

		प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT EMAIL: group1-mundra@gov.in	
A	File No.	CUS/APR/1495/2026-Gr 1-O/o Pr Commr-Cus-Mundra	
B	Order-in-Original No.	MCH/ADC/ZDC/36/2026-27	
C	Passed by	Dipak Zala, Additional Commissioner of Customs, Custom House, Mundra.	
D	Date of order	17.04.2026	
E	Noticee/Party/Importer	M/s Arihant Agro Distillation and Liquid Terminals Limited (IEC: ABCCA2302B)	
F	DIN No.	20260471MO000000EFD	

1. यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

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

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

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

**“ सीमा शुल्क आयुक्त (अपील),
चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन 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. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए ।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 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 ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये ।

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

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए ।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां 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

M/s Arihant Agro Distillation and Liquid Terminals Limited situated at 14th Floor, 1418 B & C Wing, C66, G Block, One BKC Bandra East Mumbai-400051 ('Importer' for the sake of brevity) have filed Bill of Entry No. 2465823 dated 04.06.2025 for import of purportedly said to be 'MG3 D90 DEAROMATIZED SOLVENT- CTH-27101990' through Customs Broker- M/s

Oriental Trade Links-AADFO4509PCH002 at Mundra Port. The assessable value of the goods declared by the importer is Rs. 2,53,78,718/- and total gross weight for all 22 X 20' Containers (In Flexi Bags) is 4,26,240 KGs.

2. The Bill of Entry No. 2465823 dated 04.06.2025 filed by the importer was assessed under First Check, the goods were examined by the docks officers CH Mundra, samples were drawn and sent for testing to CRCL Kandla vide TM No. 1281938 dated 16.06.2025. CRCL has conducted the testing on the imported goods and issued the test report 2057/17062025 dated 23.06.2025 has issued the test report as mentioned below:-

"the sample as received is in the form of pale yellowish coloured oily liquid; it is composed of mixture of hydrocarbon oil having oil content more than 70% by weight with following constants:-

Density @15 Deg. C (gm/ml) = 0.8438

Flash Point (open cup) (Deg. C) = 84.0

Initial Boiling Point (Deg. C) = 160.05%

V/V recovery at (Deg. C) = 211.50%

V/V recovery at (Deg. C) = 277.90%

V/V recovery at (Deg. C) = 327.95%

V/V recovery at (Deg. C) = 338

Final Boiling Point (Deg. C) = 352

Distillation Residue (% by vol.) = 0.5%

V/v recovery at 210 Deg. C = 5

Ash content (% by mass) = Nil

Sediments (% by mass) = Nil

Acid Number (mg KOH/gm) = Nil

Water content (% by mass) = Nil

Calc. Cetane Index = 56

Aniline point (Deg. C) = 88

K.V at 40 (Deg. C) = 3.42 cst;

*The above tested parameters of the sample agree with **High Flash High Speed diesel (HFHSD)**, however, sulphur content in the sample could not be ascertained here for want of the testing facility.*

Actual end use may be ascertained at your end.

Sealed sample returned herewith."

2.1. The importer has not agreed with the test results and requested for re-testing of the goods. Accordingly, the remnant samples were sent for testing to CRCL New Delhi. Thereafter, the file had been transferred from the Import Assessment (Group-1) CH Mundra to SIIB for further investigation.

3 INVESTIGATION

3.1. As the initial test report of CRCL Kandla found that the goods imported under the said BE have been identified as High Flash High Speed Diesel

(HFHSD). In accordance with Para 2.21 of the Foreign Trade Policy (FTP) 2023, the import of such goods is categorized as '**Restricted**', and is permitted only through designated State Trading Enterprises (STEs), subject to compliance with prescribed conditions and procedures. Since the importer has not produced any valid authorisation or evidence showing that the import is routed through a notified State Trading Enterprise, the import of HFHSD in this case amounts to a violation of the FTP and DGFT regulations. Therefore, the goods imported under Bill of Entry No. 2465823 dated 04.06.2025 were rendered liable for confiscation under Section 111(d) of the Customs Act, 1962. The 4,26,240 KGs of goods were seized under Seizure Memo dated 12.07.2025. The goods were handed over to the MICT CFS for safe custody under Supratnama dated 12.07.2025. Further, an incident report dated 18.07.2025 has been issued.

3.2. Whereas, the CRCL New Delhi has issued the test report under F. No. 2626-CUS/C-48/2025-26 dated 14.10.2025 as mentioned below:-

“The sample is in the form of colourless oily liquid. It is mainly composed of mixture of mineral hydrocarbon oil having mineral oil content more than 70 % by wt. The sample has following characteristic:-

S. No.	Characteristics	Requirements for High Flash High Speed Diesel (HFHSD) as per IS 16861:2018	Test Result
1.	Appearance	Clear and Bright	Clear & Bright
2.	Acidity Inorganic, mg of KOH/g	0.5	Nil
3.	Ash, percent by mass, Max	0.01	Nil
4.	Carbon residue on the 10 percent volume Distillation Residue, mass %, max	0.3	0.025
5.	Cetane Index, Min	45	60.98
6.	Pour point, max	3 °C	Below - 5°C
	a. Winter	15 °C	
	b. Summer		
7.	Copper strip Corrosion for 3h at 50°C	Not worse than No.1	1a
8.	Distillation		
a.	At 350 °C, Min	85	93.8
b.	At 370 °C, Min	95	More than 95
c.	Initial Boiling Point (°C)	--	167.7
d.	Final Boiling Point (°C)	--	363.8
e.	Total % v/v recovery	--	99.1
9.	Flash Point Penksy Martens closed cup (PMCC) °C, Min	66	66.6
10	Kinematic Viscosity, cSt, at 40 °C	2.0 to 5.0	3.48
11.	Density at 15°C, kg/m, Max	860	832.8
12.	Total Sulphur, % by Mass, Max	0.20	0.0010 (10 ppm)
13.	Water content, ppm, Max	500	Nil

