has no relation with the identity of the commodity.

(viii) The commodity sought to be actually imported viz, High Flash High Speed Diesel fuel and Gas Oil under the subject consignments find specific mention in different tariff Item and not the tariff Item in which they were declared in the import documents i.e 27101990 which does not lay down any restriction if the goods are covered under the said CTH and are classified accordingly. It appears that the item has been given description Mix/Mixed Hydrocarbon Oil so that the same can be classified in the category of Chapter Heading 27101990 pertaining to others deliberately where there is no restriction in the import of commodities falling in the said category of the Customs Tariff Act'1985.

(ix) The importer failed to provide any document to substantiate the chemical composition/constituent if any of Mixed Hydrocarbon Oil. It appears that the misclassification was done deliberately so as to mislead the department. The correct

classification is 27101949 pertaining to “High Flash High Speed Diesel fuel as per IS 16861”, and 27101941 pertaining to “Gas Oil”. The act of mis-declaration and misclassification leading to import restricted goods namely High Flash High Speed Diesel fuel and Gas Oil has been accepted and acknowledged in their respective voluntary statements by M/s Venkateshwara Chemical Industries Private Limited and the CHA M/s Airtrax Freight Logistics.

(x) M/s Venkateshwara Chemical Industries Private Limited are not an STE entity and hence they are not eligible to import the said restricted goods. Therefore they appeared to have resorted to the act of mis-declaration and mis-classification so as to import the said restricted goods.

(xi) M/s Venkateshwara Chemical Industries Private Limited failed to submit any document in support of the item Mixed Hydrocarbon Oil declared by the supplier in the import documents and Bills of Entries filed by M/s Airtrax Freight Logistics. Even subsequently during the course of the investigations after the containers were put on hold till date they have not been able to submit any such document to substantiate the identity of the goods in accordance with declaration in Invoice & Packing list as well as bill of entries.

(xii) M/s Venkateshwara Chemical Industries Private Limitedfailed to provide specific use of the item “Mix/Mixed Hydrocarbon Oil”. On being asked in his voluntary statement tendered under Section 108 of the Customs Act’1962 whether he was aware about the parameters/specifications of the MHO, Shri Arun Kumar Saxena, Director of M/s Venkateshwara Chemical Industries Private gave vague reply that the MHO was used for industrial purposes. But he failed to provide information about the specific industry which used the Mix/Mixed Hydrocarbon Oil. Further, he could not state anything about the parameters /specification of Mixed Hydrocarbon Oil. Further even the CHA could not give any information about the use of the Mixed Hydrocarbon Oil. This suggests that they were not aware about the use of the said commodityi.e “Mix/Mixed Hydrocarbon Oil” as the same was not intended to be imported actually in the containers put on hold and subsequently examined by the Officers of the DRI.

(xiii) The parties also appear to have violated the provisions of Petroleum Act, 1934. The goods were imported in gross violation of the said provisions. The Petroleum Act,

1934, classifies petroleum products into 3 categories based on their flash points as detailed below:

S.No	Petroleum products Class	Flash Point
1	Class A	Below 23°C (73°F)
2	Class B	Between 23°C and 65°C (73°F to 149°F)
3	Class C	Between 65°C and 93°C (149°F to 200°F)

Further, as per the test reports the goods in question here fall under the "Class B and Class C" category of petroleum products as per the Petroleum Act 1934. Class B and Class C petroleum products are hazardous, and their import, storage, and transport are strictly regulated. Now to import the Class B and Class C category of petroleum products an Importer has to follow certain rules and require certain certifications as discussed below:

1. Class B and Class C petroleum products must be handled with proper care due to their flammable nature. The Petroleum Act and the Petroleum Rules, 2002, mandate the use of appropriate containers for the storage and transport of such products. Flexi bags are not suitable for carrying Class B and Class C petroleum products because they do not meet the stringent safety standards for the containment of flammable liquids. Containers used for storing and transporting Class B and Class C petroleum must be certified as per PESO standards and must be explosion-proof and fire-resistant to prevent any accidental ignition. The use of Flexi bags, which are typically not compliant with these safety norms, violates this requirement.

2. Any importer dealing with Class B and Class C petroleum products must have requisite licenses and approvals, such as an import license from the Petroleum and Explosives Safety Organization (PESO).

By importing restricted Class B and Class C petroleum in Flexi bags in total disregard of the safety norms which could lead to serious mishaps, it appears that M/s Venkateshwara Chemical Industries Private in the greed for earning illicit profits have put the public and the environment at great risk.

(xiv) Shri Arun Kumar Saxena, Director of M/s Venkateshwara Chemical Industries Private Limited on being shown the Test Reports and the parameters mentioned therein has accepted the conclusions and findings of the Test Reports of CRCL. He

has also accepted that the consignments were mis-declared and misclassified. On the basis of the conclusions of the Test Reports he agreed that the respective consignments comprised of High Flash High Speed Diesel fuel and Gas Oil as suggested in the said Test Report. However he has sought to shift the onus and blame for mis-declaration upon the supplier and has claimed that the issue of the mis-declaration can be explained by the supplier. He has sought to project his innocence in the case which however does not appear to be the case. The fact that the importer has not produced any document from the supplier or the supplier has not issued any clarification till date, suggests that the consignment was as per the orders placed by M/s Venkateshwara Chemical Industries Private limited.

(xv) The provisions of Section 17 (1)of the Customs Act, 1962 read with Section 2 (2) of the Customs Act and CBIC Circular No. 17/2011-Customs dated 08.04.2011 lay down onus on the importer and the CHAs to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declared 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 M/s Venkateshwara Chemical Industries Private Limited and the CHA M/s Airtrax Freight Logistics appear to have violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act'1962.

(xvi) In terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bills 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. Also on being shown the Test Reports, Shri Arun Kumar Saxena, Director of M/s Venkateshwara Chemical Industries Private Limited has accepted that they had mis- declared the description imported under subject bills of entry before the custom authorities in his voluntary statement. Thus, in view of the facts discussed in the foregoing paras and material evidences available on records, it appears that the importer 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 a restricted good under the garb and guise of a freely importable good.

(xvii) Further, by attempting to import restricted goods, the importer- M/s Venkateshwara Chemical Industries Private Limited appear to have indulged in the act of smuggling as defined under Section 2(39) of the Customs act'1962. With the introduction of self-assessment and consequent upon amendments to Section 17 of the Customs Act, 1962 w.e.f. 08.04.2011, it was obligatory on their part to declare the actual description and correct classification of the goods imported by them and pay the duty applicable in respect of the said goods. Therefore, by not disclosing the true and correct facts to the proper officer, at the time of filing of Bill of Entry for the respective consignment, the importer appears to have indulged in mis-declaration and mis-classification by way of suppression of facts and willfully mis-declared and mis-classified the imported goods with intent to import restricted goods. Thus, the importer appears to have contravened the provisions of Section 46(4) & 46(4A) of the Customs Act, 1962, in as much as they have mis-classified and mis-declared the goods imported by them by suppressing the true and actual description of the goods, while filing the declaration seeking clearance at the time of importation of impugned goods.

