

		<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421</p> <p><b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP &amp; SEZ</b></p> <p><b>MUNDRA, KUTCH-GUJARAT</b></p> <p><b>EMAIL: group1-mundra@gov.in</b></p>	 <p>आज़ादी का अमृत महोत्सव</p>
A	File No.	CUS/APR/1844/2026-Gr 1	
B	Order-in-Original No.	<b>MCH/ADC/ZDC/50/2026-27</b>	
C	Passed by	Dipak Zala Additional Commissioner of Customs Custom House, Mundra.	
D	Date of order Date of issue	24.04.2026 24.04.2026	
E	Noticee/Party/ Importer	<b>M/s Aadinath Enterprise (IEC: 2406006921)</b>	
F	DIN No.	<b>20260471MO000082319E</b>	

1. यह अपील आदेश संबन्धित 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),

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 Aadinath Enterprise situated at 4, Vaid Vadi, C/o Maruti Alloys, Near Tapulal Dasani Estate, Rajkot-360004 (hereinafter referred to as 'the Importer' for the sake of brevity) have filed Bill of Entry No. 7452802 dated 11.02.2026 for import of purportedly said to be 'HEAVY AROMATIC OIL- (CTH-27079900)' through Customs Broker- M/s Shri Swami Samarth Shipping Co.-AAKFS2534BCH001 at Mundra Port. The assessable value of the goods declared by the importer is Rs. 97,13,341/- and total gross weight for all 12 X 20' Containers (In Flexi Bags) is 2,26,150 KGS.

2. Intelligence developed by SIIB, Customs House, Mundra, indicated that the consignment covered under Bill of Entry No. 7452802 dated 11.02.2026 imported at Mundra Port, was mis-declared / mis-classified and/or concealment of prohibited/restricted goods. Accordingly, the consignment was put on hold and examined by the SIIB Section, Customs House, Mundra. The Bill of Entry No. 7452802 dated 11.02.2026 filed by the importer was assessed under First Check.

### 3. INVESTIGATION CONDUCTED:

3.1 The consignments covered under BE No. 7452802 dated 11.02.2026 (total 12x20' containers - in flexi bags) were examined on 10.03.2026 under Panchnama at the M/s. Mundhra Container Freight Station Pvt. Ltd., Bharat CFS-1, Adani Port, Mundra, Kachchh, in presence of authorised representative of the importer as well as the CB firm and the CFS representative. The container doors were opened and it was observed that each container was stuffed with Flexi Bags containing liquid cargo. Small quantities of oil were drawn from the main valve and the back valve/air valve of the Flexi Bags, wherein visually transparent and greenish yellow appeared respectively in colour. However, to ascertain the exact nature and composition of the oil, representative samples of the goods (in duplicate) were drawn from the main valve and the back valve/air valve of the Flexi Bag and collected in aluminium bottles. In the meantime, the authorised representative of the importer, requested that since the goods in all the containers appeared identical in physical characteristics, and the goods had been imported under a single Bill of Entry from a single supplier by a single importer, representative samples may be drawn from a single container. Accordingly, the said representative samples were drawn from container no. CXDU1146773 randomly selected. Thereafter, the said representative samples were properly marked and sealed. All the representative samples were sealed in such a manner that the said samples cannot be opened without tampering the paper seal. Thereafter, the Panchas, the CFS representative and the authorised representative of the importer put their dated signature on the sample slips affixed on the sample bottles.

3.2. In order to ascertain the exact nature, composition, and description of the goods, the said 2 sealed representative samples drawn from front and back valve during the course of examination, were sent for testing to CRCL, Kandla vide Test Memo No. 567/2025-26 and 568/2025-26 both dated 10.03.2026 respectively.