14.	<i>Sediment by mass %, Max</i>	--	<i>Nil</i>
-----	--------------------------------	----	------------

1. ***The above tested parameters meet the requirement of High Flash High Speed Diesel (HFHSD) as per IS 16861:2018.***
2. *The sample u/r is other than light oil and preparation.*
3. *The sample t/r abo does not meet the requirement of Automotive Diesel Fuel (as per IS: L450: 2014, Light Diesel Oil (as per IS: 15770:2008), Petroleum Hydrocarbon solvents (as per IS:1745: 2018), Gas Oil (as per IS: 17789:2022), Kerosene (as per IS :7459:2018). Kerosene intermediate (as per IS :17793:2}22, Biodiesel, Diesel Fuel Blend 88 to 820 (as per 13:16531,;2022), New Insulating Oils (as per IS : 335: 2018), Virgro and Re-Refined Base Oils of Mineral Origin (as per IS 18722 (Part1):2024.”*

3.3. The re-test report of CRCL New Delhi has been shared with the importer under email 07.11.2025. Further, the period to issue notice to the importer has been extended under Section 110(2) of the Customs Act, 1962 for six months. The importer had been informed about the extension vide letter dated 28.11.2025.

4. ANALYSIS OF THE TEST REPORTS:

4.1 As per Chapter Note 2 of the CTH 27, “references in heading 2710 to “petroleum oils and oils obtained from bituminous minerals” include not only petroleum oils and oils obtained from bituminous minerals but also similar oils, as well as those consisting mainly of mixed unsaturated hydrocarbons, obtained by any process, provided that the weight of the non-aromatic constituents exceeds that of the aromatic constituents. Further, CTH 2710 covers “*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*”.

4.2. The chemical examination reports issued by CRCL, New Delhi revealed that the samples drawn from the imported cargo consist of hydrocarbon oils containing more than 70% by weight of petroleum oils, thereby satisfying the essential requirement for classification under CTH 2710. The test reports further record that the imported goods meets the parameters of High Flash High Speed Diesel confirming to IS 16861:2018 and not residual MG3 D90 DEAROMATIZED SOLVENT as declared by the importer in the said BE. As per the Indian Customs Tariff, High Flash High Speed Diesel conforming to IS 16861 is classifiable under **CTH 27101949**. Thus, based on the CRCL New Delhi reports, the imported goods are correctly classifiable as High Flash High

Speed Diesel (CTH 27101949) and do not merit classification under the declared CTH 27101990.

4.3. Further, import of goods classifiable under CTH 27101949 is **restricted** in terms of Policy Condition (5) of Chapter 27 of ITC (HS), 2022, as amended vide DGFT Notification No. 08/2023 dated 29.05.2023, and is permitted only through State Trading Enterprises (STEs) in accordance with Para 2.21 of the Foreign Trade Policy, 2023.

4.4. Whereas, the notification no. 08/2023 dated 29.05.2023 issued by DGFT is as under:-

Notification No. 08/2023 dated 29.05.2023

Subject: Syncing of ITC (HS), 2022- Schedule-I (Import Policy) with Finance Act, 2023 (No. 8 of 2023) dated 31.03.2023 and Foreign Trade Policy, 2023-reg.

4. *The List of ITC (HS) specific Policy conditions and chapter specific Policy Conditions under ITC (HS)2022, Schedule-I (Import Policy) amended in sync with Foreign Trade Policy 2023 is annexed herewith (Annexure-III)*

ANNEXURE-III

(Annexure referred to in DGFT Notification No. 08/2023 dated 29.05.2023 regarding 'Indian Trade Classification (Harmonised System) of Import Items, 2022 [ITC (HS), 2022])'

Chapter	Policy Condition	Existing Condition	Revised Condition
27	5	<i>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&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.</i>	<i>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</i>

4.5. Further, as per Para 2.21 of the FTP-2023, **State Trading Enterprises**

have been defined as under:

Import / Export through State Trading Enterprises:

2.21 State Trading Enterprises (STEs)

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

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

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

4.6. Further, as per Appendix-2J of the Foreign Trade Policy, which specifies the list of notified State Trading Enterprises, the importer is not a designated STE. The importer has also not produced any authorisation issued by DGFT permitting import of the said restricted goods.

4.7. From the foregoing, it emerges that the goods imported vide Bill of Entry No. 2465823 dated 04.06.2025, though declared as MG3 D90 DEAROMATIZED SOLVENT under CTH 27101990, are in fact restricted petroleum product, namely High Flash High Speed Diesel (IS 16861:2018) classifiable under CTH 27101949, and have been mis-declared in terms of description and classification in the Bill of Entry.

