

	<b>सीमा शुल्क के प्रधान आयुक्त का कार्यालय</b> <b>सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात</b> <b>OFFICE OF THE PRINCIPAL COMMISSIONER</b> <b>OF CUSTOMS</b> <b>CUSTOMS HOUSE, MUNDRA, KUTCH,</b> <b>GUJARAT</b> <b>Phone No.02838-271165/66/67/68</b> <b>FAX.No.02838-271169/62,</b> <b>Email-adj-mundra@gov.in</b>	
<b>A. फाइल संख्या/File No.</b>	:	GEN/ADJ/ADC/298/2025-Adjn-O/o Pr. Commr-Cus-Mundra
<b>B. जारीकर्ता /Passed by</b>	:	Amit Kumar Mishra, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra.
<b>C. Noticee(s)/Party/Importer</b> नोटिसकर्ता/पार्टी/आयातक	:	<b>M/s Gopinathji Petroleum (IEC-AGLPJ1650J) and others.</b>
<b>D. DIN/ दस्तावेज़ पहचान संख्या</b>	:	<b>20250171MO0000616066</b>
<b>E. Date of Issuance</b>	:	28.01.2025

**SHOW CUASE NOTICE UNDER SECTION 124 OF THE CUSTOMS ACT, 1962**

**Subject: Seizure of Automotive Diesel Fuel conforming to IS:1460 and Gas Oil.**

1. A specific intelligence was garnered that M/s Gopinathji Petroleum, IEC-AGLPJ1650J, Trapaj SD, Alang Gam, Talaja, Bhavnagar, Gujrat-364140 (hereinafter referred to as the “importer” or “Gopinathji”) were importing restricted products falling under Customs Tariff Heading (CTH) 2710 which, as per the import policy can be imported by State Trading Enterprises (STEs) only by mis-declaring the consignments as “*Mix/Mixed Hydrocarbon Oil (MHO) Or Mixed Hydrocarbon Oil (For Industrial Use Only)*” and mis-classifying them under *Customs Tariff Item(CTI) 27101990* wherein the import policy is “*Free*”, 16 containers covered under 2 Bills of Entry, pertaining to the importer were put on hold by DRI Noida Regional Unit (hereinafter referred to as “DRI”) on 29.01.2024 for examination by officers of DRI. The details of the containers are given as below:

Sl. No.	BE Number	BE date	Name of the Importer	CONTAINER NUMBER
1	9737593	19-01-2024	M/S Gopinathji Petroleum	MEDU-6957158

2	9737593	19-01-2024	M/S Gopinathji Petroleum	BMOU-2761926
3	9737593	19-01-2024	M/S Gopinathji Petroleum	MEDU-2553190
4	9737593	19-01-2024	M/S Gopinathji Petroleum	MEDU-5526161
5	9737593	19-01-2024	M/S Gopinathji Petroleum	MSDU-1040836
6	9737593	19-01-2024	M/S Gopinathji Petroleum	MSMU-1825240
7	9868117	28-01-2024	M/S Gopinathji Petroleum	FCIU-4365901
8	9868117	28-01-2024	M/S Gopinathji Petroleum	MEDU-3079613
9	9868117	28-01-2024	M/S Gopinathji Petroleum	MSDU-1951956
10	9868117	28-01-2024	M/S Gopinathji Petroleum	MSDU-2924322
11	9868117	28-01-2024	M/S Gopinathji Petroleum	MSMU-2652010
12	9868117	28-01-2024	M/S Gopinathji Petroleum	MSMU-2753421
13	9868117	28-01-2024	M/S Gopinathji Petroleum	MSMU-3306201
14	9868117	28-01-2024	M/S Gopinathji Petroleum	TEMU-3396570
15	9868117	28-01-2024	M/S Gopinathji Petroleum	TEMU-3749106
16	9868117	28-01-2024	M/S Gopinathji Petroleum	TGHU-0625398

2. Thereafter, the said containers covered under the above-mentioned 02 Bills of Entry were subjected to examination on 01.02.2024, 02.02.2024 & 03.02.2024 and in the presence of the following persons/representatives detailed below:

S.No	Bill Of Entry No	No Of container	Examination date	CHA/ Authorised Representative	Container Freight Station	Representative of CFS
1	9737593 Dt. 19.01.2024	06	03.02.2024	Shri Shyam Sundar Goyal, Authorised Representative of M/s Pacific	HTPL CFS, APSEZ, Mundra	Shri UreshDawada, Sr Executive, HTPL, CFS, APSEZ.
2	9868117 Dt. 28.01.2024	10	14.03.2024	Clearing and Forwarding Pvt Ltd.	All Cargo, CFS, APSEZ,	Shri Ashok kumar Giri

					Mundra	
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**2.1** And whereas, during the examination, Shri Shyam Sundar Goyal, Authorised Representative of M/s Pacific Clearing and Forwarding Pvt Ltd., provided the relevant documents viz Bills of Entry along with the corresponding Invoice and packing list(**RUD-01 to 02**) The details of the consignments as per the documents provided are detailed as under:

S.N o	Bill Of Entry No	Goods Description (as per BOE)	Name of the Supplier (as per BOE)	Chapter Heading (as per BOE)	Ass. Value (In Rupees)	Gross Weight (KGs)
1	9737593 Dt. 19.01.2024	Mixed Hydrocarbon Oil	M/s Peregrine general Trading Co FZE.	27101990	47,38,216/ -	1,11,96 0
2	9868117 Dt. 28.01.2024			27101990	80,26,235/ -	1,89,64 0
<b>TOTAL</b>					<b>1,27,64,45 1</b>	<b>3,01,60 0</b>

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



**(Pictures of the flexibag containers in the consignment)**



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

2(iii). Representative samples were drawn from one randomly selected container per Bill of Entry. The samples were drawn in triplicate from the container using aluminium sample containers. After collecting the samples, the DRI Officer resealed the container with the bottle seal provided by the custodian. The proceedings were documented in panchnamas dated 03.02.2024 and 14.03.2024 (**RUD-03 to 04**)

3. The Samples drawn from the consignment put on hold and examined by the DRI Officers were sent to the lab of IOCL, Panipat and CRCL, Vizag, for the testing purpose. The details of the samples sent to the IOCL Lab are as detailed below:

S.No	Bill Of Entry No and date	Sample No
1	9737593 Dt. 19.01.2024	GA3-344924

The details of the samples sent to the CRCL Lab are as detailed below:

S.No	Bill Of Entry No and date	Sample No
1	9868117 Dt. 28.01.2024	GB3-A215398

4. And whereas IOCL Panipat tested the samples of the Bill of entry no. 9737593 Dt. 19.01.2024 kept on hold on 29.01.2024 and sent the respective Test Report of the above samples on 08.04.2024(**RUD-05**). The test report as provided by IOCL Panipat is reproduced as below:



**PANIPAT REFINERY**  
**Quality Control Laboratory**

Date: 08.04.2024

Report No. : PR/QC/DRI/2024/2

**Test Report**

	Product		
	Name		
	Seal No		
S No	Parameters	Method	
1	Appearance		Clear and bright
2	Density, Auto, 15 °C (g/mL.)	ASTM D4052	0.8228
3	Distillation (Manual)	ASTM D86	132
4	Distillation, Manual, 10% (°C)		202
5	Distillation, Manual, 10% (°C)		213
6	Distillation, Manual, 20% (°C)		232
7	Distillation, Manual, 30% (°C)		242
8	Distillation, Manual, 40% (°C)		252
9	Distillation, Manual, 50% (°C)		259
10	Distillation, Manual, 60% (°C)		268
11	Distillation, Manual, 70% (°C)		276
12	Distillation, Manual, 80% (°C)		286
13	Distillation, Manual, 90% (°C)		300
14	Distillation, Manual, 95% (°C)		310
15	Distillation, Manual, FBP (°C)		328
16	Distillation, Manual, % Loss (%)		0.5
17	Distillation, Manual, % Resid (%)		1
18	Flash Point, °C	IS 1448 P-20	36
19	Sulphur, ppm	ASTM D4294	16 ppm
20	KV @ 40 °C	ASTM D7042	2.132
21	Cetane index	ASTM D4737	55.9
22	Cetane Number	IS 1448 P-9	52.3
23	Pour Point, °C	IS 1448 P-10	-30
24	water Content, mg/kg	ISO12937	50
25	Copper Strip Corrosion for 3h @100°C	IS 1448 P-15	1b
26	CFPP, °C	ASTM D6371	-12
27	Oxidation Stability	ASTM D2274	10
28	PAH, %m	ASTM D6591	1.97
29	Total Aromatics	ASTM D6591	24.39
30	Lubricity	ISO 12156	597
31	FAME Content	IROX	Nil
32	Acidity, total, mg KOH/g	IS 1448 P-2	0.08
33	Ash Content, %m	IS 1448 P-4	0.004
34	Carbon residue on 10 % volume distillation residue, %m	ISO10370	0.07
35	Total Contamination	EN12662	

Dr. Y.S.Jhala  
 DGM (QC)

Dr. Jayadev Jhala  
 Dy. General Manager (QC)  
 Dr. Jayadev Jhala  
 Dy. General Manager (QC)  
 Panipat Refinery, Haryana, India

5.1 And whereas CRCL Visakhapatnam (Vizag) tested the samples and sent the respective Test Report of the above samples on 03.06.2024 (**RUD-06**). The test report as provided by CRCL is reproduced as below:

<b>भारत सरकार</b> <b>वित्त मन्त्रालय, राजस्व विभाग</b> <b>सीमा शुल्क प्रयोगशाला</b> <b>5वीं मंजिल, सीमा शुल्ककार्यालय</b> <b>पोर्टएरिया, विशाखापत्तनम्- 530 001</b>		<b>Government of India</b> <b>Ministry of Finance</b> <b>Department of Revenue</b> <b>CUSTOM HOUSE LABORATORY</b> <b>5<sup>th</sup> FLOOR</b> <b>CUSTOM HOUSE, PORT AREA</b> <b>VISAKHAPATNAM - 530 001.</b> <b>Tel/Fax: 0891-2562900</b> <b>e-mail :chemical_examiner@yahoo.com</b>
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**TEST REPORT**

Date: 03.06.2024

Lab NO.: 11-DRI

Date: 10.04.2024

F. No: DRI/NRU/CI-26/Int-0/Enq-13/2024/489

Sample No. &amp; Seal No: GB3-A215398

Date of Drawn: 14.03.2024

Sample Received from: DRI Noida Regional Unit

Description of Sample: Mixed Hydrocarbon Oil

Date of Receipt: 10.04.2024

Sample Plan: Sample not Drawn by this laboratory.

Report: The sample is in the form of pale yellow colored oily liquid. It is mainly composed of mineral hydrocarbon oil having mineral oil content more than 70 % by weight. It has the following characteristics

Appearance = pale yellow, *clear & bright* 

Acidity (Inorganic) = Nil

Ash content = Nil

Carbon residue content = 0.19 % by wt.

Distillation:

Temp. at 95% (v/v) recovered : 360.4 °C

Flash Point = 44.9 °C

Kinematic Viscosity at 40°C = 3.06 cSt

Density at 15°C = 0.8394 gr/ml

Total Sulphur = 29.61 mg/Kg

Water content = Nil

Cetane Index = 56.69

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

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

Sealed remnant sample returned herewith.

End of the Report



प्रदीप मारू / PRADEEP MAROO  
 राजात चरीक ग्रेड-1  
 Chemical Examiner Grade-1  
 सीमा शुल्क प्रयोगशाला  
 Custom House Laboratory  
 राजा शुल्क अन्न, विशाखापत्तनम्-530 035  
 Custom House-Vishakhapatnam-530 035

Note 1: The results relate only to the items tested.

Note 2: Sample not Drawn by this laboratory.

Note3: The report shall not be reproduced except in full without approval of this laboratory.

Note4: Remnant sample should be collected within 30 days otherwise it will disposed off.

**5.2** And whereas the parameters of the Test Reports suggested that the goods sought to be imported in the said containers were Gas Oil and Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460. Further, Gas Oil which is appropriately classifiable under Customs Tariff Heading 27101941 does not stipulate any import condition of conforming to any BIS standard. However, the parameters of Gas oil as per BIS IS: 17789:2022 have been taken here for reference purposes. The specifications of Gas Oil as per IS:17789 are reproduced below:

**Table 1 Requirements for Gas Oil**  
( *Clauses Foreword, 4.3 and 7.1* )

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

<sup>1)</sup> In case of dispute, this shall be the referee method.

### Specifications of Gas Oil as per IS 17789

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

#### **AMENDMENT NO. 1 JANUARY 2023**

#### **TO** **IS 17789 : 2022 GAS OIL — SPECIFICATION**

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

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

[Page 2, Table 1, SI No. (iii), col 2] — Substitute ‘total sulphur, mass percent<sup>2)</sup>’ for ‘Total sulphur, mass percent’

[Page 2, Table 1, SI No. (iii), col 3] — Substitute ‘1.5-3.5’ for ‘0.004-3.5’

(Page 2, Table 1) — Add the following below Table 1,<sup>1)</sup>:

<sup>2)</sup> Indian refineries may opt for lower sulphur content on the basis of agreement between seller and purchaser.’

### Amendment to Gas Oil dated January 2023

Further, the specifications of Automotive diesel fuel as per IS: 1460 of the Bureau of Indian Standards (BIS) are reproduced below:

**IS 1460 : 2017**

**Table 1 Requirement for Automotive Diesel Fuel**  
(Clauses 3.1.4 and 3.2)

Sl No.	Characteristic	Requirement		Method of Test, Ref to [P : ] of IS 1448/ASTM/IP/ISO Annex
		Bharat Stage IV	Bharat Stage VI	
(1)	(2)	(3)	(4)	(5)
i)	Appearance	Clear, bright and free from sediments, suspended matter and undissolved water at normal ambient fuel temperature	clear, bright and free from sediments, suspended matter and undissolved water at normal ambient fuel temperature	Visual
ii)	Acidity, inorganic, mg of KOH/g	Nil	Nil	ISO 6618/ASTM D974 <sup>9)</sup> / IP 139
iii)	Acidity, total, mg of KOH/g, Max	0.20	0.20	[P : 2] <sup>9)</sup> /ASTM D664/ ASTM D974 / IP 139
iv)	Ash, percent by mass, Max	0.01	0.01	[P : 4] <sup>9)</sup> /ASTM D 482/IP 4
v)	Carbon residue (Ramsbottom or micro) on 10 percent residue <sup>1)</sup> , percent by mass, Max	0.30	0.30	[P : 8] <sup>9)</sup> /ISO 10370/ASTM D 524/IP 14/ASTM D 4530
vi)	Cetane number, Min	51 <sup>2)</sup>	51 <sup>2)</sup>	[P : 9] <sup>9)</sup> /ASTM D 613
vii)	Cetane index, Min	46 <sup>2)</sup>	46 <sup>2)</sup>	ISO 4264 <sup>9)</sup> /ASTM D4737/ IP 380
viii)	Pour point <sup>3)</sup> , Max:			[P : 10] <sup>9)</sup> /ASTM D 5949/ASTM D 5950/ASTM D 5985/ASTM D97/ASTM D7346/IP 15
	a) Winter	3°C	3°C	
	b) Summer	15°C	15°C	
ix)	Copper strip corrosion for 3 h at 50°C	Not worse than No. 1	Not worse than No. 1	[P : 15] <sup>9)</sup> /ASTM D 130/IP 154
x)	Distillation, 95 percent v/v, recovery, °C, Max	360	360	[P : 18] <sup>9)</sup> /ISO 3405/ASTM D 86/ASTM D 7345/IP 123
xi)	Flash point, Abel <sup>4)</sup> , °C, Min	35	35	[P : 20] <sup>9)</sup> /ISO 3679/ IP170/ IP523/ EN13736
xii)	Kinematic viscosity, cSt, at 40°C	2.0 to 4.5	2.0 to 4.5	[P : 25] <sup>9)</sup> /ISO 3104/ASTM D 445/ASTM D 7042/IP 71
xiii)	Total contamination, mg/kg, Max	24	24	EN 12662 <sup>9)</sup> /IP 440
xiv)	Density at 15°C, kg/m <sup>3</sup>	815–845 <sup>5)</sup>	810–845 <sup>5)</sup>	[P : 16] <sup>9)</sup> /[P : 32]/ISO 12185/ ASTM D 4052/ASTM D 1298/IP 160
xv)	Total sulphur, mg/kg, Max	50	10	ISO 13032 <sup>9)</sup> /ISO 20884/ISO 20846 <sup>9)</sup> /ASTM D 5453/ASTM D 2622/ASTM D 7220/[P : 34] For Bharat Stage IV grade only [P : 153] <sup>9)</sup> /ASTM D 4294
xvi)	Water content, mg/kg, Max	200	200	ISO 12937/ASTM D 6304
xvii)	Cold Filter Plugging Point (CFPP) <sup>3)</sup> , Max:			[P : 110] <sup>9)</sup> /ASTM D 6371/ IP 309
	a) Winter	6°C	6°C	
	b) Summer	18°C	18°C	
xviii)	a) Oxidation stability <sup>6)</sup> , g/m <sup>3</sup> , Max	25	25	[P : 154] <sup>9)</sup> /ASTM D 2274/IP 388
	b) Oxidation stability by Rancidity meter <sup>7)</sup> , hours, Min	20	20	EN 15751
xix)	Polycyclic Aromatic Hydrocarbon (PAH), percent by mass, Max	8	8	EN 12916 <sup>9)</sup> /IP 391/ASTM D 6591
xx)	Lubricity corrected wear scar diameter (wsd 1.4) at 60°C, microns, Max	460	460	P 149/ISO 12156-1/Cor 1
xxi)	FAME content <sup>8)</sup> , % v/v, Max	7.0	7.0	Annex A <sup>9)</sup> /ASTM D7371/ EN14078

6. And whereas on analysis of the parameters detailed in the Test Reports vis-à-vis the parameters stipulated in the BIS standards of Gas Oil (IS 17789) and Automotive Diesel Fuel (IS 1460), it appeared that in accordance with the intelligence, the goods being imported appeared to be mis-declared and the following conclusion appeared to flow from the analysis:

Sl. No.	Bill of Entry No.	Date of Bill of Entry	No. of containers	Product description as per the analysis of the Test report
1.	9737593	19.01.2024	06	Gas Oil
2.	9868117	28.01.2024	10	Automotive Diesel Fuel as per IS 1460

Thus, it appeared that the samples drawn from consignment pertaining to Bill of Entry No-9737593 dated 19.01.2024 conformed to limits stipulated in IS: 17789:2022 specifications which pertains to the Indian Standard of Gas Oil, while consignment pertaining to Bill of Entry No.9868117 dated 28.01.2024 appeared to conform to specification of IS:1460 which pertains to Automotive Diesel Fuel. Gas Oil which is appropriately classifiable under Customs Tariff Heading 27101941 does not stipulate any import condition conforming to IS:17789:2022 and the aforementioned parameters of IS:17789:2022 have been taken for reference purposes only and that the itemsviz Automotive Diesel Fuel as per IS 1460 and Gas Oil are restricted and can be imported by the State Trading Enterprises(STEs) only.

7. In the light of the parameters of the Test Reports of the IOCL and CRCL, the goods imported vide Bill of entry no – 9737593 dated 19.01.2024appears to be liable to be classifiable under CTH: 27101941 under the description Gas Oil while the goods imported under Bill of Entry No 9868117 dated 28.01.2024 appears to be liable to be classifiable under CTH 27101944 under the description of Automotive Diesel fuel, not containing biodiesel, conforming to standard IS 1460. The relevant description of CTH 27101941 and 27101944 as per Customs Tariff Act'1985 are as below:

2710 19 39	— Aviation turbine fuels, kerosene type conforming to standard IS 1571	kg. 5.00 5.00	— 11.00 0.50 17.105	State Trading Enterprises	Exemption: See Ntn 52/2017-Cus. dated 30.06.2017 Import as per Policy Condition (5) of Chapter 27 ACD Nil by Ntn 32/2022-Cus. Excise Duty by Ntn 11/2017-CE dated 30.06.2017
2710 19 41	— Gas oil	kg. 5.00 5.00	— 18.00 0.50 24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
2710 19 42	— Vacuum gas oil	kg. 5.00 5.00	— 18.00 0.50 24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
2710 19 43	— Light diesel oil conforming to standard IS 15770	kg. 5.00 5.00	— 18.00 0.50 24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27

### Chapter Heading 27101941

2710 19 41	---- Gas oil	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
2710 19 42	---- Vacuum gas oil	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
2710 19 43	---- Light diesel oil conforming to standard IS 15770	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
2710 19 44	---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	2.50	2.50	---	14% + Rs. 0.08 15 per litre			State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntn 12/2018-Cus.
2710 19 49	---- High flash high speed diesel fuel conforming to standard IS 16861	kg.	2.50	2.50	---	14% + Rs. 0.08 15 per litre			State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntn 12/2018-Cus.

### Chapter Heading 27101944

8. Further, as per ITC(HS), 2022, Schedule 1: Import Policy, Section V: Mineral Products, Chapter 27: Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes: Goods falling under the description of “*Gas oil and oils obtained from gas oil*: ---- *Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460*” and “*Gas Oil*” the import policy makes the goods restricted by way of importation by State Trading Enterprises only by virtue of Policy Condition No. 5 which prescribes “*Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date*”. The screenshots of the relevant extracts are as below:

27101944	---	Gas oil and oils obtained from gas oil: ---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.
27101941	---	Gas oil and oils obtained from gas oil: ---- Gas oil	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.