(xviii) The facts and the investigations have revealed that the CHAs- M/s Airtrax Freight Logistics was actively involved in facilitating and assisting the customs clearance of the restricted goods namely High Flash High Speed Diesel fuel and Gas Oil in the garb of Mix/Mixed Hydrocarbon Oil. The CHA appear to have failed to fulfil the following obligations as prescribed under Regulation 10 of Customs Broker Licensing Regulation 2018-

(d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

(q) co-operate with the Customs authorities

They failed to fulfil the said obligations as under:

M/s Airtrax Freight Logistics appear to have not advised their client as obligated vide obligation (d) of the Regulation 10 to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof. They further did not bring the violations and contraventions of the import of restricted goods by way of mis-declaration and mis-classification to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs as required under regulation (d). They did not advise them against importing restricted commodities by way misclassification and mis-declaration in flexi bags in violation of the provisions of the Customs Act'1962 and the Petroleum Act'1934. Further, M/s Airtrax Freight Logistics appear to also have violated the obligation (e) as they did not exercise due diligence to ascertain the correctness of the details and documents provided by the importer for filing of bill of entries. They have been found to be in the business of customs clearance for a considerable period of time yet they did not ask for any proper chemical/analysis report from the importer in support of the details and the description filed by then in the Bills of Entry in respect of the goods sought to be imported under vide the consignments under investigation. In fact they submitted the fudged and fabricated parameters reproduced by the supplier as Chemical Analysis Report alongwith the bills of entry in support of the goods misdeclared as Mix/Mixed Hydrocarbon Oil. M/s Airtrax Freight Logistics also did not co-operate with the Customs authorities as provided under obligation (q) of the Regulation 10 of the CBLR. During the course of the investigations they did not disclose vital information relating to the case on their own. However, on being shown the relevant documents subsequently they have accepted the Lab Reports and have also accepted that the consignments were mis-declared and misclassified in their voluntary statements.

Thus the CHA- M/s Airtrax Freight Logistics appear to have acted in tandem with the importer- M/s Venkateshwara Chemical Industries Private Limitedin the illicit and illegal import of the restricted commodity. They have attempted to project their innocence in the case by stating that they filed import documents on the basis of the documents provided by the importer but considering the goods and the Chapter of the goods they had the responsibility of ensuring that the importer does not indulge in the illicit act of smuggling of restricted commodities or violate the provisions of Customs Act'1962 which rested on their shoulders in accordance with the obligations laid down in Regulation 10 of the Customs Broker Licensing Regulations 2018. But it appears that

they have not observed and complied with the obligations prescribed under the Customs Broker Licensing Regulation 2018.

(xix) The consignments consisting of 34 containers pertaining to 3 BEs as discussed above, therefore appear to be imported by way of mis-declaration and mis-classification as Mix/Mixed Hydrocarbon Oil in the manner as discussed above in contravention of Section 17 (1), Section 46(4) and 46(4A) ,and appear liable for confiscation in terms of Section 111(d), (f), (l) and (m) of Customs Act, 1962. Further, M/S Venkateshwara Chemical Industries Private Limited, Shri Arun Kumar Saxena, Director of M/S Venkateshwara Chemical Industries Private Limited, M/s Airtrax Freight Logistics, Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics, for their respective roles in the instant case appear to have rendered themselves liable for imposition of penalty under Section 112 (a) or (b), and 114 AA of the Customs Act'1962.

16. Role played by various entities:

A. M/s Venkateshwara Chemical Industries Private Limited

Whereas it appears that M/s Venkateshwara Chemical Industries Private Limited deliberately resorted to illicit import of restricted goods (High Flash High Speed Diesel fuel and Gas Oil) under the guise of "Mix/Mixed Hydrocarbon Oil (MHO)" to bypass import restrictions applicable to non-State Trading Enterprises (STEs).They misused Customs Tariff Heading 27101990 ("Others") to declare the goods as freely importable. M/s Venkateshwara Chemical Industries Private Limitedcolluded with suppliers (M/s Taurus International FZE and M/s Sun Star Trading FZE) to submit falsified invoices, packing lists, and chemical Analysis Reports that misrepresented the true nature of the goods. They further appeared to have failed to declare the correct classification and description of goods during self-assessment under Section 17(1) of the Customs Act, 1962. They appear to have provided inaccurate and incomplete information in the Bills of Entry, violating Sections 46(4) and 46(4A) of the Customs Act, 1962. It appears that M/s Venkateshwara Chemical Industries Private Limitedwere fully aware that the imported items were restricted commodities (High Flash High Speed Diesel fuel and Gas Oil) and not "Mix/Mixed Hydrocarbon Oil," as evidenced by voluntary statements. It appears that they deliberately withheld key documents, including buyer-seller agreements and export declarations, to prevent the identification of the goods. The mis-declared goods namely High Flash High Speed Diesel fuel and Gas Oil have been categorized as hazardous Class B and Class C petroleum products (High Flash High Speed Diesel fuel and Gas Oil) but

were imported in unsafe Flexi bags, violating and compromising safety norms mandated by the Petroleum Rules, 2002. The misdeeds and malafide acts of M/s Venkateshwara Chemical Industries Private Limitedappear to be confirmed from the fact that they accepted the findings of the lab tests conducted by CRCL, which confirmed the goods as High Flash High Speed Diesel fuel and Gas Oil. They have attempted to pass the responsibility for their malafide act of importing restricted goods on the shoulders of the supplier. The illicit acts of M/s Venkateshwara Chemical Industries Private Limitedwhich include misdeclaration, misclassification, and illegal importation of restricted petroleum products appear to violate multiple provisions of the Customs Act, 1962, the Foreign Trade Policy, and the Petroleum Act, 1934 for financial gain. The illicit import of the said restricted goods viz High Flash High Speed Diesel fuel and Gas Oil amounts to act of smuggling as defined under Section 2(39) of the Customs Act'1962. Thus, for their acts of omission and commission in the case borne out by the investigation, M/s Venkateshwara Chemical Industries Private Limited appear to have rendered themselves liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962.

B. Role played by the CHA- M/s Airtrax Freight Logistics

Similarly, it appears that M/s Airtrax Freight Logistics the CHA of the Importer-M/s Venkateshwara Chemical Industries Private Limited was also equally involved in the illicit import of the restricted goods namely restricted items (High Flash High Speed Diesel fuel and Gas Oil) under the guise of freely importable goods labelled as "Mix/Mixed Hydrocarbon Oil (MHO)." As a Customs House Agent, they did not advise M/s Venkateshwara Chemical Industries Private Limited to comply with the applicable laws under the Customs Act, 1962, and the Petroleum Act, 1934. They similarly allowed misclassification and misdeclaration of restricted petroleum products as "Mix/Mixed Hydrocarbon Oil (MHO)." M/s Airtrax Freight Logistics failed to exercise due diligence and did not verify the accuracy and the authenticity of import documents, including invoices and chemical analysis reports. This becomes more important and critical in view of the kind of goods being imported. M/s Airtrax Freight Logistics appear to have filed false/fabricated documents, enabling the import of restricted petroleum products in unsafe Flexi bags, violating the Petroleum Act, 1934, and Customs Act, 1962. For their acts of omission and commission in the case borne out by the investigation, which amounts to smuggling in accordance with Section 2(39) of the Customs Act'1962, M/s Airtrax Freight Logistics appeared to have rendered themselves liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962

C. Role Played by Shri Bhupati Maddu (M/s Airtrax Freight Logistics):

Shri Bhupati Maddu has been found to be working in the capacity of Manager of M/s Airtrax Freight Logistics. In his voluntary statement tendered under Section 108 of the Customs Act'192, he has stated that he is handling documentation work and providing customs clearance services to various importers on behalf of M/s Airtrax Freight Logistics at Mundra Port. Thus he is in a key and important position in the firm. He appears to have not discharged his responsibility properly and thus appears to have facilitated the illicit import of restricted goods by M/s Venkateshwara Chemical Industries Private Limited. As he has himself submitted that he was looking after documentation, he appears to have not exercised due diligence while scrutinizing and thereafter filing of the Bills of Entry. He also appears to have played a role in the mis-classification of the goods under the category of "Others" of Chapter 2710. He should have refrained and advised M/s Venkateshwara Chemical Industries Private Limited from indulging in illicit and illegal import of the restricted goods. For his failure to discharge his duties responsibly and in accordance with the obligations laid down in the Regulation 10 of Customs Broker Licensing Regulation 2018, Shri Bhupati Maddu appears to have rendered himself liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962 for his role in the in the case as discussed supra.