5. Valuation – Examination of Declared Transaction Value

5.1. In the present case, the valuation of the imported goods was examined in accordance with the sequential scheme prescribed under Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, with reference to the actual nature of the goods found on testing, namely High Flash High Speed Diesel (HFHSD). Valuation under Rule 4, relating to the transaction value of identical imported goods, could not be applied due to the non-availability of contemporaneous imports of identical HFHSD of comparable specifications, quantity and commercial level. Similarly, valuation under Rule 5, relating to similar imported goods, was also not feasible due to the absence

of reliable contemporaneous import data of similar HFHSD imports under comparable conditions. Valuation under Rule 6 (computed value method) was found to be impracticable, as the cost of production, manufacturing expenses and profit of the overseas supplier were not available. Valuation under Rule 7 was also not practicable due to the lack of requisite data necessary for application of the said rule.

5.2. Accordingly, in terms of Rule 8 (Deductive Value Method), the value was examined with reference to the principles underlying the deductive method, only to verify the reasonableness of the declared transaction value with reference to the actual product found, and not for re-determination of assessable value. Since the goods declared as MG3 D90 Dearomatized Solvent were found on testing to be HFHSD, the declared transaction value was subjected to a reverse calculation exercise to ascertain whether it reflects the price actually paid or payable for HFHSD of the specifications confirmed by the laboratory.

5.3. For the said purpose, the declared price of USD 685 per metric ton was taken as the base. On conversion at the applicable exchange rate, the assessable value works out to approximately ₹62,198 per metric ton, which translates to about **₹51 per litre**, considering the density reported in the test report. The statutory duties leviable on HFHSD at the time of import were then factored in, including Basic Customs Duty, Social Welfare Surcharge, and additional duty under Section 3(1) of the Customs Tariff Act, 1975, equivalent to the excise duties leviable on unbranded diesel, namely Basic Excise Duty (₹1.80 per litre), Special Additional Excise Duty (₹8 per litre), Road and Infrastructure Cess (₹2 per litre) and Agriculture Infrastructure and Development Cess (₹4 per litre), aggregating to ₹15.80 per litre. Together with Basic Customs Duty and Social Welfare Surcharge, the total duty incidence works out to approximately ₹17.21 per litre.

5.4. Accordingly, the total cost of the imported goods up to the point of Customs clearance works out to approximately ₹68.21 per litre (₹51 per litre towards import price and ₹17.21 per litre towards applicable statutory duties). The said cost does not indicate any suppression or undervaluation of the declared transaction value. Therefore, the declared transaction value is found reasonable and acceptable under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. This examination has been carried out only to verify the reasonableness of the declared value and does not amount to re-determination of assessable value under the Customs Valuation Rules.

6. RECORDING of STATEMENT:

6.1. Whereas, summons dated 18.11.2025, 29.11.2025 and 12.12.2025

were issued to the importer, M/s Arihant Agro Distillation and Liquid Terminals Limited, for recording statement under Section 108 of the Customs Act, 1962. In compliance thereof, Shri Mehta Ujas Mansukhlal, Accounts Executive and Authorized Representative of the importer, appeared on 12.12.2025 and his statement was recorded under Section 108 of the Customs Act, 1962, wherein he inter alia stated as under:-

- i. That he is working as Accounts Executive with M/s Arihant Agro Distillation and Liquid Terminals Limited and is the Authorized Representative of the said company, authorized vide authorization letter dated 11.12.2025.
- ii. That M/s Arihant Agro Distillation and Liquid Terminals Limited is engaged in the business of trading, wholesaling and distribution of distillate oil, base oil and various types of oils and solvents. The principal place of business of the company is situated at 14th Floor, 1418 B & C Wing, C-66, G Block, One BKC, Bandra (East), Mumbai-400051.
- iii. That Bill of Entry No. 2465823 dated 04.06.2025 was filed for import of MG3 D90 Dearomatized Solvent, declared to be classifiable under CTH 27101990, imported from UAE.
- iv. That they were not in agreement with the test report issued by CRCL, Kandla, and therefore requested re-testing of the goods. Accordingly, the remnant samples were sent to CRCL, New Delhi, which issued the re-test report dated 14.10.2025 under F. No. 2626-CUS/C-48/2025-26.
- v. That he understands that the said re-test report concludes that the imported goods do not match the description of MG3 D90 Dearomatized Solvent and that the product is High Flash High Speed Diesel (HFHSD) conforming to IS 16861:2018, classifiable under CTH 27101949. However, he submitted that their company had placed purchase orders only for MG3 D90 Dearomatized Solvent, and he is unable to understand how the test report concludes otherwise.
- vi. When questioned as to how the importer could still claim the goods to be MG3 D90 Dearomatized Solvent despite both CRCL Kandla and CRCL New Delhi test reports identifying the product as HFHSD, he stated that the importer had previously imported the same product, i.e., MG3 D90 Dearomatized Solvent, from the same overseas supplier, under:
 - Bill of Entry No. 2465904 dated 04.06.2025 (30 containers), cleared at Mundra Port on 10.06.2025, and Bill of Entry No. 2600442 dated 12.06.2025 (20 containers), cleared at Mundra Port on 18.06.2025.