### Product Description and Import Policy

SI.No.	Notes	Notification No.	Notification Date
1	Import of naphtha is free.		
2	Import of SKO shall be allowed through State Trading Enterprises (STEs) i.e. IOC, BPCL, HPCL and IBP for all purposes with STC being nominated as a State Trading Enterprise (STE) for supplies to Advance Licence holders. Advance Licence holders shall however, have the option to import SKO from the above mentioned STEs including STC		
3	Import is restricted in terms of Interim PIC Procedure of Rotterdam Convention on Prior Informed Consent procedure for hazardous chemicals and pesticides.		
4	Automobile industries, having RandD registration, are allowed to make free import of reference fuels (Petrol and Diesel) which are not manufactured in India, up to maximum of 5 KL per annum, subjects to the condition that the said imported reference fuels shall be used for RandD and emission testing purposes only		
5	Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date.	08/2023	29/05/2023

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

**9.** Further, during the course of the investigation, it appeared that the CHA of the Importer was actively involved in assisting and facilitating the improper import and clearance of the restricted goods namely “Gas Oil” and “Automotive diesel fuel, not containing bio-diesel, conforming to standard IS 1460” as mentioned above, therefore search was conducted at the premises of CHA M/s Pacific Clearing Agency on 30.04.2024. The proceedings of the search were recorded under panchnama dated 30.04.2024(**RUD- 07**)

**10.** In view of the Test Reports and voluntary statement, it appears that the imported goods were mis-declared as “*Mixed Hydrocarbon Oil*” and mis-classified under CTH: 27101990 instead of CTH: 27101941 and CTH: 27101944 by the importer with the intent of importing “*Gas Oil*” and “*Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460*” which are restricted commodities and *can be imported by STEs only as per the import policy as brought out above*. As a result, it seems that they attempted to import the restricted commodities by mis-declaring the same. Consequently, the imports made by the importer under Bill of Entry no.9737593 dt. 19.01.2024 and 9868117 Dt. 28.01.2024 appeared to be illicit and in gross violation of the relevant provisions of the Foreign Trade Policy 2023, the Import Policy conditions, and the Customs Act of 1962. Therefore, the goods imported under the aforementioned Bills of Entry at Mundra Port seemed liable for confiscation under the provisions of Section 111(d), (f), (l), and (m) of the Customs Act, 1962. As a result, the subject consignments were seized vide Seizure memos as detailed below:

S.No	Bill Of Entry No and Date	Seizure memo DIN no.	Seizure date
1.	9737593 Dt. 19.01.2024	202405DDZ8000000800E( <b>RUD-08</b> )	27.05.2024
2.	9868117 Dt. 28.01.2024	202409DDZ80000666D29( <b>RUD-09</b> )	14.09.2024

**11.** And whereas, summons were issued to M/s Gopinathji Petroleum on 24.07.2024 (**RUD-10**) for appearance on 06.08.2024. Shri Joshi Bhaskarray Proprietor of M/s Gopinathji Petroleum, appeared on 08.06.2024 in compliance of the summons and tendered his voluntary statement under Section 108 of the Customs Act'1962 wherein he inter-alia stated as under:

- *I hereby state that I am the Proprietor of the firm M/s Gopinathji Petroleum. I look after all the work related to the firm. M/s Gopinathji Petroleum was established in 2017 and was involve in the trading of various oils such as Furnace Oil, Marine Gas Oil and MHO then in year 2021 I got IEC and started the import of Mix Hydrocarbon Oil. The registered office of the Company is Business next street, near Takdir steel, behind Varachha market, Manar Bhavnagar, Gujarat-364140. There are currently one employee working for the firm he looks after the accounting and normal routine work related to the firm.*

*As far as my personal details are concerned, I am a 10<sup>th</sup> pass, after that I worked various jobs, and after that in year 2017 I registered my firm and*

*ventured into the trading business of oils. In year 2021 I registered my IEC code and started the I am married to Ms Hetal and I live with my Father, my wife and one Son at the above-mentioned address only.*

- *Question 1: Please provide a certified copy of the Buyer-seller agreement for the consignments.*

*Answer: There is no buyer-seller agreement between us and the overseas supplier.*

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

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

- *Question 3: How many consignments have you imported till now.*

*Answer: We have imported approx.70 consignments of oil till now including the ones that have been put on hold by DRI Noida.*

- *Question 4: Please submit the details of the overseas suppliers of MHO (Mineral Hydrocarbon Oil) imported by you which have been put on hold by DRI at Mundra.*

*Answer: We import through only one selected suppliers i.e. M/s Peregrine General Trading Co. FZE. I contact a person namely Sh. Faiz who is the proprietor of the firm and looks after the sales of M/s Peregrine General Trading Co. FZE in Dubai.*

- *Question 5: What is the status of the overseas supplier of the import of MHO(Mineral Hydrocarbon Oil)?*

*Answer: To my knowledge all the overseas suppliers, are traders only.*

- *Question 6: What are your payment terms with the overseas supplier?*

*Answer: Once an order is finalized over the mobile phone, full advance payment is made through SWIFT then the overseas suppliers send the consignment to the designated port in India.*

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

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

- *Question 8: If you are not aware of the parameters/specifications of the MHO (Mineral Hydrocarbon Oil) then on what basis it is being imported by you?*

*Answer: The requirement of oil (MHO) is communicated to us by our clients and based on the requirement we place orders with overseas suppliers. After that, we*

communicate the same requirement to the overseas supplier from Dubai. We are just traders of the product and work on the market demand.

- *Question 9: Please provide certified copies of the Chemical Analysis report or Test report of the consignment of MHO (Mix hydrocarbon Oil) imported by you.*  
*Answer: In some cases, the suppliers provided chemical analysis/test reports but the same are not available to me. I also wish to state that no chemical analysis report has been provided by the supplier in respect of the instant consignment put on hold.*
- *Question 10: Please refer to your reply to Question No 9 above and please submit chemical/test reports in respect of the consignment in which the supplier has not provided any test report.*  
*Answer: No such report has been provided by the supplier.*
- *Question 11: Did you insist your supplier to provide a Chemical Analysis report/test report for your consignment?*  
*Answer: No, we did not insist as we were not aware about any such chemical analysis/test report.*
- *Question 12: Please refer to your reply to Question No 11 above and state the absence of Chemical analysis/test report how you were convinced that the oil is as per the order placed by you.*  
*Answer: Since orders have been placed to a single supplier only and the previous consignments of the same description were found to be okay, in the instant case also based on the description given in the import documents, we were convinced that the fuel is as per the orders placed by me.*
- *Question 13: Do you have any literature or documents that can help you classify your product as MHO according to the chemical analysis report provided by the overseas supplier?*  
*Answer: We do not have any documents or literature that helped us in the classification of the product as MHO. Our CHA only guided us in the classification of the same as MHO.*
- *Question 14: Please provide the Details of the refinery/oil firm from where each consignment has originated/been manufactured.*  
*Answer: I am not aware of the source of purchase of MHO by my overseas supplier.*
- *Question 15: Please provide the Chemical Analysis Report issued by the Original manufacturer/refinery/oil firm for each of the consignments that are put on hold by the office of DRI, along with a Certified copy of the invoice generated by the firm to the overseas supplier and Details (contact details and correspondence*

addresses) of all traders between the overseas supplier and the Original manufacturer/ refinery for each consignment.

