

DIN :- 20240571MO000000300D

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

Show Cause Notice

Intelligence gathered by the DRI, Gandhidham indicated that M/s Global Natural Petro Industries, GR-10, Ganpati Dham Industrial Area, Village Sankhal, Bahadurgarh, Jhajjar, Haryana, (hereinafter also referred as 'importer') are importing Pure Diesel in guise of Base Oil, Used Oil or MHO, from Oman, UAE and Bahrain. The intelligence further indicated that the importer had imported 2 consignments from Bahrain, which had arrived at Mundra Port. Bills of Entry No. 6058200 and 6058265, both dated 22.05.2023, had been filed by the importer in respect of the said two consignments. Accordingly, both the consignments were put on hold for examination by the DRI.

2. A search was carried out at the premises of the importer M/s Global Natural Petro Industries located at GR-10, Ganpati Dham Industrial Area, Village Sankhal, Bahadurgarh, Jhajjar, Haryana by the officers of DRI, under panchnama dated 24.05.2023 (RUD-1), during which documents and electronic devices relevant to the investigation were resumed. Further, searches were also carried out at the premises of the Customs Broker M/s Continental Shipping Services at Mundra on 24.05.2023 and relevant documents were resumed during the said searches.

3. The examination of the 2 subject consignments, which were put on hold by the DRI, was carried out by the DRI officers, in the presence of the authorized person of the importer, Shri Vikas Goel; and Authorized representative of Custom Broker of the importer, Shri Satish Maheshwari, under panchnamas dated 29.05.2023 (RUD-2) and 30.05.2023 (RUD-3), for Bills of Entry No. 6058200 and 6058265, both dated 22.05.2023, respectively. Representative samples were drawn from 20 containers covered under the two consignments. The samples were further sent to CRCL, Kandla for testing.

4. The test reports (RUD-4 Collectively) from CRCL, Kandla were received on 19.07.2023. the test results as per the said test reports are as given in the below table:

M/s Global Natural Petro Industries							
Bill of Entry and Date	Container No.	Test Memo No.	Density	Ash Content	Water content	Flash Point	Test result
6058200 dated 22.05.2023	GESU5098419	43	0.8531	-	-	156	Base Oil
		45	0.8844	-	-	161	Base Oil
	CRSU9141475	47	0.8827	-	-	160	Base Oil
		49	0.9158	-	-	173	Synthetic Oil
	GESU5520930	51	0.8833	-	-	169	Base Oil
		53	0.869	-	-	170	Base Oil
	TFLU4954124	55	0.8684	-	-	172	Base Oil
		57	0.8807	-	-	165	Base Oil
	HJCU1580159	59	0.8723	-	-	166	Base Oil
		61	0.8801	-	-	166	Base Oil

	GESU5532567	63	0.8804	-	-	157	Base Oil
		65	0.828	-	-	158	Base Oil
	GESU5519415	67	0.8563	-	-	>240	Base Oil
		69	0.8602	-	-	217	Other than BO/Diesel
	GESU5252756	71	0.8873	-	-	219	Other than BO/Diesel
		73	0.8659	-	-	187	Base Oil
	CRSU9135960	75	0.8759	-	-	160	Base Oil
		77	0.8778	-	-	170	Base Oil
	UESU5040365	79	0.8707	-	-	166	Base Oil
		81	0.8802	-	-	165	Base Oil
6058265 dated 22.05.2023	APZU3275504	83	0.9975	-	NA	-	Others (chlorinated water)
	CXDU1051493	84	1.0062	-	NA	-	Others (chlorinated water)
	MSCU2680937	85	1.0019	-	NA	-	Others (chlorinated water)
	TCKU2845498	86	1.0072	-	NA	-	Others (chlorinated water)
	TCLU2272304	87	1.005	-	NA	-	Others (chlorinated water)
	TCLU2538713	88	1.002	-	NA	-	Others (chlorinated water)
	TCLU3547941	89	1.0039	-	NA	-	Others (chlorinated water)
	TLLU8237741	90	1.0036	-	NA	-	Others (chlorinated water)
	TLLU8440553	91	1.004	-	NA	-	Others (chlorinated water)
	TLLU8468801	92	1.0057	-	NA	-	Others (chlorinated water)

5. Summons were issued to the authorized person of the importer and the Customs Broker to record their statement and produce relevant documents.

6. Statement of Shri Vikas Goel, authorized person of the importer M/s Global Natural Petro Industries was recorded on 09.08.2023 (**RUD-5**), during which he was shown the test reports of CRCL, Kandla, in respect of the subject 2 consignments imported by his firm, along with Panchnamas dated 20.05.2023, 29.05.2023 and 30.05.2023. During the statement he, interalia stated that:

- i. On being asked as to why he had not brought the load port testing reports and packing list of the 2 subject import consignments examined by the DRI on 29/30.05.2023, he submitted that he had produced the Certificate of Analysis (i) dated 18.05.23 issued by M/s Alnakheel Avenue Trading and maintenance, Bahrain for 188.93MT of product Base Oil HS Code 27101971 in 10 flexi tank containers for invoice No. ANTM/EXP/09/2023 dated 18.05.23 86 (ii) dated 15.05.23 issued by M/s Middle East Recycling Company WLL Bahrain (MERCO) for 255.49MT Base Oil in 1400drums in 10 forty feet HC Containers per Invoice No. MERC/EXP/2023/041

dated 15.05.23.

- ii. On being asked what was the composition of Base Oil and where did he use the same, he stated that it was hydrocarbon oil and they checked the colour and density of the base oil which is either of white, yellow or reddish colour and having density between 0.855 to 0.880 gm./cubic cm, which they would check by density meters. From the base oil they cleared the imported base oil in local market in 2-5MT quantities, as required by their customers, for further use as lubricating oil or in manufacturing of grease. Few times, they also cleared products after distillation at M/s GNPI Haryana.
- iii. On being asked why had he not submitted the documents timely, and even during the said statement, he had submitted partial documents, he stated that he could not submit requisite documents in time. He further stated that he would be present before the DRI office as and when required.
- iv. On being asked if he agreed with the 30 test reports for the products he had imported under the guise of Base Oil, he stated that he agreed to all the test reports of his consignments issued by the Kandla Customs Laboratory.
- v. On being apprised that as he was aware, that out of 140 Barrels each per containers, the test samples were drawn from two barrels per container during the examination, and the test result issued for the container no. GESU5519415 for Test Memo No. 69 and that issued for container No. GESU5252756 for Test Memo No.71, had declared the products as "**Other than Base Oil/ Diesel**" by the Kandla Customs Laboratory, whether he agreed to the same and what was the product that he had imported, he stated that he agreed to the test results. He further stated that owing to the different origin of the base oil in barrels, the consistency of those oils in the barrels in the consignment were not equal and may have varied density and colors unlike the goods in the flexitank consignment. The goods in barrels were reported to him the government's rejected stock by the seller as he had also reported during the examination panchnama dated 29.05.23 and that he did not know the actual oil contained in those two barrels from which samples were drawn.
- vi. On being asked whether he will be able to produce the related Bahrain Government documents of those 1400 barrels consignment, he stated that he would procure all load port documents as well as the government documents related with the said consignment.
- vii. On being asked that to which container or barrel did the corresponding Analysis report dated 15.05.23 of the exporter M/s MERCO, Bahrain was representing analysis report dated 15.05.2023 of the exporter M/s MERCO, Bahrain was representing, he stated that it was not mentioned as to which barrel or container in the sample they had drawn the representative for the entire consignment.
- viii. On being asked that what was the goods, in which respect the test reports related with the test memo no. 49 for a barrel in the container no. CRSU9141475, it was declared by the Kandla Customs Laboratory that the sample under testing was "synthetic oil", he stated that in foreign countries high value cars like Audi etc. were using special synthetic Oils as engine oils with special additives, as such the laboratory would have tested the lubricating oil of that sample as Synthetic Oil.
- ix. On being asked that from the combined reading of the questions asked so far, it transpired that the analysis report may not be representing the cargo exported by M/s MERCO, Bahrain to M/s GNPI Haryana and whether he could furnish the survey report of load port survey with a detailed packing list of the cargo loaded in 1400 barrels by the exporter, clarifying the quantity of oils contained therein, he stated that he would call for the same from the exporter and submit to the DRI.
- x. On being asked as to why he had declared all the goods contained in the 1400 barrels in the 10 containers as "Base Oil" when the same were sourced differently and may

be containing different materials, and whether that did not amount to mis-declaration on his part, he stated that he ought to have called for the detailed list of the barrels and the contents thereof before declaring the entire consignment as Base Oil based on the export documents.