3.3. In reply, the test reports received from CRCL, Kandla for the Test Memos discussed in above para are detailed as under:-

**TABLE-1**

Sr. No	Test Memo No & date	Test Report	Container Number

1	567/2025-26 dated 10.03.2026 (Lab report No.10591-SIIB/11-03-2026)	<p><b>Result:</b> The sample as received is in the form of clear colourless viscous oily liquid. It is composed of hydrocarbon oil having mineral oil content more than 70% by wt. having following constants:</p> <p>Density at 15°C = 0.8402 g/ml Ash Content (% by mass)= Nil Water Content (% by mass) = Nil Flash Point (COC, Deg.C) = above 208 Aniline Point (Deg.C) = 114 Total Acid Number (mgKOH/gm) = NIL Total Base Number (mgKOH/gm) = NIL Kinematic Viscosity @40 Deg.C (Cst) = 21.80 Kinematic Viscosity @100 Deg.C (Cst) = 4.54 Viscosity Index = 123.6</p> <p>It is other than Heavy Aromatic. It has the characteristics of Base Oil.</p>	Container No. CXDU 11467 73
2	568/2025-26 dated 10.03.2026 (Lab report No.10592-SIIB/11-03-2026)	<p><b>Result:</b> The sample as received is in the form of pale yellowish oily liquid having fluorescence.</p> <p>It is composed of mixture of hydrocarbon oil having oil content more than 70% by wt. with following constants:</p> <p>Density at 15°C = 0.8259 gm/ml Flash Point (Deg.C) PMCC = 66 Initial Boiling Point (Deg.C) = 167 05% V/v recovery at (Deg.C) = 184 50% V/v recovery at (Deg.C) = 265 90% V/v recovery at (Deg.C) = 336 95% V/v recovery at (Deg.C) = 350 Final Boiling Point (Deg.C) =367 % V/v Residue on Distillation = 1.0 % V/v recovery at 210 Deg.C = 20 Kinematic Viscosity @40 Deg.C (Cst) = 2.56 Ash Content (% by mass) = Nil Sediments (% by mass) = Nil Acid Number (mg KOH/gm) = NIL Water Content (% by mass) = Nil Aniline Point (Deg.C) = 78 Calculated Cetane Index = 55</p> <p>It is other than Heavy Aromatic. However, the above tested parameters agrees with Automotive Diesel Fuel as per IS 1460, sulphur content in the sample could not be</p>	Container No. CXDU 11467 73

	ascertained for want of testing facility.	
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3.4. Both the test reports of CRCL Kandla had been shared with the importer vide email dated 23.03.2026. The importer agreed with the test results and requested for re-export of the imported goods vide their letter dated 09.04.2026, received through email on 10.04.2026. Further, vide the said letter dated 09.04.2026, it was also requested inter alia to adjudicate the matter on merit basis, considering the said cargo as High Speed Diesel and the importer was ready to pay fine and penalties as per customs tariff.

3.5. As per the Lab report No.10592-SIIB/11-03-2026 of CRCL Kandla, the goods imported under the said BE have been identified as Automotive Diesel Fuel. 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 Automotive Diesel Fuel in this case amounts to a violation of the FTP and DGFT regulations. Therefore, the goods imported under Bill of Entry No. 7452802 dated 11.02.2026 appears liable for confiscation under Section 111(d) of the Customs Act, 1962.

#### **4. ANALYSIS OF THE TEST REPORTS:**

4.1 CTH 2707 covers "OILS AND OTHER PRODUCTS OF THE DISTILLATION OF HIGH TEMPERATURE COAL TAR; SIMILAR PRODUCTS IN WHICH THE WEIGHT OF THE AROMATIC CONSTITUENTS EXCEEDS THAT OF THE NON-AROMATIC CONSTITUENTS". Sample test reports do not conform to the specification of CTH 2707 but conform to the specification of CTH 2710. 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, Kandla 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 meet the parameters of Base oil and Automotive Diesel Fuel confirming to IS 1460 and not HEAVY AROMATIC OIL as declared by the importer in the said BE. As per the Indian Customs Tariff, Automotive Diesel Fuel conforming to IS 1460 is classifiable under CTH 27101944 and Base oil is classifiable under CTH 27101971. Thus, the reports received from CRCL, Kandla confirms that the sample drawn vide TM No. 567/2025-26 dated

10.03.2026 is Base Oil (CTH 27101971) and the sample drawn vide TM No. 568/2025-26 dated 10.03.2026 from the rear valve of the flexi bag is Automotive Diesel Fuel (CTH 27101944) and do not merit classification under the declared item - HEAVY AROMATIC OIL (CTH 27079900.)