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

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

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

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

Load Port report  
Surveyor report of the port  
Compliance report.

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

- Question 18: Please refer to the reply of Question 02 above and provide the certified copies of communication (emails/letters etc.) with the overseas suppliers w.r.t. the consignments.

Answer: As stated by me above all the communication with the supplier happens telephonically over mobile phone and hence no such copies of communication (emails/letters etc.) are available with me

- Question 19: Please provide details of key officials (name and designation) of your company.

Answer: I look after all the work related to the firm. There is one employee in the firm who looks after the accounting related works.

- Question 20: Please provide a Certified copy of the Invoice for each consignment, including itemized description, quantities, values, and any applicable discounts or rebates.

Answer: M/s Gopinathji Petroleum, has imported about 70 Consignments of Mix/mixed Hydrocarbon oil since june 2021, including the ones that have been put on hold by DRI. I am submitting the documents such as Bill of Lading, Bill of Entry, invoice and packing list of the consignment that has been put on hold by DRI Noida Regional Unit.

- Question 21: Please provide a certified copy of bank statement indicating payments made to suppliers for consignments.

*Answer: I am submitting the SWIFT transaction receipt related to my consignments that have been put on hold by your office.*

- *Question 22. Please provide the details of the warehouse/storage place where the imported goods are stored after their import by your firm.*

*Answer. M/s Gopinathji Petroleum does not have any warehouse/storage place where the imported goods are stored, as the MHO imported by the firm after customs clearance is delivered directly to the buyers. However as and when required we take services of M/s Mahalakhsni Fuel for storage purpose.*

- *Question 22. Please peruse the test report submitted by CRCL Vizag dated 03.06.2024 with regard to the test memo dated 09.04.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 9868117 Dt. 28.01.2024. As per the parameters described in the test report, the conclusion arrived at, regarding the goods is “Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017”. Please peruse the said report and offer your comments.*

*Answer. I have seen the copy of the test report dated 08.04.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 9868117 Dt. 28.01.2024 pertaining to M/s Gopinathji Petroleum and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the parameters of the report of CRCL and that the goods can be concluded as “Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017”.*

- *Question 23. Please peruse the test report submitted by IOCL Panipat dated 08.04.2024 with regard to the test memo dated 16.02.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 9737593 Dt. 19.01.2024. As per the parameters described in the test report, the conclusion can be arrived at, regarding the goods as “Gas Oil”. Please peruse the said report and offer your comments.*

*Answer. I have seen the copy of the test report dated 08.04.2024 of the IOCL in respect of the sample drawn from the consignment covered under BOE no 9737593 Dt. 19.01.2024 pertaining to M/s Gopinathji Petroleum and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the parameters of the report of IOCL and that the goods can be concluded as “Gas Oil”.*

- *Question 24. Your kind attention is invited to the conclusion of the test report wherein the parameters suggest that the oil can be concluded as “Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017”. whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 9868117 Dt. 28.01.2024, filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*

*Answer. I agree that the description given in BOE no 9868117 Dt. 28.01.2024, and the conclusions of the test reports of CRCL dated 03.06.2024 are different. The Bill of Entry*

*was filed on the basis of the order placed by me with the overseas supplier and the import documents provided by me. I had specifically ordered for Mixed Hydrocarbon oil but as per the report I can see that the supplier has sent wrong item by mistake and not the one that I ordered. I regret for the mistake and having accept the findings of the CRCL, I request that the same may be re-exported back to the supplier.*

- *Question 25. Your kind attention is again invited to the conclusion of the test report wherein the parameters suggest that the oil can be concluded as "Gas Oil". whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 9737593 Dt. 19.01.2024, filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*

*Answer. I agree that the description given in BOE no 9737593 Dt. 19.01.2024, and the conclusions of the test reports of IOCL dated 08.04.2024 are different. The Bill of Entry was filed on the basis of the order placed by me with the overseas supplier and the import documents provided by me. I had specifically ordered for Mixed Hydrocarbon oil but as per the report I can see that the supplier has sent wrong item by mistake and not the one that I ordered. I regret for the mistake and having accept the findings of the IOCL, , I request that the same may be re-exported back to the supplier.*

- *Question 26. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 9868117 Dt. 28.01.2024 wherein the oil has been found to be "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017", on the basis of the test report of CRCL, Vizag. In light of the test report and your reply to question No 24 above, do you agree that the Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017, imported by you in consignment covered under BOE no 9868117 Dt. 28.01.2024 is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you?*

*Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 9868117 Dt. 28.01.2024 is under CTH 27101944, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.*

- *Question 27. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 9737593 Dt. 19.01.2024 wherein the oil has been found to be "Gas Oil", on the basis of the analysis of the test report of IOCL, Panipat. In light of the test report and your reply to question No 25 above, do you agree that the Gas Oil, imported by you in consignment covered under BOE no 9737593 Dt. 19.01.2024 is correctly classifiable under CTH 27101941 and not 27101990 as classified by you in the bill of entry filed by you?*

*Answer. In view of the conclusion of the IOCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 9737593 Dt. 19.01.2024 is under CTH 27101941, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.*

- *Question 28. Please refer to your reply to questions number 26 and 27 above wherein you have agreed that as per the correct classification of the oil i.e. Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017 and Gas Oil, are restricted items and can only be imported by STE (State Trading Enterprise). Please offer your comments about this.*

*Answer. Yes, I have been shown the said provisions and I have come to know that Automotive Diesel Fuel (Bharat Stage IV) and Gas Oil are restricted items and can only be imported by STE (State Trading Enterprise). In view of this fact and also as stated by me, since it is not as per my order and as requested by me in reply to questions no 26 and 27 above, I once again request that the consignment may be reexported back to the overseas supplier.*

**12.** And whereas, investigation and other proceedings of the case could not be completed within the stipulated period of six months, an extension of further six months was sought from the competent authority and was accordingly granted vide letter dated 26.07.2024 for the both bills of entry 9737593 Dt. 19.01.2024 and 9868117 Dt. 28.01.2024(**RUD-11**)

**13.** And whereas, summons were issued to M/s Pacific Clearing and Forwarding Pvt Ltd on 05.07.2024 (**RUD-12**) for appearance on 11.07.2024. Vide e-mail dated 10.07.2024, (**RUD-13**) Rakesh B Maurya Director of M/s Pacific Clearing and Forwarding informed that his sister-in-law expired and he was grieving and hence requested to reschedule for a further date. Therefore fresh summons were again issued on 24.07.2024 for appearance on 08.08.2024. Shri Parminder Pal Authorised representative of M/s Pacific Clearing and Forwarding Pvt Ltd. appeared on 08.08.2024 (**RUD-14**) to tender his voluntary statement. His statement was recorded on 08.08.2024 under Section 108 of the Customs Act 1962 wherein he inter-alia stated as under:

- *I submit that I completed my intermediate from Dayal Public School, Ludhiana in the year 1997, after that I worked in different companies such as Kent, Vardhman etc. Then I started my career in Customs clearance in 2008 with M/s M S Exim Services, Ludhiana. I worked with them from 2008 to 2012. After that, I switched my job and joined M/s Bhagwati Impex, Ludhiana where I worked till 2022. After Oct 2022, I started working with M/s Pacific Clearing and Forwarding Pvt Ltd at Mundra Port. I handled documentation work at Mundra Port. I have cleared my G Card exam in the year 2017 and was issued G-card in the year 2018 by Ludhiana Customs. Since then, I have been providing customs clearance services to various customers. I am living alone in Mundra and my wife Ms Shobha Pal along with my 2 kids, one son and one daughter is living on the above-mentioned address.*
- *Question.1: Please explain the business of M/s Pacific Clearing and Forwarding Pvt Ltd.?*

*Answer: M/s Pacific Clearing and Forwarding Pvt Ltd is Pvt Limited Firm in which, Shri Rakesh B Mourya and his wife Ms. Archana Mourya are the directors of this firm. As stated by me above the firm is engaged in the custom clearance of*

import and export consignments at Nhava Sheva Port, Mundra port and Ahmedabad ICD.