According to him, the goods imported under those consignments were also MG3 D90 Dearomatized Solvent. Therefore, when the CRCL Kandla report for the present Bill of Entry indicated that the product was HFHSD, they did not agree with the findings and were confident that the goods under the present Bill of Entry were also MG3 D90

Dearomatized Solvent, which is why they exercised their right to seek re-testing. He further stated that the present Bill of Entry covers 22 containers, and had they entertained any doubt regarding the nature of the goods, they would not have opted for re-testing.

- vii. That due to their decision to seek re-testing, substantial detention, demurrage and CFS charges have accrued. He stated that had they accepted the initial CRCL Kandla report, they would have opted for re-export of the goods. According to him, their actions demonstrate their bona fide belief regarding the correctness of the declared description.
- viii. That he is not in agreement with the findings of the CRCL New Delhi test report.
- ix. That no payment has been made to the overseas supplier in respect of the present Bill of Entry No. 2465823 dated 04.06.2025, and the supplier has agreed to take back the goods. Accordingly, he requested that permission be granted for re-export of the goods to the same supplier.
- x. They **don't want any SCN/PH in the matter** and request for re-export of the goods for the same supplier. He don't have any other comments to offer.

7. LEGAL PROVISIONAS:

7.1 Relevant provisions of law relating to import of goods in general and the impugned goods in particular, the policy and rules relating to the import of impugned goods, the liability of the goods to confiscation and liability of the persons concerned to penalty for improper/illegal importation, under the provisions of the Customs Act, 1962 read with the provisions of Foreign Trade Policy 2023 (as amended) are detailed herein under.

7.2 Foreign Trade (Development and Regulation) Act, 1992:

(i) Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 provides inter-alia, for formulation of the export and import policy by the Central Government from time to time.

(ii) Section 7 of the Foreign Trade (Development and Regulation) Act, 1992 states that no import can take place without a valid IEC number unless otherwise exempted.

(iii) Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 states that no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

7.3 As per the provisions contained in the Para 2.04 of Foreign Trade Policy, 2023, DGFT may specify procedures to be followed by an exporter or importer for the provisions of Foreign Trade (Development and Regulation) Act, the rules

and the orders made there under.

7.4 The policy provisions mentioned in the Indian Trade Classification (Harmonised System) of Import in the Schedule-1 are binding in terms of the FTP-2023, Chapter-2 and paragraph-2.02 thereto.

7.5 As per para 4.18 (ii) of the FTP-2023, Items reserved for imports by STEs cannot be imported against Advance Authorisation / DFIA.

7.6 In view of the above as per the above provisions of FTP and Hand Book of Procedure, the import of impugned goods, '*High flash High Speed Diesel Oil (IS 16861:2018)*' classifiable under CTH 27101949, being the canalised item is subjected to the conditions imposed thereunder and allowed to be imported through STEs only. Import of this item by any other parties is in violation and contrary to condition imposed under Foreign Trade Policy of Government of India, rendering the said goods as '**Restricted**' for import into India.

CUSTOMS ACT, 1962

7.7 As per **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.*

7.8 As per Section 2 (39), '**smuggling**', in relation to any goods, means *any act or omission which will render such goods liable to confiscation under section 111 or section 113;*

7.9 **SECTION 46** of the Act, prescribes that 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.

7.10 Further, **Section 111** of the Act, prescribes the Confiscation of improperly imported goods, etc. as under

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

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

(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 transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54.

7.11 **Further, Section 112** of the Act provides the penal provisions for improper importation of goods, etc. which read as under:

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.

114AA. Penalty for use of false and incorrect material.—

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

7.12 **SECTION 124** prescribes the mandatory issuance of show cause notice before confiscation of goods, which read as under:

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person –

- a. *is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;*
- b. *is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and*

(c) is given a reasonable opportunity of being heard in the matter:

Provided *that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.*

Provided *further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.*

8. OUTCOME OF THE INVESTIGATION:

8.1 After the introduction of self-assessment vide the Finance Act, 2011,

the onus lies on the importer to make a true and correct declaration in all respects in the Bill of Entry and to pay the correct amount of Customs duty. In terms of Section 46(4) of the Customs Act, 1962, the importer is required to declare the truth of the contents of the Bill of Entry submitted for assessment.

8.2. From the outcome of the investigation, as discussed in the preceding paragraphs, it appears that the goods imported vide Bill of Entry No. 2465823 dated 04.06.2025, comprising 22 × 20' containers (in flexi bags) and declared as *MG3 D90 DEAROMATIZED SOLVENT* under CTH 27101990, were mis-declared and mis-classified. The test reports received from CRCL Kandla and CRCL, New Delhi have certified the goods as High Flash High Speed Diesel (IS 16861:2018) classifiable under CTH 27101949.

8.3. Import of goods classifiable under CTH 27101949 is permitted under the Foreign Trade Policy only subject to fulfilment of the conditions prescribed under Policy Condition (5) of Chapter 27 of ITC (HS), 2022, as amended, which mandates import only through State Trading Enterprises (STEs) or by entities specifically authorised by DGFT. In the present case, the importer is not a State Trading Enterprise as notified under Appendix-2J of the Foreign Trade Policy, 2023, and has not produced any authorisation issued by DGFT. Consequently, the conditions prescribed under the Foreign Trade Policy have not been fulfilled and the goods therefore assume the character of "prohibited goods" within the meaning of Section 2(33) of the Customs Act, 1962, rendering them liable to confiscation under Section 111(d) of the Customs Act, 1962.