4.3. Further, import of goods classifiable under CTH 27101944 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]')**

<b>Chapter</b>	<b>Policy Condition</b>	<b>Existing Condition</b>	<b>Revised Condition</b>
27	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&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 2.21 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

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 paras, it is evident that the goods imported vide Bill of Entry No. 7452802 dated 11.02.2026, though declared as "Heavy Aromatic Oil" under CTH 27079900, are not correctly declared or classified. The test results and examination reveal that the imported goods predominantly comprise a restricted petroleum product, namely Automotive Diesel Fuel conforming to IS 1460, appropriately classifiable under CTH 27101944, along with a minor proportion of base oil classifiable under CTH 27101971. Therefore, it is established that the importer has mis-declared the goods in terms of both description and classification in the Bill of Entry, with an apparent intent to circumvent the applicable import restrictions and regulatory provisions governing such petroleum products.

## **5. Rejection of transaction value of the imported goods and determination of the value of the imported goods**

5.1. During the course of examination and investigation, it has been established that the goods imported vide Bill of Entry No. 7452802 dated 11.02.2026, though declared as *Heavy Aromatic Oil* under CTH 27079900, are in fact Automotive Diesel Fuel (IS 1460) classifiable under CTH 27101944 and base oil classifiable under CTH 27101971, as confirmed by the test reports issued by CRCL, Kandla. The goods actually imported are middle distillate petroleum products, which are commercially distinct and command a significantly higher value than Heavy Aromatic Oil. The declared value, which corresponds to Heavy Aromatic oil, is therefore inconsistent with the nature, quality and classification of the goods actually imported, giving rise to reasonable doubt regarding the truth and accuracy of the declared value.

5.2. Further, the impugned goods are canalized petroleum products, importable only through State Trading Enterprises in terms of the Foreign Trade Policy. In view of the unauthorized nature of the import, reliable contemporaneous import data, published price indices or other objective market benchmarks for valuation of such goods were not available for verification of the declared value. The importer was also unable to produce any documentary evidence to substantiate that the declared value represents the price actually paid or payable for Automotive Diesel Fuel and Base Oil of the specifications confirmed by the laboratory.

5.3. In the above circumstances, there are reasons to doubt the truth and accuracy of the value declared by the importer within the meaning of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and the declared transaction value is therefore liable to rejection.

5.4. Upon rejection of the declared transaction value, the value of the imported goods is required to be re-determined by sequential application of the valuation methods prescribed under the Customs Valuation Rules, 2007. However, due to the non-availability of contemporaneous import data of identical or similar goods, and the impracticability of determining value under Rules 4, 5, 6, 7 and 8 of the said Rules, the assessable value could not be determined under those rules. Accordingly, the value of the imported goods has been determined under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, by adopting a reasonable means consistent with the principles and general provisions of the said Rules and Section 14 of the Customs Act, 1962.

5.5. For determination of value under Rule 9, opinion of an empanelled Chartered Engineer was sought. The Chartered Engineer, after examining the nature, specifications and commercial characteristics of the goods, has assessed the CIF value of the imported goods at 5,11,971.434 AED, vide Report No. ABJ:INSP:CE:MUN:SIIB:AADINATH:26-27:01 dated 22.04.2026. In the absence of reliable market price publications or contemporaneous import data, the said expert valuation provides a reasonable and objective basis for determination of assessable value under Rule 9. The Chartered Engineer, vide said report has determined the revised CIF value of the imported goods at 5,11,971.434 AED, as against the importer's declared CIF value of 3,82,415 AED. The goods have been quantified as 2% Base Oil and 98% Automotive Diesel Fuel of the total goods, with the CIF value of Base Oil determined at 8,886.67 AED and Automotive Diesel Fuel at 5,03,084.764 AED respectively.