- xi. On being shown test reports issued for the Test Memo No. 83 to 92 by the Kandla Customs Laboratory, wherein the goods he had declared in flexitanks as base oil had been tested as chlorinated water only and being asked what were the actual goods imported in those containers from M/s Alnakheel, Bahrain, he stated that he agreed to the test report and that he doubted that if the base oil in flexi tank was mixed with water by the supplier at the time of dispatch, the water may comprise the bottom layers of such flexitanks and the goods under import "base oil" shall be above that layer in same flexi tanks.
- xii. On being asked that the analysis report issued by the importer in this case M/s Alnakheel Avenue Trading and maintenance, Bahrain also did not specify as to which flexitank container of the consignment the testing sample was drawn and whether it represented entire lot of 10 flexitanks, he stated that he will check and call for the detailed survey reports of the goods under import from load port and furnish the same as soon as possible, as to which flexitank was tested from the consignment.
- xiii. On being asked whether the consignment containing "chlorinated water" as found out by the Kandla customs Testing Laboratory for their cargo instead of "base oil" should not amount to mis-declaration and whether he had any talk or chats related to the quality of the said consignments, he stated the consignment could not be of chlorinated water, the base oil would be having admixture of water which would have settled at the bottom where the samples were drawn.
- xiv. On being asked that since the drawal of samples was witnessed by him, himself, didn't he think it was appropriate to point out the same during the examination itself to the persons engaged in drawal of samples, he stated that he was very much present at the time of the examination but had remained silent which was his mistake since it was first time that he had witnessed sampling of import goods.
- xv. On being asked whether he was silent for the reason of detection of goods concealed above the water layer being other than base oil, he stated that that was not the point, as he had ordered base oil only at the rate of USD 515/ton for the consignment in flexitanks and there was no reason of their importing restricted fuels under the garb of base oil. He further stated that he had remained present during all panchnama and examination proceedings.
- xvi. On being asked that during the panchnama proceedings, he had admitted that he had visited Bahrain during the purchase of the subject goods from both the parties, then why didn't he check the goods quality at the time of finalizing the purchase, he stated that Mr. Talish had shown him white colored base oil sample at the time of his visit to M/s Alnakheel Bahrain, drum were checked by MERCO Bahrain by randomly checking.
- xvii. On being asked if in earlier consignments, had he received such water-mixed base oil in the past, what was the quantum and what was the admissible limits per their agreements, he stated that in past they had instances of having received quantity of 5-10% water in base oil consignments and that they generally did not claim any losses for the 5% water content.
- xviii. On being asked that while comparing the tested parameters like flash point and the density of their import consignment, while comparing the tested parameters like flash point and the density of their import consignment, as reflected in the analysis certificate furnished by the exporters of load ports, it appeared that the Density were shown as 0.85 & 0.848 and flash points are reflected as 227 & 228 degree C, whereas in the Kandla Customs Lab report the densities of all the samples tested as base oil are in range of 156 to 187 degree C 86 the density range of 0.85 to 0.88, and what he wanted to say about that, he stated that on comparing the test results, he confirmed the change in density of petroleum product did vary owing to the temperatures which

are in range of 50 degrees at Bahrain whereas at India the average temperature would be in range of 30-35 degrees as for the difference of Flash Points, he agree that there was difference, however the same were above the flash point range of petroleum class three.

xix. On being asked if they were having explosive license or having any authorisation to import any petroleum products, which are restricted for import, he stated that they did not require explosive license for their work or import of base oil, MHO, Fuel Oil for the freely permitted items only they were having IEC and they were not having any authorisation for import of Petroleum Products.

xx. On being asked if he approved the checklists of the above import consignments before allowing your CHA files the Bill of Entry, he stated that they checked the checklists furnished by their CHA based on their shared import documents by responding OK and then only Sh. Satishbhai Maheshwari of M/ s Continental would file the Bill of Entry for their consignments.

xxi. On being asked what were the charges they paid for the consignment to the CHA, he stated that in his understanding, they paid around 1000/2000 Rs. Per container as clearance charges to their CHA, all remaining charges like line charges, CFS Charges and duty deposits, were deposited directly by them.

xxii. On being asked that who prepared the e-way bill for import goods cleared for home consumption, he stated that they prepared the e-way bills after the clearance of goods. they would issue the invoice in the name of their customers or to their factory (if the goods are required for distillation) and arrange for logistics for transportation of the consignments to their destinations.

xxiii. On being asked to which firms was he connected to, and in which capacity, in India and abroad, he stated that he had been engaged in handling the factory of M/s GNPI, Haryana since 2008 without holding any stake, which had been proprietary firm in name of his father Sh. Ram Mehar Goyal since its inception year 2007. However, his father being of 75 years of age had not visited the factory but had been authorised signatory all along. his younger brother late Sh. Akash Goyal used to look after all the works like sales, purchase, imports and expansion of plants on behalf of their firm GNPI, however after his demise due to CORONA in May 2021, he was handling almost all the business of their firm M/s GNPI, Haryana having turnover of Rr.40-45 Cr. Per annum, they did not have any other firms in India. He further stated that, as for the units at foreign, he wanted to confirm that his brother Akash had exported a base oil plant of M/s MERCO Bahrain on contract basis, after supplying in CKD condition around 3-4 years ago, on condition that they will supply all of their Base Oil production at 10-15 USD lesser than market rates to them only. It was in fact proprietary firm of Bahrain nationals not known to them, but he communicated with Ashik/Kaisar/Walmik of that firm for their goods, agreement was dissolved around four-five months earlier. The other refinery of base oil M/s Akash International Impex, Bahrain was the factory under installation since last six months, which was a joint venture with his stake of 35% (non-funding partner) with Mr. Muslim Juma Ismail (associate or relative of M/s Al Nakheel Avenue Trading and Maintenance) with 55% stake and 10% stake of one Mr. Talish- who was manager of that firm. M/s Al Nakheel Avenue Trading and Maintenance Bahrain was only a supplier party who supplied goods on commission basis viz. 10-15 USD per ton.

xxiv. On being asked what was his stake in the foreign based firms Al Nakheel Avenue Trading and Maintenance & M/s MERCO Bahrain, why did he need to finalise the per ton rate of the products when he himself was associate of those foreign based firms and whether he had got any agreements, he stated that AlNakheel was supplier of Global Natural Petro Industries, Bahrain was not connected with them in any manner and that he wanted to confirm after reading the portion of Panchnama at my factory that there was mistake that he had been referred to as one of the partners of that firm and that they supplied them at market rates only.

xxv. On being asked if they or their firm had been booked for any case or violation of the Customs Act, 1962 or any court case in the past, he stated that he or his company had not been booked for any legal violations so far.

7. E-mail dated 04.09.2023 was sent to M/s Global Natural Petro Industries, requesting them to provide documents, which Shri Vikas Goel had assured to submit during his statement dated 09.08.2023, such as documents related to rejected stock of Bahrain govt, load port survey report, purchase invoices etc. in reply vide e-mail dated 05.09.2023, Shri Vikas Goel, informed that shipper had declined to share the documents related to reject stock of Bahrain govt. citing their internal policy. It was further informed by Shri Vikas Goel, through the above email that analysis was not done in every shipment. The same were being done randomly, hence no analysis/tests were done in both the subject consignments at Bahrain port and that he had already submitted all the required documents during his statement dated 09.08.2023.

8. Further summons was issued to M/s Global Natural Petro Industries and statement of Shri Vikas Goel, authorized person of M/s Global Natural Petro Industries was recorded on 25.09.2023 (**RUD-6**), wherein he was shown his statement dated 09.08.2023. during the said statement dated 25.09.2023, he interalia stated that:

- i. On being asked why had he not submitted the documents timely, as per his statement dated 09.08.2023 and whether he was submitting the same, he declined the same.
- ii. On being asked why was he not submitting documents as per his statement dated 09.08.2023, he stated that he had already submitted all the documents related to goods imported (i.e. commercial invoice, packing list, certificates of analysis, copies of swift remittance made to shipper). As the shipper had denied sharing the documents related to the rejected stock of Bahrain govt. imported by them, as those documents were their purchase documents and they could not share with them due to their internal policy or they did not want to share their purchase document, invoice or other related documents. The shipper had told them that there was no analysis done in every shipment, and the analysis/test was done randomly. He further stated that no analysis done at Bahrain port in both the consignments.
- iii. On being apprised that in the answer no. 5 of the statement dated 09.08.2023, he had agreed to the test results issued for container no. GESU5519415 for test memo no. 65/2023 and issued for container no. GESU5252756 for the test memo no. 71/2023, declaring the products as "other than base oil/diesel" by the Kandla Customs Laboratory and that he had also said that he did not know the actual oil contained in those two barrels from which sample were drawn, and being asked if he had discussed about the goods and the test reports with the shipper, he stated that he had confirmed with his shipper who had informed him that the goods were base oil only, however he had not provided the test reports or purchase invoices in respect of the same. He further requested that re-sampling and re-testing of the goods from the subject consignments.
- iv. On being apprised that in his statement dated 09.08.2023, he had agreed to the test reports of Kandla Customs laboratory in respect of test memo no. 83/2023 to 92/2023 in respect of goods which were shipped in Flexi Tanks, where the test reports showed that the goods were actually chlorinated water, asked to explain, he stated that he had agreed to the same as sometimes the supplier mixed water with the goods while shipping, however, on being inquired by him after the statement dated 09.08.2023, the shipper had claimed that the flexi tanks were packed with base oil only. He further stated that as requested by him in the answer to previous question, he was again requesting for re-sampling and re-testing of the subject goods.