8.4. Further, investigation has also established that the importer has mis-declared the description and classification of the goods in the Bill of Entry by declaring the same as *MG3 D90 DEAROMATIZED SOLVENT* instead of High Flash High Speed Diesel, as actually imported. Such incorrect declaration in respect of the nature and classification of the goods renders the goods liable to confiscation under Section 111(m) of the Customs Act, 1962.

8.5. Further, it is also noted that said goods have been imported in flexi bags fitted in 22x20' containers. Whereas, it is noted from PUBLIC NOTICE NO. 08/2024 issued by this office provides that storage and transportation of Class A, B and C petroleum products is allowed in containers as defined in the Petroleum Rules, 2002 as amended. Further, Rule 5 and Rule 6 of the Petroleum Rules, 2002 provide the specifications of the containers for Petroleum Class A, B & C products. As per Rule 4 of the Petroleum Rules, 2002, Containers exceeding one litre in capacity for petroleum Class A and five litres in capacity for

petroleum Class B or petroleum class C, shall be of a type approved by the Chief Controller. In light of the Petroleum (Amendment) Rules, 2024/ Petroleum Rules, 2002, PESO has clarified that flexi bags fitted in general purpose 20 feet containers are not covered under the definition of container falling under Petroleum Rules, 2002. Further, Petroleum and Explosives Safety Organisation (PESO) is not giving any license/permission for transportation of petroleum products in flexi bags fitted in general purpose 20 feet containers. Therefore, as per Public Notice No. 08/2024, the petroleum products covered under the Petroleum Rules, 2002 framed under Petroleum Act, 1934 must be imported only in containers as specified under the provisions of the said Rules. Further, it is also noted from Public Notice 08/2024 dated 27.09.2024 that Section 2(b) categorizes petroleum class A, B and C on the basis of flash point

- “petroleum Class A” means petroleum having a flash-point **below twenty-three degrees Centigrade**
- “petroleum Class B” means petroleum having a flash-point of **twenty-three degrees Centigrade and above but below sixty-five degrees Centigrade;**
- “petroleum Class C” means petroleum having a flash-point of **sixty-five degrees Centigrade and above but below ninety-three degree Centigrade**

8.6. The flash point of the High Flash High Speed Diesel as per test report received from CRCL Kandla and CRCL New Delhi is less than 93 °C (test report 2057/17062025 dated 23.06.2025 – 84 degree C and test report dated 14.10.25 of CRCL Delhi- 66.6 degree C), thus, it falls under the petroleum Class C products. Accordingly, its import (HFHSD) is not allowed in flexi bags loaded in 20 feet containers in view of Public Notice 08/2024 dated 27.09.2024, supra, because the flexi bags fitted in 20 feet containers does not fall under the definition of containers as per Petroleum Rules, 2002, as amended. Therefore, the import of HSSD goods imported are in violation of the Petroleum Rules, 2002, as amended. Thus, the said imported goods cannot be allowed to be cleared due to violation of petroleum rules and Public Notice 08/2024 also. Thus, on this ground also the imported goods are confiscable under Section 111(d) of the Customs Act, 1962.

8.7. The proprietor of the company during the recording of statement has requested for **re-export of the goods**. Further, **he has also requested for waiver of the SCN/PH**.

8.8. From the discussion in para supra, it appears that the importer, M/s Arihant Agro Distillation and Liquid Terminals Limited has attempted to

import a prohibited item in the guise of item of CTH-27101990, by wilful mis-statement and suppression of the facts in contravention of various provisions of the Customs Act and Rules made thereunder as discussed above with intent to smuggle these goods into India. The said acts of omission and commission on the part of the M/s Arihant Agro Distillation and Liquid Terminals Limited have rendered themselves liable for penalty under the provisions of Section 112(a)(i) of the Customs Act, 1962. Further, the importer has also submitted false documents which does not contains the actual description of the goods, thus, the importer is liable for penalty under Section 114AA of the Customs Act, 1962.

9. In view of the above, it appeared that:-

- i. The declared description of the goods as “MG3 D90 DEAROMATIZED SOLVENT” and the declared classification under CTH 27101990 in respect of the goods imported vide Bill of Entry No. 2465823 dated 04.06.2025 are incorrect and liable to be rejected. Based on examination of the goods, the test reports issued by CRCL, Kandla and CRCL New Delhi, and the findings recorded during investigation, it appears that the goods are correctly classifiable as High Flash High Speed Diesel (HSD) conforming to IS 16861:2018 under CTH 27101949. Accordingly, the said Bill of Entry is liable to re-assessment under Section 17(4) of the Customs Act, 1962.
- ii. The imported goods having an assessable value of **Rs. 2,53,78,718/-** appear to be liable to confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962, inasmuch as:
 - a. the goods were imported in contravention of the Foreign Trade Policy, rendering them prohibited goods within the meaning of Section 2(33) of the Customs Act, 1962 [Section 111(d)];
 - b. the goods were mis-declared in respect of description and classification in the Bill of Entry [Section 111(m)].
- iii. It further appears that the High Flash High Speed Diesel imported in containers fitted with flexi bags has a flash point of less than 93°C, as confirmed by the CRCL test reports. As per Public Notice No. 08/2024 dated 27.09.2024, import of petroleum products having flash point below 93°C is not permitted in flexi bags. Accordingly, the import of HFHSD in flexi bags is in contravention of the said Public Notice, which has the force of law, rendering the said goods liable to confiscation under Section 111(d) of the Customs Act, 1962.
- iv. By virtue of the acts and omissions discussed above, the importer has knowingly concerned himself in the improper importation of the said goods, which have been rendered liable to confiscation, and therefore

appears to be liable to penalty under Section 112(a)(i) of the Customs Act, 1962.