5.6. On conversion of the revised CIF value at the applicable exchange rate of ₹ 25.40 per AED, the revised assessable value works out to Rs. 1,30,04,075/-, as against the importer's declared assessable value of Rs. 97,13,341/-. The said Valuation cum Quantification Report was shared with the Importer vide email dated 22.04.2026 and the same has been accepted by the Importer vide email dated 22.04.2026.

5.7. Accordingly, it appears that the value declared by the importer under self-assessment is not the correct assessable value, and consequently, the Customs duty assessed and paid by the importer on self-assessment basis is also not correct,

resulting in short-payment of Customs duty, which is liable to be recovered in accordance with the provisions of the Customs Act, 1962.

## **6. LEGAL PROVISIONS:**

6.1 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.

### **6.2 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.

6.3 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.

6.4 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.

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

6.6 In view of the above as per the above provisions of FTP and Hand Book of Procedure, the import of impugned goods, 'Automotive Diesel Fuel (IS 1460) classifiable under CTH 27101944, 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**

6.7 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.*

6.8 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;*

6.9 **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.

6.10 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.*

6.11 **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 subsection (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.

6.12 **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.

## **7. OUTCOME OF THE INVESTIGATION:**

7.1 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.

7.2. From the outcome of the investigation, as discussed in the preceding paragraphs, it appears that the goods imported vide Bill of Entry No. 7452802 dated 11.02.2026, comprising 12 × 20' containers (in flexi bags) and declared as HEAVY AROMATIC OIL under CTH 27079900, were mis-declared and mis-classified. The test reports received from CRCL Kandla certified the goods as Automotive Diesel Fuel (IS 1460:2025) classifiable under CTH 27101944 and Base Oil classifiable under CTH 27101971.

7.3. Import of goods classifiable under CTH 27101944 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 authorized 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 authorization 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.

7.4. 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 Heavy Aromatic Oil instead of Automotive Diesel Fuel and Base Oil, 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.

7.5. Further, it is also noted that said goods have been imported in flexi bags fitted in 12x20' containers. As per PUBLIC NOTICE NO. 08/2024 issued by this office, the

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**

7.6. The flash point of the Automotive Diesel Fuel, as per lab report no. 10592-SIIB/11-03-2026 dated 18.03.2026 received from CRCL Kandla, is 66 °C i.e. falling between 65°C and 93 °C, thus, it falls under the petroleum Class C products. Accordingly, its import 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 do not fall under the definition of containers as per Petroleum Rules, 2002, as amended. Therefore, the import of Automotive Diesel Fuel is 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.

7.7. For determination of value under Rule 9, opinion of an empanelled Chartered Engineer was sought, who vide Report No. ABJ:INSP:CE:MUN:SIIB:AADINATH:26-27:01 dated 22.04.2026, assessed the revised CIF value of the imported goods at 5,11,971.434 AED (Base Oil: 8,886.67 AED; Automotive Diesel Fuel: 5,03,084.764 AED), quantified as 2% Base Oil and 98% Automotive Diesel Fuel, as against the importer's declared CIF value of 3,82,415 AED. The said Valuation cum Quantification Report was shared with and accepted by the importer vide email dated 22.04.2026.

7.8. The importer vide his letter dated 09.04.2026 has requested for re-export of the goods. Further, he has also requested for waiver of the SCN/PH. Subsequently, vide email dated 22.04.2026, the importer has accepted the Valuation cum Quantification Report dated 22.04.2026 and reiterated the request for re-export of the goods and waiver of the SCN/PH.