17. Accordingly, **M/s Venkateshwara Chemical Industries Private Limited** (IEC-AAICV1692C), 180 Sqf Area at, Unit No B-201, Metro Plaza, Metro Plaza, Metro Plaza, Meerut, Meerut, Uttar Pradesh, 250002, were called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421 as to why:-

(i) The declared classification impugned goods i.e. High Flash High Speed Diesel fuel conforming to IS:16861 having total quantity 379.290 MTS mis-declared as Mixed Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry no. 2025444 Dt. 07.02.20224 and 2071959 Dt. 09.02.2024, should not be denied and re-classified under the Customs Tariff Item 27101949.

(ii) The declared classification impugned goods i.e. Gas Oil having total quantity 276.180 MTS mis-declared as Mix Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of entry no. 2239930 Dt. 21/02/2024, , should not be denied and re-classified under the Customs Tariff Item 27101941

(iii) High Flash High Speed Diesel fuel and Gas Oil sought to be imported by them in 34 containers pertaining to 3 BOEs having declared value of **Rs. 2,51,70,087**/-seized under Section 110 of the Customs Act'1962 vide Seizure Memorandums dated 13.09.2024 lying seized at Mundra Port should not be confiscated under Sections 111(d), (f), (l)& (m) of the Customs Act'1962.

(iv) Penalty should not be imposed upon them under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

18. Accordingly, Shri Arun kumar Saxena, Director of M/s Venkateshwara Chemical Industries Private Limited, (HNo-E-533A, Sector 11, Pratap Vihar, Vijay Nagar, Ghaziabad, Uttar Pradesh-201009), was also called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421for his act and omission as discussed above, as to why penalty should not be imposed upon him under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

19. Accordingly, M/s Airtrax Freight Logistics, Customs House Agent-CHA (Plot no 59/60, Masilamani Nagar, Thirumazhisai, Chennai) was also called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421, as to why penalty should not be imposed upon them under Section 112 (a) or (b) and 114 AA of the Customs Act'1962,for their role in the illicit import of restricted commodity namely High Flash High Speed Diesel fuel and Gas Oil in the manner as discussed above.

20. Accordingly, Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics- CHA, (House No. 1-27, Maddi Street, Thotavuru, Vjrapukotturu, Srikakulam, Andhra Pradesh), was also called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421for his act and omission as discussed above, as to why penalty should not be imposed upon him under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

WRITTEN SUBMISSION

21. M/s. Venkateshwara Chemical Industries Private Limited, vide their letter dated 09.04.2025, 03.11.2025 & 27.03.2026 has submitted their written submissions, wherein they have inter-alia submitted that:-

- The Noticee denied all the allegations levelled in the Show Cause Notice dated 12.02.2025. It was submitted that nothing shall be deemed to be admitted by the Noticee even if not specifically dealt with, except to the extent expressly admitted.
- The Noticee is a company incorporated in the year 2021 having Directors Shri Arun Kumar Saxena and Shri Prakash Paswan. The Noticee is engaged in the manufacturing and trading of various chemical items such as smoke remover, perfuming items etc. The Noticee obtained IEC in 2022 and started importing various oils including Distilled Oil, Base Oil and Mixed Hydrocarbon Oil from February 2023.
- It was submitted that the Noticee had imported 40 consignments of Mixed Hydrocarbon Oil (MHO) in the past and the Department had never raised any objection to the said imports. In the present case, the Noticee had placed orders for Mixed Hydrocarbon Oil from M/s Taurus International (FZE) and M/s Sun Star Trading FZE as per the requirement of its client in India. Out of the previous 40 consignments, 4 consignments were imported from M/s Taurus International (FZE) and 3 consignments from M/s Sun Star Trading FZE.
- The goods were declared as "Mixed Hydrocarbon Oil" under Customs Tariff Item 27101990 based on the description given in the supplier's documents such as Invoice, Packing List, Bill of Lading etc. The Bills of Entry were filed on first check basis.
- It was pointed out that the test reports dated 03.06.2024 are incomplete and unreliable. For High Flash High Speed Diesel Fuel (IS 16861), tests were conducted only for 10 out of 16 parameters. Tests for Pour Point, Copper Strip, Water content, Cold filter plugging point, Oxidation and Lubricity were not conducted. Similarly, for Gas Oil (IS 17789), Pour Point was not tested.
- the Noticee submitted that the investigating authority randomly drew samples from only one container per Bill of Entry, rather than sampling all 34 containers. The Noticee again requested that fresh samples be drawn from each of the 34 containers and sent for testing to a recognized laboratory.
- The Noticee most respectfully requested early adjudication of the Show Cause Notice and permission for re-export of the goods on appropriate terms and conditions as deemed fit by the Adjudicating Authority.

22. M/s. Airtrax Freight Logistics and Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics, through their authorized representative, Shree Vikas Mehta, Consultant, submitted their reply dated 26.11.2025, wherein they have, *inter alia*, stated that:-

- At the outset, the notices deny the allegations and averments leveled against them in the notice. Save and except what is specifically admitted herein, no part of the notice which is not expressly dealt with shall be deemed to be admitted by them.
- The Noticees submitted that the allegations against M/s. Airtrax Freight Logistics and Shri Bhupati Muddu, inter alia, that they did not advise the importer to comply with applicable laws, allowed misclassification and mis-declaration of restricted petroleum products as "Mixed Hydrocarbon Oil (MHO)", failed to exercise due diligence, did not verify the accuracy and authenticity of import documents, and filed false/fabricated documents, are not tenable in the eyes of law.
- It is submitted that a Custom Broker is not an expert in chemical goods. He is neither required nor equipped to carry out testing of goods imported by his principal. He is only required to prepare the check list for filing a bill of entry on the basis of documents like invoice, bill of lading, etc. placed in his hands by the importer. Once the check list is approved by the importer, he has filed the bills of entry for assessment/re-assessment by Customs. Hence, acting as a Custom Broker, M/s. Airtrax and Shri Bhupati, Manager had nothing to hide or conspire with the importer in passing off mis-declared and/or mis-classified goods. It is a settled law that unless proved that Custom Broker had any prior knowledge about the alleged mis-declaration of goods, his act of preparing the check list and filing bill of entry on the basis of documents placed in his hands by the importer does not render him liable to penalty under section 112(a) or (b) or 114AA of the Customs Act, 1962.
- The show cause notice does not bring out any cogent evidence to dispute the facts stated by Shri Bhupati, Manager in his statement dated 09.08.2024, including that the importer had supplied chemical analysis report/test report which was duly filed along with bill of entry, the declaration and classification in the bills of entry was made on the basis of documents and information provided by the importer, and the bills of entry were filed on the basis of documents and information provided by the importer in which the CTH was already mentioned and declared in the invoice and packing list of the supplier. The issue of mis-declaration can only be explained by the importer and the supplier. The importer has not rebutted the statement of Shri Bhupati, Manager of the Custom Broker. The importer has nowhere implicated the Custom Broker and Shri Bhupati, Manager of the Custom Broker. Hence, none of the allegations leveled against M/s. Airtrax and Shri Bhupati, Manager regarding involvement, etc. are proved.

- The onus to prove that provisions of section 114AA of the Customs Act, 1962 is attracted is even more stringent. It is for the department to prove "knowledge" or "intention" on the part of a person against whom section 114AA is invoked. In this case, none of the statements recorded have implicated the Custom Broker and/or their partner as having knowingly or intentionally made, signed or used any false or incorrect declaration, statement or document. The allegation that the Custom Broker "was equally involved in the illicit import of the restricted goods" is hereby called to strict proof.
- Without prejudice, it was submitted that sub-sections (a) and (b) of Section 112 operate in two different situations and cannot be invoked simultaneously. Further, the notice does not satisfy the criteria of "knowingly or intentionally" required for invoking Section 114AA.
- It was urged that in view of the above facts and settled legal position, the proceedings initiated against M/s. Airtrax Freight Logistics and Shri Bhupati Muddu may be dropped and no penalty may be imposed on them.