- v. It further appears that the importer has knowingly made false declarations in the Bill of Entry, including false declaration of description, classification and value of the imported goods, and has used such false declarations as the basis for Customs clearance. The said acts constitute use of false declarations and documents, thereby attracting penalty under Section 114AA of the Customs Act, 1962.

DISCUSSION AND FINDINGS

10. I have carefully gone through the facts of the case available on records. The importer has requested permission for re-export of the impugned goods and has also waived issuance of Show Cause Notice as well as the requirement of personal hearing. Thus, I find that principle of natural justice as provided in Section 122A of the Customs Act, 1962 have been complied with and therefore, I proceed to decide the case on the basis of documentary evidences available on records. I have carefully gone through the facts available on the record. I find that the following issues are required to be decided in present adjudication proceedings:

- i.** Whether description of the goods declared as 'DEAROMATIZED SOLVENT' classified under CTI 27101990 is liable to be rejected and the same is required to be re-determined as 'High Flash High Speed Diesel (IS 1686)' under CTI 27101949, or otherwise.
- ii.** Whether the impugned goods are liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962, or otherwise.
- iii.** Whether the importer is liable for penalty under Section 112(a) and 114AA of the Customs Act, 1962, or otherwise.

11. I find that M/s Arihant Agro Distillation and Liquid Terminals Limited filed Bill of Entry No. 2465823 dated 04.06.2025 declaring the imported goods as "MG3 D90 Dearomatized Solvent" under CTH 27101990. The consignment consisted of 22 containers containing 4,26,240 Kgs of goods. The goods were initially assessed under First Check and samples were drawn for testing. The CRCL, Kandla, in its test report dated 23.06.2025, found that the sample was a mixture of hydrocarbon oils having more than 70% petroleum content and that the parameters corresponded to High Flash High Speed Diesel (HFHSD). Despite this

finding, the importer disputed the result and sought re-testing. Pursuant to the request of the importer, the remnant samples were sent to CRCL, New Delhi, which issued a detailed test report dated 14.10.2025 establishing that the product meets the specifications of High Flash High Speed Diesel (HFHSD) conforming to IS 16861:2018. The report further clarified that the product is not classifiable as petroleum hydrocarbon solvent or any other category such as kerosene, gas oil, or light diesel oil. Thus, both test reports, establish beyond doubt that the goods imported are HFHSD and not MG3 D90 Dearomatized Solvent as declared.

12. Another important aspect emerging from the investigation is the mode of import of the goods. The impugned goods, being petroleum products with flash point below 93°C, fall under Petroleum Class C. As per the Petroleum Rules, 2002 and Public Notice No. 08/2024 dated 27.09.2024, such petroleum products are required to be transported and stored only in approved containers. However, in the present case, the goods were imported in flexi bags fitted inside general purpose containers, which are not recognized as approved containers under the Petroleum Rules. Clarifications issued by PESO also confirm that such flexi bags are not permitted for transportation of petroleum products. Therefore, the mode of import is in violation of statutory safety regulations, which independently renders the goods liable to confiscation under Section 111(d) of the Customs Act.

13. The valuation aspect has also been examined during investigation. It is noted that although the goods were mis-declared in terms of description and classification, the declared transaction value, when tested against the parameters of HFHSD, appears reasonable. The reverse calculation carried out on the basis of declared price and applicable duties indicates that the value corresponds to prevailing price levels of HFHSD. Hence, no case of undervaluation is made out, and the declared value is found acceptable.

14. The statement of Shri Mehta Ujas Mansukhlal, Accounts Executive and authorized representative of the importer, recorded under Section 108 of the Customs Act on 12.12.2025, further corroborates the facts of import. He has admitted the filing of the Bill of Entry and acknowledged the test reports of CRCL New Delhi identifying the goods as HFHSD, though he expressed disagreement with the findings and claimed that the purchase orders were for MG3 D90 Dearomatized Solvent. He also admitted that similar consignments had been imported earlier and stated that no payment had been made for the present consignment and that the supplier was willing to take back the goods. He requested re-export of the goods and waived the requirement of show cause notice and personal hearing.

15. I observed that the importer has neither disputed the findings of the CRCL. The importer has, during the investigation, also voluntarily waived issuance of SCN and has not questioned the correctness of the CRCL, New

Delhi's re-testing report. It is a settled position of law that the test report of the Central Revenue Control Laboratory, being an authorized Government laboratory, carries significant evidentiary value and prevails over trade description or private test certificates. In the case of M.M. Trading Company vs. Commissioner of Customs, Mundra (Final Order No. A/11695/2023 dated 14.08.2023), the Hon'ble CESTAT, Ahmedabad has categorically held that when the importer does not seek re-test of the sample or challenge the laboratory findings at the appropriate stage, the test report attains finality and cannot subsequently be assailed. The Tribunal further observed that an error not resisted is deemed to have been accepted and that acquiescence to the laboratory findings precludes later challenge. In the present case, the importer has not controverted the CRCL, New Delhi's findings. The CRCL, New Delhi report establishes the nature of the goods as High Flash High Speed Diesel, and the same must prevail over the declared description of the goods i.e. "Dearomatized Solvent."