7.9. From the discussion in para supra, it appears that the importer, M/s Aadinath Enterprise has attempted to import a prohibited item in the guise of item of CTH-27079900, 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 Aadinath Enterprise have rendered themselves liable for penalty under the provisions of Section 112(a)(i) of the Customs Act, 1962. Further, the importer appears to have submitted false documents which does not contain the actual description of the goods, thus, the importer is liable for penalty under Section 114AA of the Customs Act, 1962.

8. In view of the above, it appears that:-

- (i) The declared description of the goods as "HEAVY AROMATIC OIL" and the declared classification under CTH 27079900 in respect of the goods imported vide Bill of Entry No. 7452802 dated 11.02.2026 are incorrect and liable to be rejected. Based on examination of the goods, the test reports issued by CRCL, Kandla, the Valuation cum Quantification Report ABJ:INSP:CE:MUN:SIIB:AADINATH:26-27:01 dated 22.04.2026 and the findings recorded during investigation, it appears that the goods are correctly classifiable as Automotive Diesel Fuel conforming to IS 1460:2025 under CTH 27101944 (98% of total cargo) and Base Oil classifiable under CTH 27101971 (2% of total cargo). 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 assessable value of Rs. 1,30,04,075/- 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 Automotive Diesel Fuel imported in containers fitted with flexi bags has a flash point 66°C which falling above 65°C and 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 the said flash point is not permitted in flexi bags. Accordingly, the import of Automotive Diesel Fuel 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.

9. As the importer has already requested for re-export of the goods and waiver of the show cause notice and personal hearing in the matter, vide letter dated 09.04.2026 received through email on 10.04.2026 and vide email dated 22.04.2026, necessary adjudication proceeding/action may be initiated in respect of the said Bill of Entry as per the Customs Act, 1962. Outcome of the recoveries made may please be intimated to this office.

### **DISCUSSION AND FINDINGS**

10. I have carefully gone through the facts of the case, Show Cause Notice and the noticee's submissions filed both, in written and in person advanced during the course of personal hearing. I noted that the importer has already admitted the findings of the investigation and waived the right of issuance of show cause notice and personal hearing. The principles of natural justice, particularly *audi alteram partem*, have been duly complied with. On a careful perusal of the investigation report and case records, I find that following main issues are involved in this case, which are required to be decided: -

- Whether the mis-declared goods i.e., Heavy Aromatic Oil, classified under CTH 27079900, imported under BE No. 7452802 dated 11.02.2026, needs to be re-classified as Automotive Diesel Fuel conforming to IS 1460:2025 under CTH 27101944 (98% of total cargo) and Base Oil classifiable under CTH 27101971 (2% of total cargo).
- Whether the goods having a declared assessable value of Rs. 97,13,341/- are liable confiscation under Sections 111(d) & 111(m) of the Customs Act, 1962.
- Whether the Importer is liable for penalty under Section 112(a) and 114AA of the Customs Act, 1962.

11. I find the importer M/s. Aadinath Enterprise has filed Bill of Entry No 7452802 dated 11.02.2026 by declaring the goods as "Heavy Aromatic Oil" under CTH-27079900. The Cargo was stuffed under total 12 X 20' Containers in flexi bags. The subject consignment was examined the investigating agency on suspicion of mis-declaration. During examination under panchnama dated 10.03.2026, samples were drawn from both the main valve and the back/air valve of the flexi bags. The sampling procedure was carried out in the presence of panchas, the authorised representative of the importer, Customs Broker, and CFS representative. The samples so drawn were sent to CRCL, Kandla for chemical examination. vide Test Memo No. 567/2025-26 and 568/2025-26 both dated 10.03.2026. The details of the test reports are already mentioned at Table-1 above at para 3.2, hence, the same is not repeated for the sake of brevity. However, outcome of the test result, in brief, are as table below:

Sr. No.	Test Memo No & date	Test Report	Container Number
1	567/2025-26 dated 10.03.2026 (Lab report No.10591-SIIB/11-03-2026)	It is other than Heavy Aromatic. It has the characteristics of <b>Base Oil</b> .	CXDU1146773
2	568/2025-26 dated 10.03.2026 (Lab report No.10592-SIIB/11-03-2026)	It is other than Heavy Aromatic. However, the above tested parameters agrees with <b>Automotive Diesel Fuel as per IS 1460</b> , sulphur content in the sample could not be ascertained for want of testing facility.	CXDU1146773

**11.1** The test report pertaining to the sample drawn from the main valve clearly show that the sample is a hydrocarbon oil having more than 70% mineral oil content and is “other than Heavy Aromatic” and possesses the characteristics of Base Oil. The second test report pertaining to the sample drawn from the rear valve records that the sample is a mixture of hydrocarbon oil having more than 70% oil content and that the tested parameters agree with Automotive Diesel Fuel conforming to IS 1460. Both reports categorically state that the samples are “other than Heavy Aromatic”. Thus, on the basis of the scientific test reports, I find that the goods imported are not “Heavy Aromatic Oil” as declared, but consist predominantly of Automotive Diesel Fuel along with a minor proportion of Base Oil. Thus, it is evident that the importer has adopted the above explained method to mis-declared the goods to circumvent the import policy.

## **12. Classification of the goods:**

**12.1** I find that the importer has declared the impugned goods as “Heavy Aromatic Oil” under CTH 27079900. I note that Heading 2707 covers “*Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents.*” Thus, classification under this heading is depending upon the majority of aromatic constituents in the product. However, the test reports issued by CRCL, Kandla clearly establish that the samples consist of hydrocarbon oils containing more than 70% by weight of petroleum oils and do not show characteristics of products derived from high temperature coal tar or those having predominance of aromatic constituents. Both the test reports specifically record that the samples are “other than Heavy Aromatic”. Accordingly, I find that the essential criteria for classification under CTH 2707 are not satisfied in the present case. Therefore, the declared classification under CTH 27079900 is incorrect.

**12.2** I further find that Chapter Note 2 to Chapter 27 provides that references in Heading 2710 to “petroleum oils and oils obtained from bituminous minerals” include not only such oils but also similar oils, provided that the weight of non-aromatic constituents exceeds that of aromatic constituents. In the present case, the test reports confirm that the goods are composed mainly of petroleum hydrocarbons with more than 70% oil content by weight. Therefore, the goods squarely fall within the scope of Heading

2710. On a closer analysis of the test reports, I find that the sample drawn from the main valve has the characteristics of Base Oil, whereas the sample drawn from the rear valve conforms to the parameters of Automotive Diesel Fuel as per IS 1460.

**12.3** I find that products Automotive Diesel Fuel conforming to IS 1460 and Base oil are specifically recognized petroleum products with well-defined technical specifications. I further find that, as per the Indian Customs Tariff, Automotive Diesel Fuel conforming to IS 1460 is specifically classifiable under CTH 27101944 and Base Oil is classifiable under CTH 27101971. The investigation quantifies the composition of the cargo as approximately 98% Automotive Diesel Fuel and 2% Base Oil, which has also been accepted by the importer vide letter dated 09.04.2026 received through email on 10.04.2026.

**12.4** Applying Rule 1 of the General Rules for Interpretation, I hold that classification must be determined according to the terms of the headings and relevant Section and Chapter Notes. In view of the conclusive identification of the goods as diesel and Base oil, I find that the goods are more specifically covered under the appropriate tariff entries relating to such petroleum products within Heading 2710. I also find that the principle of **specific over general** is applicable in the present case. Where a product is specifically identifiable as Automotive diesel fuel and Base oil, it cannot be classified under a different tariff heading. Therefore, the declared classification under tariff heading 2707 is not sustainable. Accordingly, I hold that the classification declared by the importer under CTH 27079900 is incorrect and not sustainable. The impugned goods are correctly classifiable under CTH 27101944 (Automotive Diesel Fuel) and CTH 27101971 (Base Oil), and the Bill of Entry is liable to be reassessed accordingly under Section 17(4) of the Customs Act, 1962.