23. Further, M/s. Venkateshwara Chemical Industries Private Limited, vide their letter dated 06.05.2026, they are willing to **re-export** the subject goods and requested the Department to grant permission for re-export at the earliest. The Noticee requested that the case may be decided on merits and submitted that they do not require any further personal hearing in the matter.

PERSONAL HEARING

24. Ms. Shweta Garge, Advocate and authorized representative of M/s. Venkateshwara Chemical Industries Private Limited **(Noticee no.1)** and Shri Arun Kumar Saxena, Director of M/s. Venkateshwara Chemical Industries Private Limited **(Noticee no. 2**), appeared for personal hearing on 04.07.2025 & 27.11.2025 through virtual mode. During the personal hearing she re-iterated importer's earlier written submission. She further submitted that 3 bills of entries filed for 34 containers; that out of which sample was taken randomly only from one container in each Bill of Entry; that as per the report dated 03.02.2024, it was alleged that out of the three containers, one had gas oil and the other two had high-speed diesel.

She further submitted that in the test report, in the case of high-speed diesel, there are around 16 parameters. However, the test was not conducted for pour point, copper strip, water content, cold filter plugging point, oxidation, and lubricity. Thus only

10 out of 16 parameters were considered. While in gas oil, test was not conducted for pour point.

She referred case of Hon'ble CESTAT, in case of Roshan Petrochem wherein para 11 stated that the parameters in regard to burning point were not tested and reported. The IS specification requires that all eight parameters have to be satisfied in case of kerosene. When only seven parameters have been tested and reported, the department cannot conclude the goods conform to IS kerosene. When the department does not accept the classification declared by the importer and rejects the classification stated in the supplier's analysis certificate, the burden lies upon the department to correct the classification.

She also referred case of Swarna Oil Service wherein Hon'ble CESTAT Ahmedabad itself has held that if all parameters are not tested, then the report is not conclusive. Similarly, in case of Venkateshwara the test report is not conclusive. She further submitted the samples have not been taken from all the containers, which is required.

She stated that the said noticee regular imported from the same supplier and every time the bill of entry was filed on first check basis. All the documents of the supplier specifically state that the goods were mixed hydrocarbon. She requested for re-export of the consignment at minimum redemption and redemption fine and penalty, because this is a bona fide case of the importer and since the detention and demurrage charges are already being surpassed. They rely on the non-conclusive test report.

25. Shri Vikas Mehta, consultant and authorized representative of M/s. Airtrax Freight Logistics (**Noticee no. 3**) & Shri Bhupati Maddu, Manage of M/s. Airtrax Freight Logistics (**Noticee no. 4**), appeared for personal hearing on 26.11.2025, through virtual mode. During the personal hearing, he reiterated the submissions already made by them.

DISCUSSION AND FINDINGS

26. I have carefully gone through the facts of the case, Show Cause Notice dated 13.02.2025 and the noticee's submissions both, in written and in person. I find that in the present case, principle of natural justice have been complied with and therefore, I proceed to decide the case on the basis of applicable laws/rules, written submissions and documentary evidences available on record.

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

(i) The declared classification of the impugned goods i.e. High Flash High Speed Diesel fuel conforming to IS:16861 having total quantity 379.290 MTS mis-declared as Mixed Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry no. 2025444 Dt. 07.02.20224 and 2071959 Dt. 09.02.2024, should not be denied and re-classified under the Customs Tariff Item 27101949.

(ii) The declared classification impugned goods i.e. Gas Oil having total quantity 276.180 MTS mis-declared as Mix Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of entry no. 2239930 Dt. 21/02/2024, , should not be denied and re-classified under the Customs Tariff Item 27101941

(iii) High Flash High Speed Diesel fuel and Gas Oil sought to be imported by them in 34 containers pertaining to 3 BOEs having declared value of Rs **2,51,70,087**/-seized under Section 110 of the Customs Act'1962 vide Seizure Memorandums dated 13.09.2024 lying seized at Mundra Port should not be confiscated under Sections111(d), (f), (l)& (m) of the Custo ms Act'1962.

(iv) Penalty should not be imposed upon M/s Venkateshwara Chemical Industries Private Limited (IEC- AAICV1692C) under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

(v) Penalty should not be imposed upon Shri Arun Kumar Saxena, Director of M/s Venkateshwara Chemical Industries Private Limited, M/s Airtrax Freight Logistics (Customs Broker), Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics, under Section 112 (a) or (b) and 114 AA of the Customs Act'1962

27.1 I find that 34 containers covered under 03 Bills of Entry as mentioned in **TABLE-A** above pertaining to the Importer were put on hold by DRI Noida Regional Unit on 15.02.2024 and 27.02.2024 for examination by officers of DRI. The said 34 containers covered under the above-mentioned 3 Bills of Entry were subjected to examination on 12.03.2024 and 13.03.2024. During examination goods are found as yellow coloured

liquid substance inside the flexi bags in each container. Representative samples were drawn from one randomly selected container per Bill of Entry for all Bills of Entry. RSS were sent to the CRCL lab, Vizag, to ascertain the identification of the goods comprising the consignment.

27.2 I find that the test reports indicate that the goods declared in the import documents and the Bills of Entry were different. The parameters of the test reports suggested that the goods being imported in the said containers of Bills of Entry 2025444 dated 07.02.2024 and 2071959 dated 09.02.2024 meet the requirements of both Automotive Diesel Fuel conforming to standard IS 1460 and High Flash High Speed Diesel conforming to IS 16861. The goods imported under Bill of Entry 2239930 dated 21.02.2024 meet the requirement of Gas Oil.

27.3 I find that as per Customs Tariff Act it appears that the goods imported under Bills of Entry 2025444 dated 07.02.2024 and 2071959 dated 09.02.2024 are classifiable under two different CTIs i.e. 27101944 (Automotive Diesel Fuel) and 27101949 (High Flash High Speed Diesel). As per General Rules for the Interpretation of the Harmonized System (GIR), the rules are to be followed sequentially. In the instant case, the goods cannot be classified under any rule up to Rule 3(c) of GIR. As per Rule 3(c) of the GIR, in such cases where goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. Thus, the goods covered under Bill of Entry Nos. 2025444 dated 07.02.2024 and 2071959 dated 09.02.2024 are appropriately classifiable under CTI 27101949 which pertains to High Flash High Speed Diesel conforming to IS 16861. Further, Gas Oil is appropriately classifiable under CTH 27101941.

27.4 I find that on analysis of the parameters detailed in the Test Reports vis-à-vis the parameters stipulated in the BIS standards of Gas Oil (IS:17789) and High Flash High Speed Diesel fuel conforming to standard IS:16861, it is in accordance with the intelligence, that goods being imported appeared to be mis-declared and following conclusion flow from the analysis:

Sl. No.	Bill of Entry No.	Date of Bill of Entry	No. of containers	Product description as per the analysis of the Test report
1.	2025444	07.02.2024	10	High Flash High Speed Diesel fuel conforming to standard IS: 16861
2.	2071959	09.02.2024	10	High Flash High Speed Diesel fuel conforming to standard IS: 16861
3.	2239930	21/02/2024	14	Gas Oil

27.5 I find that in the light of the parameters of the Test Reports of the CRCL, the goods imported under BEs 2025444 dated 07.02.2024 and 2071959 dated 09.02.2024 are liable to be classified under CTH 27101949 under the description High Flash High Speed Diesel while the goods imported under BE 2239930 dated 21.02.2024 are liable to be classified under CTH 27101941 under the description of Gas Oil. The relevant description of CTH 27101941and 27101949 as per Customs Tariff Act'1985 are as below:

2710 19 39	--- Aviation turbine fuels, kerosene type conforming to standard IS 1571	kg.	5.00	5.00	—	11.00	0.50	17.105	State Trading Enterprises	*Exemption: See Ntfn 52/2017-Cus. dated 30.06.2017 Import as per Policy Condition (5) of Chapter 27 ACD Nil by Ntfn 32/2022-Cus. Excise Duty by Ntfn 11/2017-CE dated 30.06.2017*
	--- Gas oil and oils obtained from gas oil:									
2710 19 41	--- 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*
[illegible]	[illegible]	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*

Chapter Heading 27101941

									prises	*Chapter 27*
2710 19 43	---- Light diesel oil conforming to standard IS 15770	kg.	10.00	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.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn 12/2018-Cus.*
2710 19 49	---- High flash high speed diesel fuel conforming to standard IS 16861	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn*

Chapter Heading 27101949

27.6. I find that as per ITC(HS), 2022, Schedule 1: Import Policy, Section V: Mineral Products, Chapter 27: Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes: Goods falling under the description of *"Gas oil and oils obtained from gas oil:---- High Flash High-Speed Diesel fuel conforming to standard 16861"and "Gas Oil" 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:

27101949	---	Gas oil and oils obtained from gas oil: ---- High flash high speed diesel fuel conforming to standard IS 16861	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.