16. Classification of the Goods:

16.1. It is evident that the goods have been found mis-declared in respect of description. Thus, it is imperative here to decide the classification of the goods i.e. "HFHSD". I find that importer had classified the goods under CTI 27101990. The relevant portion of HSN code 2710 is being reproduced here for reference purpose:

27.10 PETROLEUM OILS AND OILS OBTAINED FROM BITUMINOUS MINERALS, OTHER THAN CRUDE; PREPARATIONS NOT ELSEWHERE SPECIFIED OR INCLUDED, CONTAINING BY WEIGHT 70 % OR MORE OF PETROLEUM OILS OR OF OILS OBTAINED FROM BITUMINOUS MINERALS, THESE OILS BEING THE BASIC CONSTITUENTS OF THE PREPARATIONS; WASTE OILS.-

<i>Tariff</i>	<i>Description of goods</i>
2710 19 49	---- High flash high speed diesel conforming to standards IS 16861
2710 19 90	--- Other

16.2 I notice that the GIR, which are binding principles for uniform classification under the HS Nomenclature (as per the World Customs Organization - WCO), provide a step-by-step methodology to resolve such disputes, and their application here supports the re-classification under CTI 27101949. Under the General Rules for the Interpretation of the Import Tariff (GIR), classification of imported goods must be determined according to the terms of the headings, section and chapter notes, and, only when these are not decisive, by resorting to subsequent interpretative principles. Therefore, it is imperative to first examine whether the

description and characteristics of the imported goods correspond to the heading under which they were declared.

16.3 As per GIR-1, "The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions." I observe that GIR 1 mandates starting with the plain language of the headings and notes, without resorting to subsequent rules unless ambiguity arises.

16.4 In the present case, the goods were declared under CTI 27101990 as "Other" petroleum oils described as "Dearomatized Solvent." Heading 2710 covers "Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals." Within Heading 2710, specific tariff items exist for Motor Spirit, Aviation Turbine Fuel, High Speed Diesel and other defined petroleum products, followed by a residual entry "Other." The CRCL test report establishes that the impugned goods are High Flash High Speed Diesel (HFHSD). Once the goods are found to answer specifically to High Speed Diesel, classification under the residual entry "Other" (CTI 27101990) becomes legally impermissible. It is a settled principle of tariff interpretation that a specific description prevails over a general or residuary entry. The residuary entry can be invoked only when goods cannot be classified under any specific tariff description within the heading. In the present case, the goods are squarely covered by the specific tariff item CTI 27101949 pertaining to High Speed Diesel. Therefore, applying GIR 1 and relying on the plain language of Heading 2710 and its specific tariff entries, I hold that the imported goods, being High Flash High Speed Diesel, merit classification under CTI 27101949 and not under the residuary entry CTI 27101990 as declared by the importer.

17.1 Having determined the classification, the next issue relates to the import policy applicable to the goods. I find that the Importer has violated the Policy condition (2) of the ITC (HS) for Exports and Imports 2015-2020 for chapter 27 which mandates that "Import of Automotive Diesel Fuel shall be allowed through State Trading Enterprises (STEs) i.e. IOC, BPCL, HPCL and IBP for all purposes with STC being nominated as a State Trading Enterprise (STE) for supplies to Advance Licence holders. Advance Licence holders shall, however, have the option to import SKO from the above mentioned STEs including STC." The Importer has also violated the Policy condition (5) of the ITC (HS) for Exports and Imports 2015-2020 for chapter 27 which mandates that "Import allowed through IOC subject to Para 2.20 of the Foreign Trade Policy, except for the companies who have

been granted rights for marketing of transportation fuels in terms of Ministry of P&NG's Resolution No. P-23015/1/2001-MKT, dtd.8.3.2002 including HPCL, BPCL and IBP, who have been marketing transportation fuels before this date."

17.2 I state that Para 2.01 of Foreign Trade Policy provides that exports and imports shall be free except when regulated by way of prohibition, restriction, or exclusive trading through State Trading Enterprises has laid down in Indian Trade Classification (harmonized system) of exports and imports. Para 2.01 empowers the DGFT to impose restrictions on export and import through a notification for the purposes mentioned in the said para. I noticed that in present case, the importer is not a STE nor having license/rights for marketing of transportation fuels. Thus, they had violated the provisions of Para 2.01 of Foreign Trade Policy.

17.3 I find that Policy Condition No. 5 of Chapter 27 of ITC (HS), as amended vide Notification No. 27/2015-2020 dated 16.09.2021, stipulates that import of High Speed Diesel is "Restricted" and permitted only through State Trading Enterprises (STEs). In terms of Section 2(33) of the Customs Act, 1962, "prohibited goods" include not only goods absolutely banned but also those whose import is subject to any prohibition under the Act or any other law for the time being in force. When goods are imported in contravention of such conditions or without the mandatory authorization, they assume the character of "prohibited goods" for the purposes of the Act. A restriction imposed under the Foreign Trade Policy operates as a prohibition unless the prescribed conditions are fulfilled. In the instant case, the importer is neither a notified State Trading Enterprise nor has produced any authorization issued by the DGFT permitting such import for home consumption clearance. Therefore, the import of High Flash High Speed Diesel by the importer is contrary to the restriction imposed under the Foreign Trade Policy. Further, the impugned goods were imported in flexi bags which is not allowed as per the Petroleum Rules, 2002 and Public Notice No. 08/2024 dated 27.09.2024. Consequently, the goods become liable to confiscation under Section 111(d) of the Customs Act, 1962 as goods imported contrary to prohibition imposed under law.