- *Question.2: Please give details of your G Card and also state the customs formation which has issued you the G card.*

*Answer: I surrendered my G-Card when I left my job at M/s Bhagwati Impex, Ludhiana in 2022. After that I started working at Mundra Port with M/s Pacific Clearing and Forwarding Pvt Ltd. At present I don't have any G-Card issued in my name. Application has been submitted Customs Office, Mundra for issuance of G Card and it is under process.*

- *Question.3: Please state the present location of M/s Pacific Clearing and Forwarding Pvt Ltd.*

*Answer: Presently the local office of M/s Pacific Clearing and Forwarding Pvt Ltd. is located at 212, 1<sup>st</sup> floor, Aaros Building, Rasapir Circle, Mundra. The head office of M/s Pacific Clearing and Forwarding Pvt Ltd. situated at 136/A-Wing, Balaji Bhavan, 1<sup>st</sup> floor, Sector-11, Plot No-42 A, C.B.D. Belapur, Navi Mumbai- 400 614.*

- *Question.4: How many people are working in M/s Pacific Clearing and Forwarding Pvt Lt? Please provide their details, designation, responsibilities and Mobile no*

*Answer: A total of 4 people including me work in M/s Pacific Clearing and Forwarding Pvt Ltd. at Mundra Port, whose details are as under:*

Name	Designation/ Work Assigned	Mobile No.
Shri Dharmendra Kumar	Field Work at Mundra Port	9913952143
Shri Chandresh	Field Work at Mundra Port	7043891707
Shri Amit Nagada	Field Work at Mundra Port	9033016665

- *Question.5: Please elaborate the nature of filed work of the staff detailed above?*

*Answer. These employees mainly handle logistic work like loading and unloading of cargo, grounding of container for examination and, dispatch of the consignment after examination and out of charge is given by the Customs.*

- *Question.6: Please name the companies/firms for whom M/s Pacific Clearing and Forwarding Pvt Ltd are providing customs clearance services?*

*Answer: Our major clients include:*

*M/s Gopinathji Petroleum.*

*M/s Jay Yogeshwar Petro Chemical.*

*M/s Petrolube Industries*

*M/s Davinder Sandhu Impex Pvt Ltd.*

*M/s Lord Shiva Overseas.*

*M/s Kay pee Overseas.*

*These are the client to whom M/s Pacific Clearing and Forwarding Pvt Ltd are providing customs clearance services at Mundra Port. However, I have no knowledge regarding the*

head office client's details. Only Shri Rakesh B Mourya, Director of the firm can provide this information.

- *Question 7: What are the other ports where you are providing customs clearance services?*

*Answer: Our major business is at Nhava Sheva, Mundra and Ahmedabad ICD.*

- *Question 8: How do M/s Pacific Clearing and Forwarding Pvt Ltd provide customs clearance facilities? Please explain the same with regard to the functioning of your firm.*

*Answer: Our clients forward the import documents on our email- [pacificmundra@gmail.com](mailto:pacificmundra@gmail.com) and sometimes they deliver the documents by hand also. Documents are examined by the staff who later on prepare check list which is sent to the clients for approval. Once the checklist is approved, the bill of entry is filed online on the ICEGATE website at the Mumbai office. Shri Eknath employee from Mumbai Head office filed Bill of entry online. After it is approved, the examination of the cargo is conducted by the customs officers in the presence of the Authorised representative of the firm. After the examination and out-of-charge given by the customs the documents are handed over to the transporter who is engaged by the importer only for delivery at the designated address.*

- *Question 9: Please define payment terms of M/s Pacific Clearing and Forwarding Pvt Ltd with the mentioned firms in Sl. No.6. What is the amount of salary that you get from the said firm.*

*Answer: As per my knowledge M/s Pacific Clearing and Forwarding Pvt Ltd charge a fee of Rs 2000-2500/- plus GST per container from the importer. I got 20,000/- per month as salary.*

- *Question 10: Please state, who gets the examination conducted at the port for the import consignment of M/s Pacific Clearing and Forwarding Pvt Ltd?*

*Answer: The examination at the Mundra port is conducted by Sh. Chandresh, Dharmendra or any person who has been appointed by the firm for facilitating customs clearance at Mundra port.*

- *Question 11: During the examination and sampling process of the consignments that were put on hold by DRI NRU, Shri Shyam Sundar Goel authorized representative of M/s Pacific Clearing and forwarding Pvt Ltd was present and the whole proceeding was conducted in his presence, who has not been named as one of the employees in reply to Ques No.04. Please elaborate.*

*Answer: At the time of examination of consignments by DRI Officers Shri Shyam Sundar Goel was made the authorized representative of the firm by the directors to witness the proceedings. And they can only explain the circumstance under which he was made authorised person to witness the same.*

- *Question 12: What work is being looked after by Shri Shyam Sundar Goel in M/s Pacific Clearing and forwarding Pvt Ltd.*

*Answer: Shri Shyam Sundar Goel is not an employee of M/s Pacific Clearing and forwarding Pvt Ltd. As per my knowledge he runs his own proprietorship firm namely M/s Creta International which is basically a forwarder firm.*

- *Question 13: Are you aware that some containers which have been declared to contain MHO have been put on hold by the DRI Noida Regional unit at Mundra port?*

*Answer: Yes, DRI Noida Regional Unit has put on hold some consignments of MHO of M/s Gopinathji Petroleum as detailed Below:*

S.NO	IEC Name	BOE No	No of containers
1	M/S Gopinathji Petroleum	9737593 Dt. 19.01.2024	06
		9868117 Dt. 28.01.2024	10

- *Question 14: What were the documents that were provided by the importer in respect of containers put on hold and as mentioned in question above?*

*Answer: M/s Gopinathji Petroleum forwarded invoices, packing list and Bill of Lading through mail on the basis of which we file the respective bill of entry.*

- *Question 15: What is the Item “MHO/ Mix Hydrocarbon Oil/Mixed Hydrocarbon Oil/Mineral Hydrocarbon Oil”, mentioned in the Bills of entries filed by you on behalf of M/s Gopinathji Petroleum?*

*Answer: As per the information provided by the importer it is a type of petroleum product.*

- *Question 16: Please state, what is the use of MHO?*

*Answer: As per the information provided by the importer it is used in boiler, rotary furnace and rolling mills.*