27101941	---	Gas oil and oils obtained from gas oil: ---- Gas oil	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.

Product Description and Import Policy

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

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

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

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

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

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

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

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

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

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

"2.20 State Trading Enterprises (STEs)

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

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

opportunity, in accordance with customary business to compete for participation in such purchases or sales.

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

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

27.10 I also find that the importer M/s. Venkateshwara Chemical Industries Private Limited, violated the provisions of Petroleum Act, 1934. The goods were imported in gross violation of the said provisions. The Petroleum Act, 1934, classifies petroleum products into 3 categories based on their flash points as detailed below:

S.No	Petroleum products Class	Flash Point
1	Class A	Below 23°C (73°F)
2	Class B	Between 23°C and 65°C (73°F to 149°F)
3	Class C	Between 65°C and 93°C (149°F to 200°F)

Further, as per the test reports the goods in question here i.e. here fall under the "Class B and Class C" category of petroleum products as per the Petroleum Act 1934. Class B and Class C petroleum products are hazardous, and their import, storage, and transport are strictly regulated. The Petroleum Act, 1934 and the Petroleum Rules, 2002, mandate the use of appropriate containers for the storage and transport of such products. Flexi bags are not suitable for carrying Class B and Class C petroleum products because they do not meet the stringent safety standards for the containment of flammable liquids. Containers used for storing and transporting Class B petroleum must be certified as per PESO standards and must be explosion-proof and fire-resistant to prevent any accidental ignition. The use of Flexi bags, which are typically not compliant with these safety norms, violates this requirement.

In reference to above, Public Notice no. 08/2024 dated-27.09.2024 was also issued by the Principal Commissioner, Mundra Customs. As per Public Notice no. 08/2024 dated-27.09.2024 and Petroleum Rules, 2002 framed under Petroleum Act, 1934, it is clear that flexi bags fitted in general purpose 20 feet containers are not covered under

the definition of container falling under Petroleum Rules, 2002. Hence, the goods imported above in Flexi Bags are in violation of the Public Notice No. 08/2024 read with Petroleum Rules, 2002.

27.11 I find that as per the provisions of Section 17(1) of the Customs Act, 1962 read with Section 2(2) of the Customs Act and CBIC Circular No. 17/2011-Customs dated 08.04.2011, the onus is laid down on the importer and the CHAs to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. By furnishing incorrect and wrong information in the import documents, I find that M/s. Venkateshwara Chemical Industries Private Limited and the CHA M/s. Airtrax Freight Logistics have violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act, 1962. Further, as per Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bills of Entry. Further, in terms of Section 46(4A) of the Customs Act, 1962, the importer who presents a bill of entry shall ensure the accuracy and completeness of the information given therein, shall ensure the authenticity and validity of any document supporting it, and shall ensure compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force. In the instant case, I find that the importer M/s. Venkateshwara Chemical Industries Private Limited was fully aware of the actual goods imported by them. Also, on being shown the Test Reports, Shri Arun Kumar Saxena, Director of M/s. Venkateshwara Chemical Industries Private Limited, accepted the conclusions of the CRCL test reports dated 03.06.2024 for all three consignments and agreed that the correct classification of the goods covered under BOE No. 2239930 dated 21.02.2024 is under CTH 27101941 (Gas Oil) and the correct classification of the goods covered under BOE No. 2025444 dated 07.02.2024 and BOE No. 2071959 dated 09.02.2024 is under CTH 27101949 (High Flash High Speed Diesel fuel), and that the descriptions given in the Bills of Entry are different from the actual goods. Thus, in view of the facts discussed in the foregoing paras and material evidences available on records, I find that the importer has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, inasmuch as they had intentionally mis-declared the description of the goods imported by them with a malafide intention to import restricted goods under the garb and guise of a freely importable good.

28. I find that M/s. Venkateshwara Chemical Industries Private Limited has raised the defence that the CRCL test reports are incomplete and unreliable — specifically that for

HFHSD, only 10 out of 16 parameters were tested (Pour Point, Copper Strip, Water Content, Cold Filter Plugging Point, Oxidation and Lubricity were not tested) and for Gas Oil, Pour Point was not tested. Reliance has been placed on CESTAT decisions in the cases of Roshan Petrochem and Swarna Oil Service. It has also been urged that samples were drawn from only one container per Bill of Entry rather than all 34 containers, and re-testing of samples from all containers has been requested. M/s. Airtrax Freight Logistics and Shri Bhupati Maddu have contended that as Customs Brokers, they are not experts in chemical goods, that they filed Bills of Entry on the basis of documents supplied by the importer, and that the issue of misdeclaration can only be explained by the importer and the supplier.

28.1 I have considered these submissions carefully. With respect to the request for re-testing by M/s. Venkateshwara Chemical Industries Private Limited, I find as under:

(i) In the instant case, Shri Arun Kumar Saxena, Director of the firm, in his voluntary statement dated 06.08.2024 recorded under Section 108 of the Customs Act, 1962, had himself perused all three CRCL test reports in detail, signed them as a token of having seen the same, and clearly accepted and agreed with the conclusions of the CRCL — that the goods in BE 2239930 are Gas Oil (CTH 27101941), and the goods in BE 2025444 and BE 2071959 are HFHSD (CTH 27101949). He unequivocally accepted that the descriptions in the Bills of Entry are different from the goods actually imported and that HFHSD and Gas Oil are restricted items that can be imported only by STEs. Having made these voluntary and unequivocal admissions under Section 108 of the Customs Act, 1962, the importer cannot now be permitted to resile from such admissions at the adjudication stage by raising a belated technical plea about the completeness of test parameters.

(ii) The CESTAT decisions cited by the Noticee are distinguishable. In those cases, the CESTAT had noted that where all essential BIS parameters are not tested and reported, the test report cannot be treated as conclusive. In the instant case however, the findings of the CRCL are backed by the director's own voluntary admission under oath. The admission of the Director under Section 108 is an independent and standalone piece of evidence which remains operative regardless of any dispute about the completeness of the test parameters. The test reports in this case are not the sole basis of classification — they are corroborated by the director's own statement.

(iii) The Noticee's request for fresh samples to be drawn from all 34 containers is not maintainable at this stage. The standard practice of drawing representative samples from one randomly selected container per Bill of Entry is an established and accepted

procedure for laboratory testing of bulk liquid consignments. No specific ground has been shown why the goods in the remaining containers would differ from those in the sampled containers.