### **13. Valuation of the Goods**

**13.1** I now proceed to examine the issue relating to the correct valuation of the impugned goods. The determination of assessable value is governed by the provisions of Section 14 of the Customs Act, 1962, read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. As per Section 14, the value of imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to India, subject to the conditions specified in Rule 3 of the Valuation Rules. I find that the importer has declared the value of the impugned goods on the basis that the same are "Heavy Aromatic Oil". However, it has already been established that the goods actually imported are predominantly Automotive Diesel Fuel along with a minor proportion of Base Oil. Thus, it is evident that the actual imported goods are different commodities having higher market value than the declared product. Therefore, I find that the declared value does not correspond with the true nature, quality and classification of the goods. Thus, this fact raises reasonable doubt regarding the truth and accuracy of the declared transaction value within the meaning of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. I further find that the importer has failed to produce any credible documentary evidence to demonstrate that the declared value represents the price actually paid or payable for goods imported.

**13.2** As discussed above, it is evident that imported goods covered under the subject shipments were found mis-declared in respect of Description, classification, Nature and other particulars, thus, it is beyond doubt that the value as declared by the Importer is liable to be rejected under Rule 12 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007. The value declared by the importer did not qualify to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same is liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined as per the provisions of Rule 3 to 9 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007. However, due to the non-availability of contemporaneous import data of identical or similar goods, and the impracticability of determining value under Rules 4, 5, 6, 7 and 8 of the said Rules, the assessable value could not be determined under those rules. Therefore, I find that recourse has been taken to Rule 9, which permits determination of value using reasonable means consistent with the principles of Section 14 of the Customs Act, 1962 and the Valuation Rules, 2007. I further find that, for this purpose, the opinion of an empanelled Chartered Engineer/valuer was obtained. The Chartered Engineer/valuer after examining the nature, composition and commercial characteristics of the goods, vide Report No. ABJ:INSP:CE:MUN:SIIB:AADINATH:26-27:01 dated 22.04.2026, has determined the CIF value at 5,11,971.434 AED. The value of Automotive Diesel Fuel (98%) was quantified at 5,03,084.764 AED and value of Base oil (2%) was quantified at 8,886.67 AED.

**13.3** I find that this valuation is based on objective assessment of the actual goods imported and provides a reasonable basis for determination of value under Rule 9 of CVR, 2007. I also note that the said valuation report has been shared with the importer and has been accepted by them without contest. Accordingly, I hold that the assessable value of the imported goods is required to be re-determined at Rs. **1,30,04,075/- (Rupees One Crore Thirty Lakhs Four Thousand and Seventy Five only)**, as against the declared assessable value of Rs. 97,13,341/-.

#### **14. CONFISCATION OF IMPORT GOODS AND REDEMPTION FINE IN LIEU OF CONFISCATION:**

**14.1** I find that it is alleged in the SCN that the goods are liable for confiscation under Section 111(d), 111(m) of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods are concerned, Section 111 of the Customs Act, 1962, defines the Confiscation of improperly imported goods. The relevant legal provisions of Section 111(d) and Section 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;*

*(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;”*

**14.2** I find that the impugned goods have been declared as “Heavy Aromatic Oil” under CTH 27079900, whereas the test reports and investigation establish that the goods are Automotive Diesel Fuel along with a minor proportion of Base Oil. I further find that Automotive Diesel Fuel is a restricted/canalised item in terms of Policy Condition No. 5 of Chapter 27 of ITC (HS), read with DGFT Notification No. 08/2023 dated 29.05.2023 and Para 2.21 of the Foreign Trade Policy, 2023. These goods can be imported only through State Trading Enterprises (STEs) or by entities who were specifically allowed to import such canalised items. In the present case, I find that the importer is not a notified State Trading and has not authorised to import Automotive Diesel Fuel. Therefore, the import of the said goods is in clear contravention of the Foreign Trade Policy and import policy of Chapter 27 of ITC (HS). Therefore, I hold that the import of the impugned goods is in contravention of the provisions of the Foreign Trade Policy. In terms of Section 2(33) of the Customs Act, 1962, goods imported in violation of any prohibition imposed under any law for the time being in force are to be treated as “prohibited goods”. Accordingly, I find that the impugned goods are liable to confiscation under Section 111(d) of the Customs Act, 1962.