17.4 Further, Section 46 of the Customs Act casts a statutory obligation upon the importer to make a true and correct declaration in the Bill of Entry regarding the nature, description and classification of goods and to ensure compliance with any restriction or prohibition applicable to such goods. In the present case, the goods were declared as "Dearomatized Solvent" under CTI 27101990, whereas chemical examination has established them as High Flash High Speed Diesel classifiable under CTI 27101949. Thus, the goods do not correspond in respect of description and classification with the declaration made under the Act. Once factual discrepancy between

declaration and actual nature of goods is established, the goods become liable to confiscation under Section 111(m), irrespective of whether such misdeclaration was intentional or otherwise.

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

“Section 125. Option to pay fine in lieu of confiscation.—(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 1[or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit.”

18.1 A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to owner of confiscated goods to redeem the goods by paying redemption fine. The importer during the investigation period has requested permission for re-export of the goods. The importer has also waived the right of issuance of Show Cause Notice and personal hearing and has not disputed the laboratory test report. Section 125 of the Customs Act, 1962 empowers the adjudicating authority, in cases where goods are liable to confiscation, to grant an option to redeem the goods on payment of fine in lieu of confiscation. In the present case, the goods have remained under customs control and have not been cleared for home consumption. The importer, upon being informed of the test results, has sought re-export and has not pressed for clearance into the domestic market. I observe that confiscation must follow as a consequence of statutory violation. The principles of proportionality and fairness in adjudication require that while enforcement of law is ensured, the punishment should be proportionate to the nature of violation.

18.2 I find that import of certain petroleum products, including diesel and related products, is canalized through State Trading Enterprises and requires authorization, which the importer admittedly does not possess. Thus, the issue that arises is not one of absolute prohibition of the goods *per se*, but of non-fulfilment of the statutory and policy conditions governing their import. In the present case, the importer has failed to obtain the requisite authorization and has thus not satisfied the mandatory pre-

conditions for import and clearance of the goods for home consumption. Therefore, the infirmity lies in the importer's failure to comply with the prescribed statutory conditions. In the absence of fulfilment of these essential conditions, the goods cannot be permitted to be cleared into the domestic market.

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

18.4 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.

19. From the above, it is evident that the impugned goods were found to be mis-declared in respect of description and classification. The subject goods found 'restricted' in nature, thus, falls within the meaning of prohibited category of goods due to their import contravening import policy. The above discussed acts on the part of the importer has rendered the subject goods liable to confiscation under Section 111 of the Customs Act, 1962. Accordingly, I hold that the importer is liable for penalty under Section 112(a)(i) of the Customs Act, 1962.

19.1 I find that the importer has declared the goods as "MG3 D90 Dearomatized Solvent" whereas the same have been found to be High Flash High Speed Diesel (HFHSD), a restricted item. The documents filed for clearance, including invoice and Bill of Entry, thus contained incorrect material particulars relating to description and classification of the goods. Considering the nature of mis-declaration and the importer's line of business, such incorrect declaration cannot be treated as inadvertent. Accordingly, I hold that the importer has knowingly used false and incorrect documents for Customs clearance, rendering them liable for penalty under Section 114AA of the Customs Act, 1962.

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

ORDER

- i. I reject the declared classification of the goods under CTI 27101990 and hold that the impugned goods are correctly classifiable under CTI 27101949 as "High Flash High Speed Diesel".
- ii. I confiscate the impugned goods having assessable value of Rs. 2,53,78,718/- under the provisions of Sections 111(d) and 111(m) of the Customs Act, 1962. However, in exercise of powers conferred under Section 125 of the Customs Act, 1962, I give an option to the importer to redeem the confiscated goods for the limited purpose of **re-export** only, on payment of redemption fine of **Rs. 25,00,000/- (Rupees Twenty Five Lakhs only)**.
- iii. I impose a penalty of **Rs 12,00,000/- (Rupees Twelve Lakhs only)** upon the Importer, M/s Arihant Agro Distillation and Liquid Terminals Limited under Section 112(a)(i) of the Customs Act, 1962.
- iv. I impose a penalty of **Rs 3,00,000/- (Rupees Three Lakhs only)** upon the Importer, M/s Arihant Agro Distillation and Liquid Terminals Limited under Section 114AA of the Customs Act, 1962.

21. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person in terms of any provision of the Customs Act, 1962 and/or any other law for the time being in force.

Additional Commissioner of Customs,
Assessment Group-I/IA,
Custom House, Mundra

To,

M/s Arihant Agro Distillation and Liquid Terminals Limited,
14th Floor, 1418 B & C Wing,
C 66, G Block, One BKC Bandra East, Mumbai-400051.

Copy to:

- i. The Deputy Commissioner of Customs (Review/TRC), CH, Mundra.
- ii. The Deputy Commissioner of Customs, SIIB, CH, Mundra.
- iii. The Deputy Commissioner of Customs (EDI), CH, Mundra.