(iv) Further, I relied upon the following rulings :-

a) In the case of CC vs. HPL Chemicals Ltd, 2006 (197) ELT 324 (Tri.-Del.), CESTAT held that CRCL is the final authority for chemical testing under Customs law and Once CRCL gives a conclusive report**,** re-testing cannot be claimed as a matter of right and Denial of re-test is valid where there is no evidence that the first testing was faulty or biased. Therefore Importer cannot keep demanding repeated re-tests merely to create doubt.

b) In the case of CC (Imports), Mumbai v. Arham Petrochem Pvt. Ltd., 2014 (310) ELT 314 (Tri.-Mumbai) CESTAT held that right to re-test must be exercised immediately after first test report, and not belatedly during adjudication.

c) In the case of Hindustan Zinc Ltd. v. CC, Kandla, 2008 (227) ELT 289 (Tri.-Ahmd.), CESTAT held that importer had not request re-test promptly, their request at adjudication stage was rejected. Silence or acceptance at the time of sampling/first test bars later re-test requests.

d) In the case of Jindal Drugs Pvt. Ltd. v. CC, Mumbai, 2001 (133) ELT 539 (Tri.-Mum.) CESTAT held that request for re-test must be bona fide and based on technical grounds**,** not just as a defence strategy. If first test is done by an accredited government laboratory, denial of re-test is valid unless importer can show concrete reasons why first test is unreliable**.** Re-test is discretionary, not automatic.

(v) Accordingly, the request for re-testing and the plea of incompleteness of test reports are rejected.

29. CONFISCATION OF GOODS:

29.1 I find that the Show Cause Notice has proposed confiscation of the impugned goods under Sections 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods is concerned, Section 111 of the Customs Act, 1962 defines the confiscation of improperly imported goods. The relevant legal provisions of Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962 are reproduced below:

"…

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

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest, import manifest or import report which are not so mentioned;

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(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.

…"

29.2 I find that M/s. Venkateshwara Chemical Industries Private Limited filed three Bills of Entry at Mundra Port declaring the goods in all three consignments as "Mixed Hydrocarbon Oil" and classifying the same under CTI 27101990. Upon examination and testing of the representative samples drawn from the consignments by the Central Revenue Control Laboratory (CRCL), Vizag, the goods were found to be as follows:

Sl. No.	**Bill of Entry No.**	**Date**	**No. of Containers**	**Actual Goods (as per CRCL)**	**Correct CTH**
1.	2025444	07.02.2024	10	High Flash High Speed Diesel fuel conforming to IS 16861	27101949
2.	2071959	09.02.2024	10	High Flash High Speed Diesel fuel conforming to IS 16861	27101949
3.	2239930	21.02.2024	14	Gas Oil	27101941

Shri Arun Kumar Saxena, Director of M/s. Venkateshwara Chemical Industries Private Limited, in his voluntary statement dated 06.08.2024, accepted the conclusions of the CRCL test reports for all three consignments. He agreed that the correct classification of the goods covered under BOE No. 2239930 dated 21.02.2024 is under CTH 27101941 (Gas Oil), and the correct classification of the goods covered under BOE No. 2025444 dated 07.02.2024 and BOE No. 2071959 dated 09.02.2024 is under CTH 27101949 (High Flash High Speed Diesel fuel). Thus, there is no ambiguity that the goods were mis-declared by the importer with respect to description, classification and import policy status in all three consignments. Both HFHSD (CTH 27101949) and Gas Oil (CTH 27101941) are restricted goods under Policy Condition No. 5 of Chapter 27 of ITC(HS) and can be imported only by State Trading Enterprises (STEs) or entities specifically authorized by DGFT. M/s. Venkateshwara Chemical Industries Private Limited is neither a STE nor does it possess any such authorization from DGFT.

29.3 I find that the Importer has violated the Policy Condition (5) of the ITC(HS) for Exports and Imports for Chapter 27 which mandates that *"Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2002..."* By mis-declaring all three consignments as "Mixed Hydrocarbon Oil" under CTH 27101990 (Free), the importer deliberately attempted to circumvent the import restrictions applicable to both HFHSD and Gas Oil. Therefore, the goods in all three consignments are liable for confiscation under **Section 111(d)** of the Customs Act, 1962.

29.4 I also find that the goods were imported in Flexi bags fitted inside general purpose 20 feet containers. As regards the Gas Oil covered under BE No. 2239930 dated 21.02.2024, it falls under **Class B** petroleum products as per the Petroleum Act, 1934 (flash point between 23°C and 65°C). As regards the High Flash High Speed Diesel fuel covered under BE Nos. 2025444 dated 07.02.2024 and 2071959 dated 09.02.2024, it falls under **Class C** petroleum products as per the Petroleum Act, 1934 (flash point between 65°C and 93°C). Import, transport and storage of Class B and Class C petroleum products are strictly regulated under the Petroleum Rules, 2002. Flexi bags are not approved containers for transportation of Class B or Class C petroleum products as they do not meet the safety standards prescribed under the said Rules. Public Notice No. 08/2024 dated 27.09.2024 issued by the Principal Commissioner, Mundra Customs, further makes it clear that Flexi bags fitted in general purpose 20 feet containers are not covered under the definition of containers under the Petroleum Rules, 2002. Thus, the goods in all three consignments have been imported in violation of the provisions of the

Petroleum Act, 1934 and Rules made thereunder, rendering them additionally liable for confiscation under **Section 111(d)** of the Customs Act, 1962 on this count as well.

29.5 Further, the goods declared as "Mixed Hydrocarbon Oil" under CTH 27101990 in all three Bills of Entry do not correspond with the actual goods found on testing i.e. HFHSD (CTH 27101949) and Gas Oil (CTH 27101941). The description, classification and policy status mentioned in the Bills of Entry are completely at variance with the actual nature of the goods in all three consignments. Therefore, the goods are also liable for confiscation under **Section 111(m)** of the Customs Act, 1962.

29.6 Since the goods were not correctly declared in the Bills of Entry and the import manifests/IGMs in respect of the actual description and classification, the goods are also liable for confiscation under **Section 111(f) and Section 111(l)** of the Customs Act, 1962.

29.7 Accordingly, in the manner as discussed above and in contravention of Section 17(1), Section 46(4) and 46(4A) of the Customs Act, 1962, I find that the said acts of omission and commission on the part of the importer have made the imported goods in 34 containers covered under 3 Bills of Entry having total declared assessed value of **Rs. 2,51,70,087/- (Rupees Two Crore Fifty One Lakh Seventy Thousand and Eighty Seven Only)**, liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962.

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

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

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

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

30.3 A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. In the present case, the goods — both HFHSD and Gas Oil — are restricted in nature for the importer (non-STE) and have been imported in violation of Policy Condition No. 5 of Chapter 27 as well as the provisions of the Petroleum Act, 1934 and Petroleum Rules, 2002. Therefore, the goods in all three consignments are not fit for clearance for home consumption.

30.4 During the adjudication proceedings, M/s. Venkateshwara Chemical Industries Private Limited vide their letter dated 06.05.2026 have stated that they are willing to re-export the subject goods and have requested the Department to grant permission for re-export at the earliest. They have also requested that the case be decided on merits and have waived further personal hearing. I observe that redemption is not a right but a discretion to be exercised by the Adjudication Authority.

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

30.6 In view of the above discussion, I am of the considered view that the ends of justice would be met by allowing redemption of the subject goods for the limited purpose of re-export. Imposition of redemption fine along with penalty is sufficient to address the violation and convey a clear deterrent message to similarly placed importers. At the same time, this course ensures that the goods do not enter the domestic market in violation of statutory conditions. Therefore, exercising powers under Section 125 of the Customs Act, 1962, I deem it appropriate to allow the importer an option to redeem the goods for the limited purpose of re-export on payment of redemption fine under the provisions of Section 125 of the Customs Act, 1962.

DISCUSSION ON IMPOSITION OF PENALTIES ON NOTICEES

31. Penalty on M/s. Venkateshwara Chemical Industries Private Limited (Importer):

31.1 I find that M/s. Venkateshwara Chemical Industries Private Limited filed three Bills of Entry at Mundra Port declaring the goods as "Mixed Hydrocarbon Oil" classifiable under CTH 27101990 (Free), whereas the goods on testing by CRCL, Vizag were found to

be High Flash High Speed Diesel fuel classifiable under CTH 27101949 (BE Nos. 2025444 dated 07.02.2024 — 10 containers and 2071959 dated 09.02.2024 — 10 containers) and Gas Oil classifiable under CTH 27101941 (BE No. 2239930 dated 21.02.2024 — 14 containers). Both HFHSD and Gas Oil are restricted items under Policy Condition No. 5 of Chapter 27 of ITC(HS) and can be imported only by State Trading Enterprises (STEs). Hence, the imported goods covered under all three Bills of Entry were mis-declared by the importer with respect to description, classification and import policy status to circumvent the import policy.