9. As requested by Shri Vikas Goel during his statement dated 25.09.2023, fresh samples for re-testing were drawn from the subject 2 consignments, under panchnama dated 14.10.2023 (**RUD-7**), in presence of Shri Vikas Goel, authorized person of the importer and Shri Satish Maheshwari, authorized person of the Customs Broker M/s Continental

Shipping Services, after approval of the competent authority as per the instructions laid out in the CBIC Circular No. 30/2017-Cus. Dated 18.07.2017. The said samples were then sent to CRCL, New Delhi, being the designated laboratory for re-testing purpose. Further, since the goods appeared to have been mis-declared as per the test reports of Customs Kandla, the goods covered under the subject 2 Bills of Entry were put under seizure on 16.11.2023. Additionally, the competent authority was requested to grant extension in issuance of SCN for further 6 months, which was granted vide letter dated 22.11.2023 (RUD-8).

10. The CRCL, Delhi submitted their test reports vide letters dated 24.11.2023 (RUD-9 Collectively) in respect of 10 containers covered under BE No. 6058265 dated 22.05.2023 and vide letters dated 09.01.2024 in respect of 10 containers covered under BE No. 6058200 dated 22.05.2023 (RUD-10 Collectively). as per the above test reports of CRCL, Delhi, the test results of the re-testing are as given in below table:

Bill of Entry No. 6058200 Dated 22.05.2023 (Cargo in Barrels)-CTH 27101971-Base Oil							
Sr. No.	Container No (40 feet)	Test memo No.	Density	Ash Content	Viscosity Index	Flash Point °C	Outcome of lab report
1	CRSU9135960	202/2023	878.1	Nil	55.95	128.5	Base Oil (Naphthenic)
		203/2023	878.7	0.07	54.75	134.4	Base Oil (Naphthenic)
2	CRSU9141475	188/2023	885.2	0.18	48.56	146.4	Lubricating Oil
		189/2023	917.3	19.21	290.27	128.5	Lubricating Oil
3	GESU5098419	186/2023	869.1	0.07	69.26	139.4	Lubricating Oil
		187/2023	886.2	7.02	173.06	142.4	Lubricating Oil
4	GESU5252756	200/2023	884.1	Nil	49.29	142	Base Oil (Naphthenic)
		201/2023	869.9	Nil	65.22	133.5	Base Oil (Naphthenic)
5	GESU5519415	198/2023	857.3	0.04	139.15	194	Lubricating Oil
		199/2023	862.2	0.18	118.98	199.5	Lubricating Oil
6	GESU5520930	190/2023	883.8	0.2	59.47	132.5	Base Oil (Naphthenic)
		191/2023	899.5	16.21	261	139.4	Lubricating Oil
7	GESU5532567	196/2023	888.1	Nil	38.86	145.4	Base Oil (Naphthenic)
		197/2023	852.2	Nil	85.76	148	Base Oil
8	HJCU1580159	194/2023	882	Nil	47.33	129.4	Base Oil (Naphthenic)
		195/2023	882.9	Nil	48.65	135.4	Base Oil (Naphthenic)
9	TFLU4954124	192/2023	867	Nil	70.37	153	Base Oil (Naphthenic)
		193/2023	884.4	Nil	42.34	141	Base Oil (Naphthenic)
10	UESU5040365	204/2023	875.7	Nil	61.24	132.4	Base Oil (Naphthenic)
		205/2023	885.7	Nil	41.76	131.4	Base Oil (Naphthenic)

Bill of Entry No. 6058265 Dated 22.05.2023 (Cargo in Flexi Tank) -CTH 27101971-Base Oil							
Sr. No.	Container No (40 feet)	Test memo No.	Density	Ash Content	Sulphur Content (mg/kg)	Flash Point ©	Outcome of lab report
Requirement for Automotive Diesel Fuel As per IS 1460:2017			815-845	0.01 Max	10-50 ppm	Min. 35	
1	APZU3275504	206/2023	821.6	0.006	28.45	44.5	Automotive Diesel Fuel

2	CXDU1051493	207/2023	825.9	0.18	18.64	64	Fraction)
3	MSCU2680937	208/2023	807.2	Nil	874.05	40.25	Distillate Oil (Diesel Fraction)
4	TCKU2845498	209/2023	804.7	0.008	899.5	25.7	Distillate Oil (Diesel Fraction)
5	TCLU2272304	210/2023	812	Nil	341.84	39.7	Distillate Oil (Diesel Fraction)
6	TCLU2538713	211/2023	825	Nil	170.36	59	Distillate Oil (Diesel Fraction)
7	TCLU3547941	212/2023	801.2	Nil	824.1	43.05	Distillate Oil (Diesel Fraction)
8	TLLU8237741	213/2023	824.1	Nil	1351.63	57.4	Distillate Oil (Diesel Fraction)
9	TLLU8440553	214/2023	821.1	Nil	143.84	57.8	Distillate Oil (Diesel Fraction)
10	TLLU8468801	215/2023	821.2	Nil	145.12	57.5	Distillate Oil (Diesel Fraction)

11. Further summons was issued to M/s Global Natural Petro Industries and statement of Shri Vikas Goel, authorized person of M/s Global Natural Petro Industries was recorded on 24.01.2024 (**RUD-11**), wherein he was shown his earlier statements dated 09.08.2023 and 25.09.2023. during the said statement dated 24.01.2024, he interalia stated that:

- i. On being shown re-test reports in respect of 20 samples pertaining to 10 containers imported by M/s Global Natural Petro Industries under Bill of Entry No. 6058200 dated 22.05.2023; issued by Central Revenue Control Laboratory, New Delhi vide letters F. No. 26-Cus/C-71/2023-24/127,129,133,131,135 dated 09.01.2024 and asked to comment, he submitted that he had gone through the said test reports in respect of the said 10 containers imported by their firm M/s Global Natural Petro Industries and put his dated signature on the test reports in token of having seen and understood the same. He further stated that he understood that the test reports were in respect of re-testing of the goods imported by their firm M/s Global Natural Petro Industries under Bill of Entry No. 6058200 dated 22.05.2023, which he had requested in his earlier statement dated 25.09.2023, for which re-sampling under Panchnama 14.10.2023 dated was carried out in his presence.
- ii. On being asked to comment on the results of the test reports shown to him, he agreed to the test reports and stated that the test reports stated that each of the 20 samples in respect of 10 containers, imported under Bill of Entry No. 6058200 dated 22.05.2023, was mainly composed of mineral hydrocarbon oil, having mineral oil content more than 70% by weight and that the test reports showed that out of the 20 samples in respect of 10 containers, report of 1 sample was Base Oil; 12 samples were Base Oil (Naphthenic) and 7 samples were Lubricating Oil. He further stated that the test reports showed that the samples did not meet the requirement of Automotive Diesel Fuel as per IS 1460:2017.
- iii. On being asked how did he place the order for the consignment imported under Bill of Entry No. 6058200 dated 22.05.2023, he stated that he placed order through telephonic conversation with his supplier M/s Middle East Recycling Company WLL (MERCO), Bahrain.
- iv. On being asked to share the details and specifications of the goods in respect of the order placed by him with his supplier M/s Middle East Recycling Company WLL

(MERCO), Bahrain for the consignment imported under Bill of Entry No. 6058200 dated 22.05.2023, he stated that he placed order for Base Oil (SN-150) with his supplier M/s Middle East Recycling Company WLL (MERCO), Bahrain who was their regular supplier for last 4 years. He used to receive Certificate of Analysis from his supplier before placing the order. If he was satisfied with the specifications in the Certificate of Analysis, He used to place the order telephonically with them.

- v. On being asked how many consignments had they imported from the supplier M/s Middle East Recycling Company WLL (MERCO), Bahrain in the past, before the subject import consignment, he stated that M/s Middle East Recycling Company WLL (MERCO), Bahrain was their supplier since last 4 years and they had been importing regularly from them in the last 4 years.
- vi. On being asked as to whom they had sold the goods imported earlier from the supplier M/s Middle East Recycling Company WLL (MERCO), Bahrain and what was the end use of the goods imported by them from M/s Middle East Recycling Company WLL (MERCO), Bahrain in the said consignment, he stated that they had not sold the goods imported earlier from the supplier M/s Middle East Recycling Company WLL (MERCO), Bahrain, directly to anyone. They used to process the goods imported from M/s Middle East Recycling Company WLL (MERCO), Bahrain in their refinery at Bahadurgarh, Haryana, and produce Lubricating Oil, Base Oil and Process Oil. They sold the Lubricating Oil, Base Oil and Process Oil produced in their refinery to the local market as per demand. The Lubricating Oil, Base Oil and Process Oil produced in their refinery, could be used in automotive industry as grease, lubricating oil, engine oil, gear oil, brake fluid, hydraulic oil etc.
- vii. On being asked if he had imported such goods earlier from other supplier too, he stated that he had imported such goods earlier from other suppliers located in M/s Nizab Oil Traders, Algeria; M/s Qatar Reclamation, Qatar; M/s Sunflex, UAE; and M/s Prime Traders, Oman.
- viii. On being apprised that in the test reports shown at Q.1 of the said statement, it was seen that 7 samples are shown as Lubricating Oil and being asked as to why had he imported Lubricating Oil by mis-declaring the same as Base Oil, he stated that in his opinion, Base Oil had a very broad range of parameters, which also includes Lubricating Oil. They had placed orders as per specifications shown in the Certificate of Analysis of Base Oil sent by their suppliers. As per the specifications, the goods might appear to have specifications of other lubricating oil during testing, however, they had placed order for Base Oil only. He further stated that they had also imported Lubricating Oil in other consignment, which was declared by them as "lubricating oil" and they placed order for "lubricating oil" only, while importing the same.
- ix. On being apprised that as per the test reports, 12 samples had been declared as "Base Oil (Naphthenic)" and asked to explain the difference between Base Oil and "Base Oil (Naphthenic)", he stated that as stated by him earlier in the statement, Base Oil had a very broad range of parameters, it might be possible that the Base Oil contained some impurities, hence the same had been declared as "Base Oil (Naphthenic)", however, he had imported goods, which is "Base Oil" only, as per orders placed with his supplier.
- x. On being shown re-test reports in respect of 10 samples drawn from the 10 containers imported by M/s Global Natural Petro Industries under Bill of Entry No. 6058265 dated 22.05.2023; issued by Central Revenue Control Laboratory, New Delhi vide letters F. No. 26-Cus/C-71/2023-24 dated 24.11.2023 and asked to comment, he stated that he had gone through the said test reports in respect of 10 samples in respect of the said 10 containers imported by their firm M/s Global Natural Petro Industries and put his dated signature on the test reports in token of having seen and

understood the same. He further stated that he understood that the test reports were in respect of re-testing of the goods, which he had requested in my earlier statement dated 25.09.2023, for which re-sampling under Panchnama was carried out in his presence.