- *Question 17: Have you been provided with any chemical analysis report/ test report of the product by the importer issued by the supplier.*

*Answer: Yes, we have been provided with chemical analysis reports or test reports by the importer, which were filed along with Bill of entry. However, I'm submitting a copy of the same again for your information.*

- *Question 18: What was the basis of classification of the product under Chapter Heading 27101990 in the category of item “Others”*

*Answer: CTH mentioned on the invoice of the supplier itself which were provided by the importer. The Bill of entry was therefore filed accordingly.*

- *Question 19: Please peruse the respective test reports of consignments that have been put on hold by DRI Noida regional Unit and are mentioned in reply to question 13 above. The test results of each of the consignment have been summarized in the table below.*

Sl. No.	Importer Name	Bill of Entry	Sample/Seal No.	Test Report Result	Lab Name
1	M/S Gopinathji Petroleum	9737593 Dt. 19.01.2024	GA3- 344924	Gas Oil	IOCL
		9868117 Dt. 28.01.2024	GB3- A215398	Automotive Diesel Fuel (IS 1460:2017)	CRCL

*Please peruse the test reports and offer your comments.*

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

- *Question 20: Do you agree with the outcome of the test reports and the result mentioned therein?*

*Answer: Yes, I agree with the conclusion arrived at by the lab as mentioned in both the test reports.*

- *Question 21: Please give your opinion on whether MHO as declared by you in the bills of entry and the item identified as per the test result of the respective item are same or different?*

*Answer: It is evident that the goods identified by the laboratory as per the test report and the declaration made in the Bill of Entry are different.*

- *Question 22. Your kind attention is invited to the conclusion of the test report for the sample of M/S Gopinathji Petroleum wherein the oil has been found to be "Gas Oil", on the basis of the conclusion of IOCL lab, and hence are classifiable under CTH 27101941. Do you agree that the Gas Oil imported in consignment covered under BOE no 9737593 Dt. 19.01.2024 filed by M/s Pacific Clearing and Forwarding Pvt Ltd and imported by M/S Gopinathji Petroleum, is correctly classifiable under CTH 27101941 and not 27101990 as classified by M/s Pacific Clearing and Forwarding Pvt Ltd in the bill of entry filed by you.*

*Answer: In view of the conclusion of the IOCL report, I am in agreement with the conclusion that the correct classification of the oil in the consignment covered under BOE no 9737593 Dt. 19.01.2024 should be under CTH 27101941. The declaration of the item made in the bill of entry is incorrect and wrong.*

- *Question 23. Your kind attention is invited to the conclusion of the test report for the sample of M/S Gopinathji Petroleum wherein the oil has been found to be "Automotive Diesel Fuel as per IS 1460:2017", on the basis of the conclusion of CRCL lab, and hence are classifiable under CTH 27101944. On the basis of the conclusion of CRCL lab, the goods are actually ADF as per IS 1460:2017 and are hence classifiable under CTH 27101944. Do you agree that the ADF imported in*

*consignment covered under BOE no 9868117 Dt. 28.01.2024 filed by M/s Pacific Clearing and Forwarding Pvt Ltd and imported by M/S Gopinathji Petroleum, is correctly classifiable under CTH 27101944 and not 27101990.*

*Answer: In view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 9868117 Dt. 28.01.2024 should be under CTH 27101944. The declaration of the item made in the bill of entry is also incorrect and wrong.*

- *Question 24: Please take cognizance of your reply to the question no 22 and 23 above and state whether the goods declared in the Bills of entries were mis-declared.*

*Answer: I agree that the goods identified by the labs and the one declared in the Bills of entry are different. However, I wish to submit that the declaration and classification in the bill of entry was made on the basis of the documents and information provided by importer.*

- *Question 25: Please take cognizance of the reply to question no 24 above. The items identified by the lab comprising the consignments and classifiable under the said headings are not freely importable as they are restricted in nature and can only be imported by STEs (State Trading Enterprises). Then why Bill of Entry has been filed by way of misdeclaration for restricted items.*

*Answer: I again submit that the Bill of entry was filed on the basis of documents and information provided by the importer in which the CTH was already mentioned and declared in the invoice and the packing list of the supplier. The issue of mis-declaration can only be explained by the importer and the supplier.*

#### 14. LEGAL PROVISIONS:

**14.1** From the foregoing it appears that the goods in the instant case, Gas Oil is correctly classifiable under CTH 2710 1941 and Automotive Diesel Fuel is correctly classifiable under CTH 2710 1944. The relevant portion of the Customs tariff head 2710 reads as under:

#### SECTION-V

#### CHAPTER-27

(1)	(2)	Policy	Remarks
2710	Petroleum oils and oils obtained from bituminous minerals, (other than crude) preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations other than those containing bio-diesel and other than waste oils		
	Petroleum oils and oils obtained from		

		bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, other than those containing biodiesel and other than waste oils:		
2710 19	--	Other :		
2710 19 41	----	Gas Oil	State trading enterprises	Import as per policy conditions (5) of Chapter 27
2710 1944	----	Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	State trading enterprises	Import as per policy conditions (5) of Chapter 27

#### **14.2 Policy Conditions of Chapter 27:**

- (1) ----.
- (2) ----.
- (3) ----.
- (4) ----.
- (5) *Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NG's Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL & IBP who have been marketing transportation fuels before this date.*

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

*Powers to make provisions relating to imports and exports. –*

- (1) -----
- (2) *The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods.*
- (3) *All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.*

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

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

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

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

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

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

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

**14.8 Section 17 of the Customs Act, 1962:**

**Assessment of duty.** – (1) *An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.*

(2) .....

(3) .....

(4) *Where it is found on verification, examination or testing of the goods or otherwise that the self- assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.*

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

(4) *The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed*

(4A) *The importer who presents a bill of entry shall ensure the following, namely: -*

- (a) *the accuracy and completeness of the information given therein;*
- (b) *the authenticity and validity of any document supporting it; and*
- (c) *compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.*

#### **14.10. Section 112 of the Customs Act, 1962 :**

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

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

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

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

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

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

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

**14.11. Section 114AA of the Customs Act, 1962 – Penalty for use of false and incorrect material.** - If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

**14.12. Section 140 of the Customs Act, 1962: Offences by companies.** - (1) If the person committing an offence under this Chapter is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

**14.13 Section 3 of the Petroleum Act, 1934**

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

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

*The Central Government may make rules—*

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

- k) prescribing the proportion in which any specified poisonous substance may be added to petroleum, and prohibiting the import, transport or storage of petroleum in which the proportion of any specified poisonous substance exceeds the prescribed proportion; and
- l) generally, providing for any matter which in its opinion is expedient for proper control over the import, transport and storage of petroleum including the charging of fees for any services rendered in connection with the import, transport and storage of petroleum.

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

- (1) Containers exceeding one litre in capacity for petroleum Class A and five litres in capacity for petroleum Class B or petroleum class C, shall be of a type approved by the Chief Controller.
- (2) Where the approval of the Chief Controller is sought to a type of container not previously approved, an application together with copies of drawings thereof to scale showing the design, materials to be used, the method of construction and capacity of the container together with two samples containers and a fee of rupees one thousand for scrutiny shall be submitted to the Chief Controller.
- (3) Nothing in sub-rules (1) and (2) shall apply to containers in the possession of the Defence Forces of the Union.