31.2 M/s. Venkateshwara Chemical Industries Private Limited admittedly imported approximately 40 consignments of oil since June 2023 — a very substantial volume of trading in Chapter 27 petroleum products. A company that has been importing petroleum products over 40 consignments across multiple suppliers cannot claim ignorance of the nature, regulatory status or restricted character of the goods being repeatedly imported. They admittedly placed orders only telephonically with overseas suppliers without any written buyer-seller agreement, without insisting on any refinery or origin certificate, without obtaining any independently certified Chemical Analysis Report from a technically qualified laboratory, and without any load port report, surveyor report or export declaration from the supplier country. The "Chemical Analysis Reports" provided by overseas suppliers M/s Taurus International FZE and M/s Sun Star Trading FZE — who are admittedly traders and not laboratories — were submitted as if they were valid test reports, which they patently were not. The importer failed to substantiate what "Mixed Hydrocarbon Oil" means, its parameters, its specific industrial use or any BIS/ASTM standard governing it. M/s. Venkateshwara Chemical Industries Private Limited deliberately withheld key documents including buyer-seller agreements, load port reports, surveyor reports and export declarations, to prevent the identification of the goods by the investigating officers. The mis-declared goods — HFHSD and Gas Oil — were imported in unsafe Flexi bags in violation of the Petroleum Act, 1934, Petroleum Rules, 2002 and Public Notice No. 08/2024 dated 27.09.2024. M/s. Venkateshwara Chemical Industries Private Limited is not an STE and was not authorized by DGFT to import these restricted goods. Their illicit import of restricted petroleum products under the false declaration of "Mixed Hydrocarbon Oil" amounts to smuggling as defined under Section 2(39) of the Customs Act, 1962. Thus, for their acts of omission and commission in the case as borne out by the investigation, M/s. Venkateshwara Chemical Industries Private Limited have rendered themselves liable for penalty under the provisions of **Section 112(a)(i)** of the Customs Act, 1962.

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

Further, M/s. Venkateshwara Chemical Industries Private Limited knowingly and intentionally filed Bills of Entry containing false and incorrect declarations in material particulars namely description and classification of goods, and further caused to be used fabricated invoices, packing lists and Chemical Analysis Reports in support thereof, thereby rendering themselves liable for penalty under **Section 114AA** of the Customs Act, 1962.

32. Penalty on Shri Arun Kumar Saxena, Director of M/s. Venkateshwara Chemical Industries Private Limited:

32.1 I find that Shri Arun Kumar Saxena is the sole active Director of M/s. Venkateshwara Chemical Industries Private Limited managing all the affairs of the company, including all import operations. The other Director, Shri Prakash Paswan, is admittedly not actively involved in running the business. In his voluntary statement dated 06.08.2024, Shri Arun Kumar Saxena confirmed that he personally placed all orders with the overseas suppliers only over mobile phone, that no written buyer-seller agreement was executed, that orders were placed purely on the basis of client requirements communicated to him, and that the suppliers are traders and not technically qualified laboratories. He also confirmed that no independently certified Chemical Analysis Report was obtained from any recognized laboratory. He accepted the conclusions of all three CRCL test reports and agreed that the correct classifications are CTH 27101949 (HFHSD) and CTH 27101941 (Gas Oil), and that the goods covered under all three Bills of Entry were mis-declared. He however sought to shift the blame to the overseas supplier, claiming wrong goods were sent by mistake.

32.2 This defence has been examined and rejected for reasons detailed in Para 30 above. As the sole active director and key decision-maker of the company, Shri Arun Kumar Saxena was squarely responsible for ensuring that all 40 import consignments of petroleum products from Chapter 27 — a category containing numerous restricted products — were correctly described, classified and compliant with the import policy. His admitted lack of knowledge of MHO's parameters and specifications, the absence of any written agreements, the use of supplier-generated documents as Chemical Analysis Reports, and the failure to obtain refinery certificates or load port reports across 40

consignments are not indicators of a bona fide trader. They are consistent with a deliberate and systematic import of restricted goods under a false declaration. For his acts of omission and commission as borne out by the investigation, Shri Arun Kumar Saxena has rendered himself liable for penalty under the provisions of **Section 112(a)(i)** of the Customs Act, 1962.

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

Further, Shri Arun Kumar Saxena knowingly and intentionally caused to be filed Bills of Entry containing false and incorrect declarations in material particulars namely description and classification of goods, thereby rendering himself liable for penalty under **Section 114AA** of the Customs Act, 1962.

33. Penalty on M/s. Airtrax Freight Logistics (CB):

33.1 M/s. Airtrax Freight Logistics, as the Customs Broker, filed all three subject Bills of Entry using their license. Shri Bhupati Maddu, Manager of M/s. Airtrax Freight Logistics, in his voluntary statement dated 09.08.2024, admitted that the goods identified by the laboratory and the declarations made in the Bills of Entry are different. He agreed that the correct classifications for the goods covered under BE Nos. 2025444 and 2071959 should be under CTH 27101949, and for BE No. 2239930 under CTH 27101941, and that the declarations made in all three Bills of Entry are incorrect and wrong. He however took the position that the Bills of Entry were filed on the basis of documents and information provided by the importer, and that the issue of misdeclaration can only be explained by the importer and the supplier.

33.2 This defence is not acceptable. As a licensed Customs Broker, M/s. Airtrax Freight Logistics was duty bound under Regulation 10 of the Customs Brokers Licensing Regulations, 2018 to exercise due diligence, advise the client properly and ensure correctness of classification and compliance with the import policy. The classification was done solely on the basis of the CTH mentioned in the supplier's own invoice — without any independent verification — for goods in Chapter 27 which contains numerous restricted petroleum products. M/s. Airtrax Freight Logistics went further and submitted what were merely parameters reproduced on the supplier's own letterhead as "Chemical Analysis Reports" along with all three Bills of Entry in support of the goods misdeclared as Mixed Hydrocarbon Oil, without verifying the technical qualification or

competence of the issuer. This is a grave failure of due diligence mandated under Regulation 10(e) of the CBLR 2018. M/s Airtrax Freight Logistics also did not co-operate with the Customs authorities as provided under obligation (q) of the Regulation 10 of the CBLR. During the course of the investigations they did not disclose vital information relating to the case on their own. However, on being shown the relevant documents subsequently they have accepted the Lab Reports and have also accepted that the consignments were mis-declared and misclassified in their voluntary statements. M/s. Airtrax Freight Logistics admittedly handled customs clearance for M/s. Venkateshwara Chemical Industries Private Limited as one of their major clients across approximately 40 consignments of MHO, and therefore knew or had reason to know the nature of goods being repeatedly cleared. They failed to advise M/s. Venkateshwara Chemical Industries Private Limited to comply with the applicable laws under the Customs Act, 1962 and the Petroleum Act, 1934 as required under Regulation 10(d) of the CBLR 2018, and did not bring the violations to the notice of the Deputy Commissioner or Assistant Commissioner of Customs. Their conduct enabled the import of restricted petroleum products — HFHSD (Class C) and Gas Oil (Class B) — in unsafe Flexi bags, violating the Petroleum Act, 1934 and the Customs Act, 1962. For their acts of omission and commission in the case, which amount to smuggling in accordance with Section 2(39) of the Customs Act, 1962, M/s. Airtrax Freight Logistics have rendered themselves liable for penalty under the provisions of **Section 112(a)(i)** of the Customs Act, 1962.