- xi. On being asked to comment on the results of the test reports shown to him, in respect of 10 samples drawn from the 10 containers imported by M/s Global Natural Petro Industries under Bill of Entry No. 6058265 dated 22.05.2023, he stated that he agreed to the test reports issued by the CRCL, New Delhi and that the test reports stated that each of the 10 samples was mainly composed of mineral hydrocarbon oil, having mineral oil content more than 70% by weight. The test reports showed that the samples in respect of the 10 containers are other than Base Oil. He further stated that the test reports showed that out of the 10 containers, sample of one container having no. APZU3275504 meets the requirements of Automotive Diesel Fuel as per IS 1460:2017 and in respect of remaining 9 containers, the reports were showing that the samples do not meet the requirement of Automotive Diesel Fuel as per IS 1460:2017 in various aspects such as Flash Point, Ash Content, Density, Sulphur Content etc. In the end, it was shown that, each of the 10 samples in Distillate Oil (Diesel Fraction).
- xii. On being asked as to how did he place the order for the consignment imported under Bill of Entry No. 6058265 dated 22.05.2023, he stated that he placed order through telephonic conversation with his supplier M/s Al Nakheel Avenue Trading and Maintenance, Bahrain.
- xiii. On being asked to share the details and specifications of the goods in respect of the order placed by him with his supplier M/s Al Nakheel Avenue Trading and Maintenance, Bahrain for the consignment imported under Bill of Entry No. 6058265 dated 22.05.2023, he stated that he placed order for Base Oil (SN-70) with his supplier. He had received Certificate of Analysis from his supplier before placing the order. After being satisfied with the specifications in the Certificate of Analysis, he had placed the order for Base Oil with M/s Al Nakheel Avenue Trading and Maintenance, Bahrain.
- xiv. On being asked how many consignments had he imported from the supplier M/s Al Nakheel Avenue Trading and Maintenance, Bahrain in the past, before the subject consignment, he stated that he had imported only one consignment from M/s Al Nakheel Avenue Trading and Maintenance, Bahrain, before the current consignment.
- xv. On being asked as to whom had he sold the goods imported earlier from the supplier M/s Al Nakheel Trading and Maintenance, Bahrain and what was the end use of the goods imported by him, from M/s Al Nakheel Avenue Trading and Maintenance, Bahrain in the said consignment, he stated that they had sold the said import goods imported earlier from M/s Al Nakheel Trading and Maintenance, Bahrain to M/s Rudraksh Traders, Gandhidham; M/s Neutral Energy, Delhi; and Shri Shyam Impex, Sirsa. The goods are used in manufacturing of grease, shocker oil, brake oil and lubricating oil for shuttering etc.
- xvi. On being asked if he had imported such goods earlier from other supplier too, he stated that he had not imported such goods earlier from any other supplier.
- xvii. On being asked if he was aware that import of import of Automotive Diesel Fuel into India was restricted and only allowed through license and why had he imported the same without a license, he stated that he was aware that import of Automotive Diesel Fuel into India was restricted and only allowed through license. He further stated that he had not imported Automotive Diesel Fuel, as he had placed orders for Base Oil only. The test reports had shown that sample in respect of only one container was having Automotive Diesel Fuel as per IS 1460:2017 and remaining 9 samples did not meet the requirement of Automotive Diesel Fuel as per IS 1460:2017 in various

aspects such as Flash Point, Ash Content, Density, Sulphur Content etc and that the report also stated that each of the 10 samples was Distillate Oil (Diesel Fraction). He further stated that that the goods in one container, which was said to contain Automotive Diesel Fuel as per IS 1460:2017 might have been loaded by mistake by their supplier, since they were dealing in all kind of petroleum products.

xviii. On being asked whether he understood that they had violated the provisions of the Customs Act, 1962 by mis-declaring 'Lubricating Oil' as Base Oil in import consignment covered under Bill of Entry No. 6058200 dated 22.05.2023 and import of restricted item i.e. Automotive Diesel Fuel in import consignment covered under Bill of Entry No. 6058265 dated 22.05.2023, he stated that for the "Lubricating Oil" found in 7 samples pertaining to 6058200 dated 22.05.2023, he wanted to state again that Base Oil had a very broad range of parameter, which also included Lubricating Oil. They had placed orders as per specifications shown in the Certificate of Analysis of Base Oil sent by their suppliers. As per the specifications, the goods might appear to have specifications of other lubricating oil during testing, however, they had placed order for Base Oil only. He further stated that they had also imported Lubricating Oil in other consignment, which was declared by them as "lubricating oil" and they had placed order for "lubricating oil" only, while importing the same. Further, there was no difference in duty on Base Oil and Lubricating Oil, hence they had not made any mis-declaration to evade any duty on the same.

In respect of test reports of samples pertaining to Bill of Entry no. 6058265 dated 22.05.2023, he stated that he agreed that restricted goods i.e. Automotive Diesel Fuel had been found in one container no. APZU3275504 imported under Bill of Entry No. 6058265 dated 22.05.2023, as per the test reports shown to him at (ix) above. He, however, wanted to state that the same must have been loaded mistakenly by the supplier, as samples in respect of remaining 9 containers imported under same Bill of Entry did not meet the requirements of Automotive Diesel Fuel as per IS 1460:2017, as per the same test reports. Further, he stated that if any liability to pay any penalty or fine, as per the provisions of the Customs Act, 1962, arised, for any violations, which might have happened mistakenly in the import of both the subject consignments imported by their firm M/s Global Natural Petro Industries, He would pay the same, as and when required.

12. Statement of Shri Satish Maheshwari, Authorised person of the Custom Broker M/s Continental Shipping Services, Mundra was recorded on 01.03.2024 (**RUD-12**), wherein the following documents were shown to him:

- a. Panchnama dated 29.05.2023 and 30.05.2023 drawn at M/s CWC CFS, Mundra in respect of examination of goods covered under Bills of Entry no. 6058200 dated 22.05.2023 and 6058265 dated 22.05.2023.
- b. Statement of Shri Vikas Goel dated 09.08.2023.
- c. Test reports bearing no. DRI 2903 to DRI 2932 of Customs Laboratory Kandla.
- d. Statement of Shri Vikas Goel dated 25.09.2023.
- e. Panchnama dated 14.10.2023 drawn at M/s CWC CFS, Mundra in respect of re-sampling
from goods covered under Bills of Entry no. 6058200 dated 22.05.2023 and 6058265 dated 22.05.2023.
- f. Test reports of CRCL Delhi issued vide letters F. No. 26-Cus/C-71/2023 24/127,129,133,131,135 dated 09.01.2024 in respect of Bill of Entry No. 6058200 dated 22.05.2023 and F. No. 26-Cus/C-71/2023-24 dated 24.11.2023 in respect of Bill of Entry No. 6058265 dated 22.05.2023.