**14.3** I also find that the goods have been imported in flexi bags fitted in general purpose containers, whereas the test report indicates that the Automotive Diesel Fuel has a flash point of 66°C, classifying it as Petroleum Class C under the Petroleum Rules, 2002. As per the said Rules, read with Public Notice No. 08/2024, petroleum products of such class are required to be transported only in approved containers, and flexi bags are not recognised as approved containers for import of such goods. Therefore, I hold that the import of the impugned goods is also in violation of the Petroleum Rules, 2002 and the said Public Notice. Therefore, the goods are also liable to confiscation under Section 111(d) of the Customs Act, 1962.

**14.4** Further, I find that the importer has declared the goods as “Heavy Aromatic Oil” under CTH 27079900, whereas the goods are actually Automotive Diesel Fuel and Base Oil classifiable under Chapter 2710. The importer has mis-declared the goods in respect of the description, classification and valuation of the goods. The importer has also tried to import ‘restricted’ item by mis-declarign it as freely importable goods. These acts rendered the subject goods liable for confiscation under Section 111(m) of the Customs Act, 1962.

**15.** 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.”*

**15.1** 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 Noticees have already, as discussed under foregoing paras, has requested for re-export of the goods. The Noticees have also waived the right personal hearing. The Noticees also did not disputed the CRCL test reports. I find that 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.

**15.2** 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.

**15.3** 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.

**15.4** 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, under the provisions of Section 125 of the Customs Act, 1962, I find it appropriate to allow the importer an option to redeem the goods for the limited purpose of re-export on payment of redemption fine.

**16.** From the above, it is evident that the impugned goods were found to be mis-declared in respect of description, classification, valuation and other material particulars. 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 have 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.

**17.** I find that the importer has filed the Bill of Entry and related documents declaring the goods as "Heavy Aromatic Oil", whereas the same have been found to be Automotive Diesel Fuel and Base Oil. Thus, the declaration made is incorrect. It is evident the importer has made incorrect and false declaration while filing subject bill of entry. In terms of Section 114AA of the Customs Act, 1962, any person who knowingly or intentionally makes or uses such false or incorrect declaration or document is liable to penalty. Therefore, I hold that the importer has rendered himself liable for penalty under Section 114AA of the Customs Act, 1962.

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

**ORDER**

- (i) I reject the declared classification of the goods "Heavy Aromatic Oil" under CTI 27079900 and hold that the impugned goods are correctly classifiable under CTI 27101944 (98% of total cargo) and 27101971 (2% of total cargo) with the correct description as Automotive Diesel Fuel conforming to IS 1460:2025" and "Base Oil", respectively.
- (ii) I reject the declared value of 97,13,341/- and order to re-determine same at **Rs. 1,30,04,075/-** under Rule 9 of CVR, 2007 read with Section 14 of the Customs Act, 1962.
- (iii) I confiscate the impugned goods having re-determined value at Rs. 1,30,04,075/- 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. 13,00,000/- (Rupees Thirteen Lakhs only)**.
- (iv) I impose a penalty of **Rs 6,50,000/- (Rupees Six Lakhs Fifty Thousand only)** upon the Importer under Section 112(a)(i) of the Customs Act, 1962.
- (v) I impose a penalty of **Rs 2,00,000/- (Rupees Two Lakhs only)** upon the Importer under Section 114AA of the Customs Act, 1962.

**19.** 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. Aadinath Enterprises,  
4, Vaid Vadi, C/o Maruti Alloys,  
Near Tapulal Dasani Estate, Rajkot-360004.

**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.