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

Further, M/s. Airtrax Freight Logistics knowingly and intentionally filed Bills of Entry containing false and incorrect declarations in material particulars namely description and classification of goods, and further caused to be used fabricated invoices, packing lists and Chemical Analysis Reports in support thereof, thereby rendering themselves liable for penalty under **Section 114AA** of the Customs Act, 1962.

34. Penalty on Shri Bhupati Maddu, Manager of M/s. Airtrax Freight Logistics:

34.1 I find that Shri Bhupati Maddu was working as the Manager of M/s. Airtrax Freight Logistics at Mundra Port and was handling all documentation work and customs clearance services on behalf of the firm at Mundra Port. In his voluntary statement dated 09.08.2024, he confirmed that M/s. Venkateshwara Chemical Industries Private Limited

is among the firm's major clients and that the firm handled customs clearance for both M/s. Venkateshwara Chemical Industries and M/s. Shree Ram Trading for MHO consignments. He confirmed that the documents provided by the importer — invoices, packing lists and Bills of Lading — formed the sole basis for filing the Bills of Entry, and that the CTH was taken from the supplier's invoice without any independent verification. He agreed that the goods identified by the laboratory and the declarations in all three Bills of Entry are different and that the declarations are incorrect and wrong.

34.2 Shri Bhupati Maddu, as the Manager in charge of all documentation and customs clearance work at Mundra Port, was the key operational figure managing the clearance of all three consignments totalling 34 containers. He personally supervised the submission of supplier-generated, technically unqualified documents as "Chemical Analysis Reports" along with the Bills of Entry. He did not insist on or obtain an independent and credible Chemical Analysis Report from a recognized laboratory for goods in Chapter 27. He was handling clearances for multiple importers importing MHO — M/s. Venkateshwara Chemical Industries Private Limited across approximately 40 consignments — and therefore knew or had ample reason to know the nature and restricted status of the goods. He did not advise the importer against importing restricted petroleum products in Flexi bags in violation of the Customs Act, 1962 and the Petroleum Act, 1934, and did not bring the violations to the notice of the Customs authority. By actively managing the clearance of goods which he knew or had reason to believe were liable to confiscation under Section 111 of the Customs Act, 1962, Shri Bhupati Maddu has rendered himself liable for penalty under **Section 112(b)(i)** of the Customs Act, 1962.

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

Further, Shri Bhupati Maddu was actively involved in facilitating the filing of Bills of Entry containing false and incorrect declarations in material particulars, and it is clearly established that he was fully aware of the nature of the goods being cleared, thereby rendering himself liable for penalty under **Section 114AA** of the Customs Act, 1962.

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

ORDER

35.1 Order for Classification, Confiscation and Redemption

i. I order to reject the declared classification of the impugned goods mis-declared as 'Mixed Hydrocarbon Oil' under Customs Tariff Item 27101990, imported vide three Bills of Entry, and order to re-classify the same as under:

Sl. No.	**Bill of Entry No. & Date**	**No. of Containers**	**Correct CTH**	**Description**
1.	2025444 dt. 07.02.2024	10	**CTH 27101949**	High Flash High Speed Diesel fuel conforming to IS 16861
2.	2071959 dt. 09.02.2024	10	**CTH 27101949**	High Flash High Speed Diesel fuel conforming to IS 16861
3.	2239930 dt. 21.02.2024	14	**CTH 27101941**	Gas Oil

ii. I order to confiscate the impugned goods — High Flash High Speed Diesel fuel conforming to IS 16861 (10 containers under BE No. 2025444 dated 07.02.2024 and 10 containers under BE No. 2071959 dated 09.02.2024) and Gas Oil (14 containers under BE No. 2239930 dated 21.02.2024) — sought to be imported by **M/s. Venkateshwara Chemical Industries Private Limited**, in 34 containers covered under 3 Bills of Entry, having total declared assessed value of **Rs. 2,51,70,087/- (Rupees Two Crore Fifty One Lakh Seventy Thousand and Eighty Seven Only)** seized under Section 110 of the Customs Act, 1962, lying seized at Mundra Port, under Sections 111(d), 111(f), 111(l) & 111(m) of the Customs Act, 1962. However, I give an option to the Importer to redeem the goods only for **re-export purpose**, upon payment of Redemption Fine of **Rs. 25,00,000/- (Rupees Twenty Five Lakh Only)** under the provisions of Section 125 of the Customs Act, 1962.

35.2 Penalty Under Section 112 of the Customs Act, 1962.

i. I impose a penalty of **Rs. 12,00,000/- (Rupees Twelve Lakh only)** on **M/s. Venkateshwara Chemical Industries Private Limited**, under Section 112(a)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(b) of the Customs Act, 1962, for the reasons discussed above.

ii. I impose a penalty of **Rs. 3,00,000/- (Rupees Three Lakh Only)** on **Shri Arun Kumar Saxena, Director of M/s. Venkateshwara Chemical Industries Private Limited**, under Section 112(a)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(b) of the Customs Act, 1962, for the reasons discussed above.

iii. I impose a penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on **M/s. Airtrax Freight Logistics, Customs Broker**, under Section 112(a)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(b) of the Customs Act, 1962, for the reasons discussed above.

iv. I impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only)** on **Shri Bhupati Maddu, Manager of M/s. Airtrax Freight Logistics**, under Section 112(b)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(a) of the Customs Act, 1962, for the reasons discussed above.

35.3 Penalty Under Section 114AA of the Customs Act, 1962.

i. I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on **M/s. Venkateshwara Chemical Industries Private Limited**, under Section 114AA of the Customs Act, 1962.

ii. I impose a penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on **Shri Arun Kumar Saxena, Director of M/s. Venkateshwara Chemical Industries Private Limited**, under Section 114AA of the Customs Act, 1962.

iii. I impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only)** on **M/s. Airtrax Freight Logistics, Customs Broker**, under Section 114AA of the Customs Act, 1962.

iv. I impose a penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** on **Shri Bhupati Maddu, Manager of M/s. Airtrax Freight Logistics**, under Section 114AA of the Customs Act, 1962.

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

37. The Show Cause Notice issued vide F. No. VIII/48-02/ADJ/ADC/MCH/2024-25 dated 12.02.2025 is hereby disposed of on the above terms.

Digitally signed by Dipakbhai Zala
Date: 27-05-2026 17:18:44

DIPAK ZALA
ADDITIONAL COMMISSIONER OF CUSTOMS,
MUNDRA CUSTOMS HOUSE

To,

1. **M/s Venkateshwara Chemical Industries Private Limited (IEC- AAICV1692C)**
   180 Sqf Area at Unit No B-201,
   Metro Plaza, Metro Plaza,
   Meerut, Uttar Pradesh, 250002
   (Email id: vciplkv@gmail.com)

2. **Shri Arun Kumar Saxena,**
   Director of M/s Venkateshwara Chemical Industries Private Limited
   HNo- E-533A, Sector 11,
   Pratap Vihar, Vijay Nagar,
   Ghaziabad, Uttar Pradesh-201009
   (Email id: vciplkv@gmail.com)

3. **M/s Airtrax Freight Logistics.**
   (Through its Proprietor-Shri Ramakrishnan Murugan)
   Plot no 59/60, Masilamani Nagar,
   Thirumazhisai, Chennai
   (Email id: Airtraxfreightmundra@gmail.com)

4. **Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics,**
   House No. 1-27, Maddi Street,
   Thotavuru, Vjrapukotturu,
   Srikakulam, Andhra Pradesh
   (Email id: Airtraxfreightmundra@gmail.com)

Copy to:-

1. The Deputy Director, DRI, Noida Regional Unit, Noida(E-mail: dri-noida@gov.in)
2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.
3. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra... (with the direction to upload on the official website immediately)
4. The Deputy/Assistant Commissioner of Customs, Group-I, Custom House, Mundra