During the said statement dated 01.03.2024, Shri Satish Maheshwari, interalia stated that:

- i. On being asked Since when he was working as a Customs Broker for M/s Global natural Petro Industries he stated that they had been working as Customs Broker for M/s Global Natural Petro Industries since 2022.
- ii. On being asked as to how many consignments had he handled for M/s Global Natural Petro Industries, prior to the subject two consignments, he stated that he had handled around 14-15 consignments of Base Oil prior to subject two consignments for M/s Global Natural Petro Industries.
- iii. On being asked as to what documents were sought by them from the importer M/s Global Natural Petro Industries for clearance of import consignments on behalf of them, he stated that they asked for KYC, Bills of Lading, Packing List, Invoice, Analysis Report etc. in respect of each consignment for clearance of import consignment.
- iv. On being apprised that he had been shown test reports issued by Customs Laboratory, Kandla in respect of goods covered under Bill of Entry No. 6058265 dated 22.05.2023 imported by M/s Global Natural Petro Industries, wherein it has been mentioned that goods under testing was "Chlorinated Water" and being asked to comment, he stated that he was not aware of the specifications of the goods imported by the importer. they only handled the clearance of import consignment on the basis of documents provided by the importer.
- v. On being apprised that been shown re-testing reports of CRCL, Delhi, in respect re-testing of import consignment imported by M/s Global Natural Petro Industries, covered under Bills of Entry No. 6058200 dated 22.05.2023, wherein the goods in the said consignment have been found as Lubricating Oil/ Base Oil (Naphthenic) and being asked to comment, he stated that as he had stated earlier, he was not aware of the specifications of the goods imported by the importer. they only handled the clearance of import consignment on the basis of documents provided by the importer.
- vi. On being asked whether he understood that M/s Global Natural Petro Industries had violated the provisions of the Customs Act, 1962, by importing Lubricating Oil/Base oil (naphthenic) mis-declaring the same as Base Oil, he stated that he had seen and understood the test reports, however he was not aware as to why M/s Global Natural Petro Industries have imported Lubricating Oil/Base oil (naphthenic) mis-declaring the same as Base Oil.
- vii. On being apprised that he had been shown re-testing reports of CRCL, Delhi, in respect re-testing of import consignment imported by M/s Global Natural Petro Industries, covered under Bills of Entry No. 6058225 dated 22.05.2023, wherein the goods in the said consignment have been found as Automotive Diesel Fuel/ Distillate Oil (Diesel Fraction) and being asked to comment, he stated that he had seen and understood the test reports and found that in one container the test reports declared the sample as Automotive Diesel Fuel and Distillate Oil (diesel Fraction) in respect of remaining 9 containers. However, he stated that he was provided documents for Base Oil only and filed Bill of Entry for the same only.
- viii. On being asked whether he was aware that the import of Automotive Diesel fuel into India is restricted and only allowed through licenses, he agreed and stated that he was aware that import of Automotive Diesel Fuel was restricted and cannot be imported into India by any importer without license.
- ix. On being asked whether M/s Global Natural Petro Industries had not violated the provisions of the Customs Act, 1962 by importing restricted petroleum product without a proper license, he stated that he agreed that M/s Global Natural Petro Industries had violated the provisions of Customs act, 1962 by importing restricted petroleum product.
- x. On being asked if he had anything else to state, he stated that he did not have

anything else to state other than that they had filed all the documentation for import clearance on behalf of importer M/s Global Natural Petro Industries, on the basis of documents provided by them only.

Findings of the investigation

13. M/s Global Natural Petro Industries, GR-10, Ganpati Dham Industrial Area, Village Sankhal, Bahadurgarh, Jhajjar, Haryana, imported Bills of Entry No. 6058200 and 6058265, both dated 22.05.2023, with the goods declared as "Base Oil" at Mundra Port. On the basis of the intelligence received, the consignment was put on hold by the DRI and the subject consignments were examined by the officers of the DRI under panchnamas dated 29.05.2023 and 30.05.2023, respectively at CWC CFS, Mundra. During the examination proceedings, representative samples were drawn from the consignments, which were sent to CRCL, Kandla for testing.

14. CRCL, Kandla in their reports issued vide letter dated 19.07.2023 declared that the samples drawn from the containers covered under Bills of Entry No. 6058200 dated 22.05.2023 were Base Oil/Synthetic Oil/Other than Base Oil/Diesel, while samples drawn from the containers covered under Bills of Entry No. 6058265 dated 22.05.2023 were chlorinated water. Accordingly, summons was issued to the importer for tendering statement.

15. Statement of Shri Vikas Goyal, Authorised Person the importer was recorded on 09.08.2023, wherein he was shown the test reports of the CRCL Kandla and was asked to explain the test reports, wherein goods were declared to be synthetic oil, other than Base Oil/Diesel, and Chlorinated water. Shri Vikas Goyal failed to provide any satisfactory explanation in respect of the test results. However, he claimed that he had only placed order for Base Oil only. Further, he assured that he will obtain Load Port survey report, detailed packing list, purchase invoices etc. from the supplier. He also assured that he will provide the documents related to the goods being the rejected stock of Bahrain Govt.

16. Email and repeated reminders were sent to the importer requesting to appear and provide documents as assured by Shri Vikas Goyal during statement dated 09.08.2023, however no such documents were received from the importer. Further the importer was issued summons, and further statement of Shri Vikas Goyal was recorded on 25.09.2023, wherein he stated that he could not provide the documents assured by him during statement dated 09.08.2023, as the exporter had declined to share the same citing their internal policy. He further stated that the supplier had informed him that testing/analysis was done randomly and no testing was done at Bahrain Port in both the consignments. He further stated that he did not know the goods wherein the goods were declared as "other than base oil/diesel" by CRCL, Kandla, and requested that re-sampling and re-testing of the goods may be done in respect of both the consignments. On being asked to explain the test report of CRCL, Kandla wherein goods were declared as chlorinated water, he failed to explain the same satisfactorily, however, he requested that re-sampling and re-testing from the consignments may be done.

17. After approval of the competent authority as per the instructions laid out in the CBIC Circular No. 30/2017-Cus. Dated 18.07.2017, re-sampling proceedings were carried out under panchnama dated 14.10.2023, at CWC CFS Mundra. During the said panchnama, fresh representative samples were drawn from the subject two consignments. The said samples were then sent to the CRCL, New Delhi for testing. The CRCL, Delhi submitted their test reports vide letters dated 24.11.2023 in respect of 10 containers covered under

BE No. 6058265 dated 22.05.2023 and vide letters dated 09.01.2024 in respect of 10 containers covered under BE No. 6058200 dated 22.05.2023. as per the above test reports of CRCL, Delhi, the test results of the re-testing are as given in below table:

Bill of Entry No. 6058200 Dated 22.05.2023 (Cargo in Barrels)-CTH 27101971-Base Oil							
Sr. No.	Container No (40 feet)	Test memo No.	Density	Ash Content	Viscosity Index	Flash Point °C	Outcome of lab report
1	CRSU9135960	202/2023	878.1	Nil	55.95	128.5	Base Oil (Naphthenic)
		203/2023	878.7	0.07	54.75	134.4	Base Oil (Naphthenic)
2	CRSU9141475	188/2023	885.2	0.18	48.56	146.4	Lubricating Oil
		189/2023	917.3	19.21	290.27	128.5	Lubricating Oil
3	GESU5098419	186/2023	869.1	0.07	69.26	139.4	Lubricating Oil
		187/2023	886.2	7.02	173.06	142.4	Lubricating Oil
4	GESU5252756	200/2023	884.1	Nil	49.29	142	Base Oil (Naphthenic)
		201/2023	869.9	Nil	65.22	133.5	Base Oil (Naphthenic)
5	GESU5519415	198/2023	857.3	0.04	139.15	194	Lubricating Oil
		199/2023	862.2	0.18	118.98	199.5	Lubricating Oil
6	GESU5520930	190/2023	883.8	0.2	59.47	132.5	Base Oil (Naphthenic)
		191/2023	899.5	16.21	261	139.4	Lubricating Oil
7	GESU5532567	196/2023	888.1	Nil	38.86	145.4	Base Oil (Naphthenic)
		197/2023	852.2	Nil	85.76	148	Base Oil
8	HJCU1580159	194/2023	882	Nil	47.33	129.4	Base Oil (Naphthenic)
		195/2023	882.9	Nil	48.65	135.4	Base Oil (Naphthenic)
9	TFLU4954124	192/2023	867	Nil	70.37	153	Base Oil (Naphthenic)
		193/2023	884.4	Nil	42.34	141	Base Oil (Naphthenic)
10	UESU5040365	204/2023	875.7	Nil	61.24	132.4	Base Oil (Naphthenic)
		205/2023	885.7	Nil	41.76	131.4	Base Oil (Naphthenic)

Bill of Entry No. 6058265 Dated 22.05.2023 (Cargo in Flexi Tank) -CTH 27101971-Base Oil							
Sr. No.	Container No (40 feet)	Test memo No.	Density	Ash Content	Sulphur Content (mg/kg)	Flash Point ©	Outcome of lab report
Requirement for Automotive Diesel Fuel As per IS 1460:2017			815-845	0.01 Max	10-50 ppm	Min. 35	
1	APZU3275504	206/2023	821.6	0.006	28.45	44.5	Automotive Diesel Fuel
2	CXDU1051493	207/2023	825.9	0.18	18.64	64	Distillate Oil (Diesel Fraction)
3	MSCU2680937	208/2023	807.2	Nil	874.05	40.25	Distillate Oil (Diesel Fraction)
4	TCKU2845498	209/2023	804.7	0.008	899.5	25.7	Distillate Oil (Diesel Fraction)
5	TCLU2272304	210/2023	812	Nil	341.84	39.7	Distillate Oil (Diesel Fraction)
6	TCLU2538713	211/2023	825	Nil	170.36	59	Distillate Oil (Diesel Fraction)

7	TCLU3547941	212/2023	801.2	Nil	824.1	43.05	Distillate Oil (Diesel Fraction)
8	TLLU8237741	213/2023	824.1	Nil	1351.63	57.4	Distillate Oil (Diesel Fraction)
9	TLLU8440553	214/2023	821.1	Nil	143.84	57.8	Distillate Oil (Diesel Fraction)
10	TLLU8468801	215/2023	821.2	Nil	145.12	57.5	Distillate Oil (Diesel Fraction)

18. Further summons was issued to the importer, and the statement of Shri Vikas Goyal was recorded on 24.01.2024, wherein he was shown the test reports of CRCL, New Delhi and was asked to explain the test reports. During the statement, on being asked to explain the test report showing the sample as lubricating oil, Base Oil (Naphthenic) and Automotive Diesel Fuel, he claimed to placed order for Base Oil only. He stated that he had not imported lubricating oil, as Base Oil had a very broad range of parameters, which also included Lubricating Oil and they had imported lubricating oil in the past declaring the same as lubricating oil only. He further stated that, since Base Oil had a very broad range of parameters and it might have been possible that the Base Oil contained some impurities, hence the same had been declared as "Base Oil (Naphthenic)". As for the test report which showed the sample as Automotive Diesel Fuel, he stated that the same must have been loaded mistakenly by the supplier, as samples in respect of remaining 9 containers imported under same Bill of Entry did not meet the requirements of Automotive Diesel Fuel as per IS 1460:2017, as per the same test reports. However, it appeared that Shri Vikas Goyal did not have any evidence or documents in support of his claim. Further, he stated that if any liability to pay any penalty or fine, as per the provisions of the Customs Act, 1962, arised, for any violations, which might have happened mistakenly in the import of both the subject consignments imported by their firm M/s Global Natural Petro Industries, He would pay the same, as and when required.

19. Shri Satish Maheshwari, authorized person of the Customs Broker M/s Continental Shipping Services, during his statement dated 01.03.2024, stated that he did not have any information regarding the specifications of the goods contained in the subject two consignments and they had filed the Bills of Entry on the basis of documents provided by the importer.

20. From the facts discussed in the foregoing paras it is evident that the importer had willfully mis-declared the cargo imported by them in the consignments covered under both the subject Bills of Entry bearing No. 6058200 and 6058265, both dated 22.05.2023, imported at Mundra Port. Further, the importer did not provide the documents from load port showing the actual nature of the goods, and/or test reports/analysis reports of the load port, and had tried to mislead the investigation. The authorized person of the importer was also unable to provide any satisfactory evidence or explanation in support of his claim that he had placed orders for Base Oil only. Further, Shri Vikas Goyal claimed that the Automotive Diesel Fuel might have been loaded mistakenly at the part of supplier due to the supplier dealing in various petroleum products, and that he had not placed order for said goods, however he did not provide any further satisfactory evidence/explanation in support of said claim. Further, no significant facts/information were found in the documents recovered during search dated 24.05.2023 and the data recovered from the mobile devices seized during the said search.

21. From the above, it appears that importer has deliberately misclassified the goods under HSN Code 27101971, However the same appears to be classified under HSN Code 27101971 for lubricating oil, 27101990 for base oil (Naphthenic), HSN Code 27101944 for

Automotive diesel fuel and 27101961 in light of test report issued by CRCL, New delhi, as mentioned para 17. The relevant portion of HSN code 2710 is being reproduced here for reference purpose:-

2710 PETROLEUM OILS AND OILS OBTAINED FROM BITUMINOUS MINERALS, OTHER THAN CRUDE; PREPARATIONS NOT ELSEWHERE SPECIFIED OR INCLUDED, CONTAINING BY WEIGHT 70% OR MORE OF PETROLEUM OILS OR OF OILS OBTAINED FROM BITUMINOUS MINERALS, THESE OILS BEING THE BASIC CONSTITUENTS OF THE PREPARATIONS; WASTE OILS

Tariff	Description of goods	Unit	Rate of Duty
--- Base oil and lubricating oil:			
2710 19 71	---- Base oil	kg.	**5%
2710 19 79	---- Other lubricating oil, not conforming to any BIS standard	Kg.	**5%
2710 19 44	---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	**2.5%-
2710 19 61	---- Distillate oil	kg.	**5%
2710 19 90	--- Other	kg	5%

22. It is evident from the facts discussed in the foregoing paras, and Test reports received from the CRCL, Kandla as well as from the CRCL, New Delhi that the goods under import in the both consignments were not Base Oil. Plain reading of both the test reports would indicate that the goods in respect of Both the subject consignments were mis-declared in the Bills of the Entry filed by the importer at Mundra Port. In terms of Section 46(4) of the Customs Act, 1962, the importer while presenting the Bill of Entry should make and subscribe to a declaration as to the truth of the contents of such bill of entry and should, in support of such declaration, produce to the proper officer, the invoice and such other documents relating to the imported goods. Further, as per Section 46(4A) of the Customs Act, 1962, the importer, who is presenting the bill of entry should ensure the accuracy and completeness of the information given therein, the authenticity and validity of any document supporting it; and compliance with the restriction or prohibition, if any, relating to the goods under the Customs Act, 1962 or under any other law for the time being in force. In the instant case, the importer has failed to ensure proper compliance with the provisions of Section 46(4) and (4A) of the Customs Act, 1962. Hence, the goods imported by the importer have been wrongly described as Base Oil in the bill of entry with claim of classification under CTH No. 27101971 by the importer was with only aim to mis-declare the imported goods and thereby to mislead the assessment of the imported goods at Mundra Customs. Such indulgence on the part of the importer is in violation of the provisions of Section 46 of the Customs Act, 1962, irrespective of the importability of the impugned goods and other aspects involved in the case, which may make the said goods liable for confiscation in terms of Section 111(m) of the Customs Act, 1962.

23. Para 2.01 of the Foreign Trade Policy 2015-2020 as extended which was notified under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992, prescribed as follow:

"(a) Exports and Imports shall be 'Free' except when regulated by way of 'prohibition', 'restriction' or 'exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports....."

(b) Further, there are some items which are 'free' for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force."

Further, As per the Policy condition (2) of the ITC (HS) for Exports and Imports 2015-2020 for chapter 27,

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."

Furthermore, as per the Policy condition (5) of the ITC (HS) for Exports and Imports 2015-2020 for chapter 27,

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."

The imported M/s Global Natural Petro Industries, have imported Automotive Diesel fuel in the consignment covered under Bill of Entry No. 6058265 Dated 22.05.2023, however they are not a STE or having license/rights for marketing of transportation fuels. Thus, the said import by the importer M/s Global Natural Petro Industries, is in violation of the Policy Condition specified for Automotive Diesel Fuel, therefore tendering the said goods liable for confiscation under 111(d) of the Customs Act, 1962.

24. Valuation

24.1 Rule 12 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007, is reproduced below:

"Rule 12. Rejection of declared value . -

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

(2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation. -

(1) For the removal of doubts, it is hereby declared that: -

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.

(ii) The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.

(iii) The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include -

- (a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;*
- (b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;*
- (c) the sale involves special discounts limited to exclusive agents;*
- (d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;*
- (e) the non-declaration of parameters such as brand, grade, specifications that have relevance to value;*
- (f) the fraudulent or manipulated documents. " "*

24.2 Therefore, since the import goods imported by M/s Global Natural Petro Industries covered under the subject 2 Bills of Entry, appear to be mis-declared in respect of Description and Nature, the value such declared by the importer M/s Aparna Electricals is liable to be rejected as per the provisions of Rule 12 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007.

24.3. Further, Section 14 of the Customs Act, 1962, which provides for the valuation of goods, is reproduced below:

"Section 14. Valuation of goods. -

(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

Provided further that the rules made in this behalf may provide for,-

- (i) the circumstances in which the buyer and the seller shall be deemed to be related;
- (ii) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;
- (iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section:

2[(iv) the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the Board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria]

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

(2) Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation. - For the purposes of this section -

(a) "rate of exchange" means the rate of exchange -

(i) determined by the Board, or

(ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(b) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).]

24.4 Further, Rule 3 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007 provides that,

(1) Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10;

(2) *Value of imported goods under sub-rule (1) shall be accepted:*

Provided that -

(a) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which -

- (i) are imposed or required by law or by the public authorities in India; or*
- (ii) limit the geographical area in which the goods may be resold; or*
- (iii) do not substantially affect the value of the goods;*

(b) the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of rule 10 of these rules; and

(d) the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.

(3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.

(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time.

(i) the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India;

(ii) the deductive value for identical goods or similar goods;

(iii) the computed value for identical goods or similar goods:

Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the seller in sales in which he and the buyer are not related;

(c) substitute values shall not be established under the provisions of clause (b) of this sub-rule.

(4) if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

24.5 Therefore, Rule 4, 5 and 12 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007, are being reproduced below:

"Rule 4. Transaction value of identical goods. -

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

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(b) *In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.*

(c) *Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.*

(2) *Where the costs and charges referred to in sub-rule (2) of rule 10 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and means of transport.*

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

Rule 5. Transaction value of similar goods. -

(1) *Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:*

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

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

Rule 12. Rejection of declared value. -

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

(2) *At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).*

Explanation. –

(1) For the removal of doubts, it is hereby declared that: -

- (i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.*
- (ii) The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.*
- (iii) The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include -*
 - (a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;*
 - (b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;*
 - (c) the sale involves special discounts limited to exclusive agents;*
 - (d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;*
 - (e) the non-declaration of parameters such as brand, grade, specifications that have relevance to value;*
 - (f) the fraudulent or manipulated documents*

Since the goods have been mis-declared in respect of description, the exact value of the said goods cannot be determined. However, import data related to identical/similar goods being imported into India is available in respect of Base Oil, Base Oil (Naphthenic) & Lubricating Oil and the Base Price of Automotive Diesel Fuel is available on the website of the STEs in India, declared value of the goods covered under the subject two Bills of Entry by the importer is liable to be rejected as per the provisions of the Rule 12 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007, and the same is to be re-determined as per the provisions of Rule 3, 4 and 5 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007.

24.6 As discussed in the foregoing paras, test reports submitted by the CRCL Delhi, in respect of the samples of the consignment covered under Bill of Entry No. 6058200 Dated 22.05.2023, goods were found as "Base Oil", "Lubricating Oil" and "Base Oil (Naphthenic)" in place of actual declared goods i.e. base oil. Therefore the value of the consignment has to be re-determined. Since no credible data regarding the value/price of the said goods "Lubricating Oil" and "Base Oil (Naphthenic)" is found on the portal of State Trading Enterprises (STEs), the valuation of the same has been taken on the basis of import data of similar goods. As per the import data around the time of the import, the valuation of the said consignment imported under Bill of Entry No. 6058200 Dated 22.05.2023

Bill of Entry No. 6058200 Dated 22.05.2023 declared as CTH 27101971-Base Oil							
Sr. No.	Container No. (40 feet)	Outcome of lab report	Import Quantity	Unit Price as per import	Total value of the cargo in the container in	Exchange Rate of the	Value of the goods in the container

			(In Kgs.)	Data	Foreign Currency	Currency	(in Rs.)
1	CRSU9135960	Base Oil (Naphthenic)	28530	0.75 USD Per Kg.	21397.50	83.30	1782411.75
		Base Oil (Naphthenic)					
2	CRSU9141475	Lubricating Oil	25390	2.75 AED per Kg.	69822.50	23.15	1616390.88
		Lubricating Oil					
3	GESU5098419	Lubricating Oil	28630	2.75 AED per Kg.	78732.50	23.15	1822657.38
		Lubricating Oil					
4	GESU5252756	Base Oil (Naphthenic)	28530	0.75 USD Per Kg.	21397.50	83.30	1782411.75
		Base Oil (Naphthenic)					
5	GESU5519415	Lubricating Oil	28550	2.75 AED per Kg.	78512.50	23.15	1817564.38
		Lubricating Oil					
6	GESU5520930	Base Oil (Naphthenic)	28470	2.75 AED per Kg.	78292.50	23.15	1812471.38
		Lubricating Oil					
7	GESU5532567	Base Oil (Naphthenic)	28040	0.75 USD Per Kg.	21030.00	83.30	1751799.00
		Base Oil					
8	HJCU1580159	Base Oil (Naphthenic)	28920	0.75 USD Per Kg.	21690.00	83.30	1806777.00
		Base Oil (Naphthenic)					
9	TFLU4954124	Base Oil (Naphthenic)	28560	0.75 USD Per Kg.	21420.00	83.30	1784286.00
		Base Oil (Naphthenic)					
10	UESU5040365	Base Oil (Naphthenic)	28390	0.75 USD Per Kg.	21292.50	83.30	1773665.25
		Base Oil (Naphthenic)					
Total Quantity (in Kgs.)		282010	Total value of the consignment (in Rs.)			17750434.75	

24.7 In the Bill of Entry no. 6058200 Dated 22.05.2023 declared as "Base Oil", value of the said consignment has been declared as Rs. 1,25,90,219.69/-, However, from the above table at para 24.6 above, the value of the subject consignment appears to be Rs. 17750434.75/-, Therefore, it appears that that said consignment has been mis-declared in respect of the value also, and the value declared by the importer is liable to be rejected as per the provisions of Rule 12 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007, and value of the same is to be re-determined as Rs. 1,77,50,434.75/-, as per the provisions of Rule 5 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007.

24.8 Further, in test reports submitted by the CRCL Delhi, in respect of the samples of the consignment covered under Bill of Entry No. 6058265 Dated 22.05.2023 in place of declared goods "Base Oil", "Automotive Diesel Fuel" and "Distillate Oil (Diesel Fraction)" have been found, therefore the value of the consignment has to be re-determined accordingly. Since no credible data regarding the value/price of the said goods "Distillate Oil (Diesel Fraction)" is found on the portal of State Trading Enterprises (STEs), the valuation of the same has been taken on the basis of import data of similar goods. Further, Base price of Diesel Fuel as on 15.05.2023, has been given as Rs. 57.94 per litre, on the portal of STE M/s IOCL. Therefore, on the basis of the import data around the time of the

import, and Base price of Diesel Fuel as on 15.05.2023 on the portal of STE M/s IOCL the valuation of the said consignment imported under Bill of Entry No. 6058265 Dated 22.05.2023, is as given below:

Bill of Entry No. 6058265 Dated 22.05.2023 (Cargo in Flexi Tank) -CTH 27101971-Base Oil						
Sr. No.	Container No. (20 Feet)	Outcome of lab report	Import Quantity (In MT)	Base Price of 1 Litre Diesel on 01.05.2023 as per IOCL Website (for Automotive Diesel Fuel)/ contemporary import price for Distillate Oil	Total Quantity of the cargo in the container in Litre (Quantity in Kgs. / Density)	Total value of the cargo in the container
1	APZU3275504	Automotive Diesel Fuel	18.31	Rs. 57.94 per Litre	22285.78	1291238.315
2	CXDU1051493	Distillate Oil (Diesel Fraction)	19.30	2.3 AED per MT	22169.75	1180428.563
3	MSCU2680937	Distillate Oil (Diesel Fraction)	18.01	2.3 AED per MT	22683.35	1207774.963
4	TCKU2845498	Distillate Oil (Diesel Fraction)	18.63	2.3 AED per MT	22753.82	1211527.215
5	TCLU2272304	Distillate Oil (Diesel Fraction)	19.06	2.3 AED per MT	22549.26	1200635.406
6	TCLU2538713	Distillate Oil (Diesel Fraction)	18.85	2.3 AED per MT	22193.94	1181716.303
7	TCLU3547941	Distillate Oil (Diesel Fraction)	18.49	2.3 AED per MT	22853.22	1216819.708
8	TLLU8237741	Distillate Oil (Diesel Fraction)	19.03	2.3 AED per MT	22218.18	1183006.856
9	TLLU8440553	Distillate Oil (Diesel Fraction)	19.09	2.3 AED per MT	22299.35	1187329.132
10	TLLU8468801	Distillate Oil (Diesel Fraction)	19.16	2.3 AED per MT	22296.64	1187184.547
Total					224303.30	12047661.01

24.9 In the Bill of Entry no. 6058265 Dated 22.05.2023 declared as "Base Oil", value of the said consignment has been declared as Rs. 81,52,801.69/-, However, from the above table at para 24.8 above, the value of the subject consignment appears to be Rs. 1,20,47,661.01/-, Therefore, it appears that that said consignment has been mis-declared in respect of the value also, and the value declared by the importer is liable to be rejected Rule 12 of the Customs Valuation (Determination of value of Imported goods) Rules,

2007, and value of the same is to be re-determined as Rs. 1,20,47,661.01/- as per the provisions of Rule 5 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007.

Role played in mis-declaration in import of Base Oil and import of Automotive Diesel Fuel by way of mis-declaration

25. M/s Global Natural Petro Industries/Shri Vikas Goyal, authorized representative of M/s Global Natural Petro Industries:

25.1 M/s Global Natural Petro Industries imported two consignments of goods declared as "base oil" at Mundra under Bills of Entry bearing no. 6058200 and 6058265, both dated 22.05.2023. During the investigation initiated by the DRI on basis of Intelligence received, it was found that the goods in the both the subject consignments have been mis-declared, as in some of the containers of the consignments covered under Bill of Entry bearing no. 6058200 dated 22.05.2023, in the test reports of Kandla CRCL, samples were declared as "Other than Base Oil/Diesel" and "Chlorinate Water". During the statement, the authorized person of the importer, Shri Vikas Goyal was asked to explain the reports of the CRCL Kandla, however, he was unable to explain the reports or produce any evidence/document in support of his claim, that he had only placed order for Base Oil. He had assured during the said statement, that he will ask and submit the test reports and load port survey report in respect of the both the subject consignment from the supplier, however despite repeated reminders, he did not submit the same. During further statement, he requested the DRI to carry out re-sampling and re-testing as he could not provide any test reports or any other documents from the supplier end. Accordingly, the goods were put under seizure on 16.11.2023.

25.2 Further, after approval of competent authority, re-sampling from the both the consignments was done under panchnamas in presence of the DRI Officers, importer and the representative of the Customs Broker. The samples drawn during the re-sampling proceedings were then sent to CRCL Delhi for testing which, in their test reports submitted that in the 20 samples drawn from the consignment covered under Bill of Entry bearing no. 6058200 dated 22.05.2023, the goods in 4 containers were "Lubricant Oil", Base Oil (Naphthenic). Further, as per the test reports submitted by the CRCL, New Delhi, in respect of the consignments covered under Bill of Entry bearing no. 6058265 dated 22.05.2023, sample in respect of one container, Automotive Diesel Fuel was found during testing, while in the remaining 9 container, the samples were declared as "Distillate Oil (Diesel Fraction)". Accordingly, it appeared that the importer had mis-declared the description and CTH of the goods, import prohibited/restricted item, and also, mis-declared the description of Lubricant Oil.

25.3 During his further statement, Shri Vikas Goyal was asked to explain the test reports of CRCL Delhi, however he could not provide any satisfactory explanation for the same, stating that Base Oil is having a broad range of parameters hence the same might be showing the parameters of Lubricating oil. Further, he submitted that he did not know what base oil (naphthenic) was, and stated that the same was base oil only and it might have been declared as base oil (naphthenic), due to any impurities the sample might have contained. On being asked to explain the test reports which showed the sample as Automotive Diesel Fuel and Distillate Oil (Diesel Fraction), he also could not explain the same however, stated that the same might have been loaded mistakenly by the supplier. From the above, it appears that the importer wilfully mis-declared the description in the both the subject consignments with the sole intention of committing fraud by suppressing the actual description of the content of the goods imported by them in the subject 2 consignments, tendering the goods covered under both the consignments liable for confiscation under Section 111(m) and Section 111(o) of the Customs act, 1962. Shri Vikas

Goyal being the authorise person of the importer and looking after the handling of the operations of the importer firm, has made such omissions and commissions, and has presented incorrect/false material particular before the Customs authorities, with the sole intention of committing fraud by way of mis-declaration. It appears that if the DRI had not initiated the investigation in the case, the importer would have gotten the said consignments, which contained prohibited/mis-declared goods, cleared from the Customs authorities, by way of fraud.

25.4 The importer/any person, who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, is liable to penalty under Section 112 (a) of the Customs Act, 1962. Further, 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, , is liable to penalty under Section 112 (b) of the Customs Act, 1962. Furthermore, 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, as per the Section 114AA of the Customs Act, 1962.

25.5 Therefore, it appears that M/s Global Natural Petro Industries have made themselves liable to penalty under Section 112 (a), 112 (b) and 114AA separately, of the Customs Act, 1962. Further, since Shri Vikas Goyal has made such omissions and commissions, and has presented incorrect/false material particular before the Customs authorities, with the sole intention of committing fraud by way of mis-declaration, he has made himself liable for penalty under the Section 112 (a), 112 (b) and 114AA separately, of the Customs Act, 1962.

26. **M/s Continental Shipping Services, Customs Broker:**

26.1 M/s Continental Shipping Services filed the Bills of Entries bearing no. 6058200 and 6058265, both dated 22.05.2023 for the goods declared as "Base Oil" imported by M/s Global Natural Petro Industries. During the testing, the samples of the said consignments were found to contain Lubricating Oil, Base Oil (Naphthenic), Automotive Diesel Fuel and Distillate Oil (Diesel Fraction) The representative of the Customs Broker, Shri Satish Maheshwari, in his statement stated that he was not aware of the nature of the goods as they had filed Bills of Entry on the basis of the documents provided by the importer M/s M/s Global Natural Petro Industries. However, as per the Rule 10 of the Customs Broker Licensing Rules, 2018,

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

26.2 However from the, it appears that M/s Continental Shipping Services failed to fulfil their obligation as a Customs Broker by presenting false documents/material before the Customs Authorities without verifying the correctness of the same and did not inform the Customs authorities regarding the mis-declaration even after DRI initiated an investigation in the matter. It appears that if the DRI had not initiated the investigation in the case, M/s

Continental Shipping Services would have gotten cleared the subject consignments, which contained prohibited/mis-declared goods, cleared from the Customs authorities, by way of fraud, on behalf of the importer.

26.3 The importer/any person, who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, is liable to penalty under Section 112 (a) of the Customs Act, 1962. Further, 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, , is liable to penalty under Section 112 (b) of the Customs Act, 1962. Furthermore, 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, as per the Section 114AA of the Customs Act, 1962.

26.4 Therefore, it appears that M/s Continental Shipping Services have liable to penalty under Section 112 (a), 112 (b) and 114AA separately, of the Customs Act, 1962.

27. Now therefore, M/s Global Natural Petro Industries, GR-10, Ganpati Dham Industrial Area, Village Sankhal, Bahadurgarh, Jhajjar, Haryana, are hereby called upon to show cause to the Additional Commissioner of Customs, Customs House, Port User Building, Mundra Port, Mundra as to why:

- i. the declared description of goods i.e. Base oil imported vide Bills of Entry No. 6058200 and 6058265, both dated 22.05.2023 declared as Base oil should not be rejected and same should not be redetermined “Base Oil”, “Lubricating Oil”, “Base Oil (Naphthenic)”, “Automotive Diesel Fuel” and “Distillate Oil” as detailed in Table mentioned at Para No.-7.
- ii. Classification of the goods imported under the Bills of Entry No. 6058200 and 6058265, both dated 22.05.2023, declared as “Base Oil” under CTH 27101971 should not be rejected and the same should not be classified under CTH 27101979 (Lubricating Oil), CTH 27101990 (Base Oil (Naphthenic)), CTH 27101944 (Automotive Diesel Fuel) and Distillate Oil (27101961), as per test reports of CRCL Delhi, as discussed at Para 17 above.
- iii. the total value of goods covered under the Bills of Entry No. 6058200 and 6058265, both dated 22.05.2023, declared collectively as Rs. 2,07,43,020.69/-, should not be rejected and the value of the said goods should not be determined as Rs. 29798095.76/- in terms of Rule 5 of Customs Valuation Rules, 2007.
- iv. all goods covered under the Bills of Entry No. 6058200 and 6058265, both dated 22.05.2023 except Automotive diesel fuel found during CRCL New Delhi testing, imported by M/s Global Natural Petro Industries, which have been found mis-declared in respect of CTH, in terms of description and value should not be confiscated under Section 111 (m) and Section 111(o) of the Customs Act, 1962.
- v. the Automotive diesel fuel found in 01 container No. APZU3275504 imported vide B/E No. 6058265 dated 22.05.2023 by M/s Global Natural Petro Industries declared as Base Oil which have been found mis-declared during CRCL, New Delhi in respect of CTH, in terms of description and value should not be confiscated under Section 111 (d) of the Customs Act, 1962.
- vi. Penalty should not be imposed upon them under Sections 112 (a), 112 (b) and 114AA separately, of the Customs Act, 1962

28. Further, Shri Vikas Goyal, authorized representative of M/s Global Natural Petro Industries, GR-10, Ganpati Dham Industrial Area, Village Sankhal, Bahadurgarh, Jhajjar, Haryana is hereby called to show cause to Additional Commissioner of Customs (Import), having his office at 1st floor, Building No. 5B, Port User Building, Mundra Custom House, Mundra-370421 as to why

(i) penalty should not be imposed upon him under 112 (a), 112 (b) and 114AA of the Customs Act, 1962.

29. Further, M/s Continental Shipping Services, Customs Broker are hereby called to show cause to Additional Commissioner of Customs (Import), having his office at 1st floor, Building No. 5B, Port User Building, Mundra Custom House, Mundra-370421 as to why

(i) penalty should not be imposed upon them under 112 (a), 112 (b) and 114AA separately, of the Customs Act, 1962.

30. All the Noticees are further required to produce at the time of showing cause all evidences upon which they intend to rely in support of their defence. They are further advised to indicate in their written submission as to whether they desire to be heard in person before the case is adjudicated. If no mention is made about this in their written submissions, it would be presumed that they do not desire to be heard in person. If no cause is shown by them against the action proposed to be taken within 30 days from the date of receipt of this Notice or if they do not appear before the adjudicating authority, when the case is posted for hearing, the case is liable to be decided Ex-Parte on the basis of material evidence available on record.

31. The documents/articles as listed at Annexure-R are relied upon and are enclosed with this show cause notice, and where not enclosed with this Notice will be made available for inspection on demand made in writing.

32. The department reserves its right to issue addendum/ corrigendum to show cause notice or to make any additions, deletions amendments or supplements to this notice, if any, at a later stage. The department/DRI also reserves its right to issue separate Notice/s for other Noticees, offences etc related to the above case, if warranted.

33. If the said Noticee/s will pay the duty with interest and penalty as specified under Section 28(5) of Custom Act, 1962 within 30 days from the receipt of this notice the proceedings may be deemed to be conclusive as to the matters stated therein, without prejudice to the provisions of section 135, 135A and 140 of the Custom Act, 1962, if applicable.

F.No. GEN/ADJ/ADC/845/2024-Adjn

Arun Kumar
ADDITIONAL COMMISSIONER
17-05-2024

BY REGISTERED/SPEED POST

1. M/s Global Natural Petro Industries, GR-10, Ganpati Dham Industrial Area, Village Sankhal, Bahadurgarh, Jhajjar, Haryana-124508 (email address- gnpi.groupone@gmail.com).

2. Shri Vikas Goyal, authorized representative of M/s Global Natural Petro Industries, GR-10, Ganpati Dham Industrial Area, Village Sankhal, Bahadurgarh, Jhajjar, Haryana-124508 (email address- gnpi.groupone@gmail.com)

3. M/s Continental Shipping Services, 17, Ghanshyam Complex, New Mundra Port Road, Mundra-370421.

Copy to:-

1. Additional Director, DRI Regional Unit, Gandhidham
2. Gaurd file