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

- (1) Containers for petroleum class B or petroleum class C shall be constructed of steel or iron and be of a type approved by the Chief Controller.
- (2) An air space of not less than 5 percent of its capacity shall be kept in each container for petroleum Class B and not less than 3 percent of its capacity in each container for petroleum Class C.
- (3) Nothing in this rule shall apply to containers in the possession of the Defence Forces of the Union.

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

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

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

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

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

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

- (a) All tanks shall be fitted with independent approved filling and suction pipes and valves, or with stand pipes with blank flanges, all pipes being carried down nearly to the bottom of the tanks, and no petroleum in bulk shall be taken on board or discharged except through such pipes and valves, unless otherwise permitted by the Chief Controller in writing;*
- (b) All tanks shall be fitted with manholes having screw-down cover with petroleum-tight joints and, in the case of tanks intended for use with petroleum class A, with ventilators or relief valves of approved pattern properly protected with wire gauge of a mesh not less than 11 meshes to linear centimeter; and*
- (c) Ventilators similarly protected shall be fitted to all spaces, around tanks.*

## **15. Conclusion/Findings of Investigation:**

Whereas it appears from the foregoing paras that:

- i. As per condition No.5 of Import Policy of Chapter 27, import of Automotive Diesel Fuel and Gas Oil which were imported by M/s Gopinathji Petroleum in the consignment seized by DRI, by way of mis-declaration, is allowed only through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before the said date. Thus, it is evident that the said goods are not freely importable but can be imported only by State Trading Enterprises (STE) such as IOCL, HPCL, BPCL and IBP.
- ii. M/s Gopinathji Petroleum appears to be well aware of the said restriction imposed by the Policy. As such in order to circumvent the said provision, in collusion with the CHA namely M/s Pacific Clearing and Forwarding Pvt Ltd, as well as Overseas Suppliers namely M/s Peregrine General Trading Co FZE in UAE devised a modus operandi to import Automotive Diesel Fuel and Gas Oil- (restricted commodities), in the garb of importing freely importable goods. In accordance with the said modus operandi, the importer resorted to the import of Automotive Diesel Fuel and Gas Oil by declaring the same as "*Mix Hydrocarbon Oil (MHO)*".
- iii. The importer classified the said goods i.e "*Mix Hydrocarbon Oil (MHO)*" under *Customs Tariff Heading (CTH) 27101990 which pertains to "Others"* where no restriction was prescribed in the Import Policy. In accordance with said modus operandi, the supplier namely M/s Peregrine General Trading Co FZE appears to have deliberately declared the said goods in the import documents viz invoices and the corresponding packing list as "*Mix Hydrocarbon Oil (MHO)*".
- iv. In order to give credence to the invoice and packing list, it appears that the supplier namely M/s Peregrine General Trading Co FZE issued Chemical Analysis Reports on their letter head. The said Chemical Analysis Report appears to contain fabricated and fudged

parameters of “*Mix Hydrocarbon Oil (MHO)*” as the supplier himself certified the parameters of the goods. It appears that on the basis of fudged and fabricated documents namely invoice, Packing List and Chemical Analysis Report, the Importer namely M/s Gopinathji Petroleum filed Bill of Entries wherein they declared the goods as “*Mix Hydrocarbon Oil (MHO)*” and classified the same under Chapter Heading 27101990 wherein no restriction was in force in terms of the Import Policy.

- v. It further appears that M/s Gopinathji Petroleum were all along aware of the fact that the items which they sought to import actually were restricted items and as such they were not eligible to import the Gas Oil and the Automotive Diesel Fuel. The documents were manipulated so that the same could be cleared on the basis of the mis-declaration and mis-classification of the goods with the Customs at Mundra Port.
- vi. During the course of the investigations, M/s Gopinathji Petroleum were asked to submit supporting and related relevant documents, like buyer seller agreement, details of refinery/oil firm from where the consignment originated, copies of communication made with the supplier, copies of export declaration form filed in the supplier country etc pertaining to the said consignments vide summons issued to them. The said documents were called for as they would have enabled the identification of the commodity imported by M/s Gopinathji Petroleum in the consignment under investigation. It appears that the documents were deliberately not submitted by them so as to prevent the identification of the commodity by the Officers of the DRI.
- vii. In order to ascertain the exact nature of the goods and to confirm the identity, samples were drawn from the consignments which were sent to Government Lab namely IOCL, Panipat and CRCL Vizag. The parameters of the test conducted by the Labs clearly suggest that the commodity covered under the consignments pertaining to the importer as declared in the import documents and the Bill of Entry were different and not as per the import documents filed by the importer. The parameters of the samples drawn from the consignments covered under BOE 9868117 Dt. 28.01.2024 on being tested and analysed, indicate that all the parameters conform to IS 1460 which pertains to Automotive Diesel Fuel. As there is no deviation in all the parameters as mentioned in the Test reports vis-a vis parameters prescribed IS 1460, there appears to be no doubt about the identity of the said commodity. Further, the parameters of the samples drawn from the consignments covered under BOE no 9737593 Dt. 19.01.2024 on being tested and analysed by the labs suggests that except for sulphur all the parameters conform to that of the IS standard of Gas Oil (IS:17789). The Amendment to IS:17789 dated 2023 specifically mentions that Indian Refineries may opt for lower sulphur content as per the agreement between the seller and purchaser. All the parameters except sulphur have been found to be identical and though there seems to be deviation in respect of sulphur only, the same is only a quality parameter and has no relation with the identity of the commodity.
- viii. The commodity sought to be actually imported viz Automotive Diesel Fuel and Gas Oil under the subject consignments find specific mention in different tariff Item and not the tariff Item in which they were declared in the import documents i.e 27101990 which does not lay down any restriction if the goods are covered under the said CTH and are classified accordingly. It appears that the item has been given description *Mix Hydrocarbon Oil* also

that the same can be classified in the category of Chapter Heading 27101990 pertaining to *others* deliberately where there is no restriction in the import of commodities falling in the said category of the Customs Tariff Act'1985.

- ix. The importer failed to provide any document to substantiate the chemical composition/constituent if any of Mixed Hydrocarbon Oil. It appears that the misclassification was done deliberately so as to mislead the department. The correct classification is 27101944 pertaining to "Automotive diesel fuel, not containing bio-diesel, conforming to standard IS 1460" and 27101941 pertaining to "Gas Oil". The act of mis-declaration and misclassification with the intent to import restricted goods namely Automotive diesel fuel And Gas oil has been categorically accepted and acknowledged in their respective statements by M/s Gopinathji Petroleum and the CHA namely M/s Pacific Clearing and Forwarding Pvt Ltd.
- x. M/s Gopinathji Petroleum are not an STE entity and hence they are not eligible to import the said restricted goods. Therefore they appeared to resort to the act of mis-declaration and mis-classification so as to import the said restricted goods.
- xi. M/s Gopinathji Petroleum failed to submit any document in support of the item *Mix Hydrocarbon Oil* declared by the supplier in the import documents and Bills of Entries. Even subsequently during the course of the investigations after the containers were put on hold, till date they have not been able to submit any such document to substantiate the identity of the goods in accordance with declaration in Invoice & Packing list as well as bill of entries.
- xii. M/s Gopinathji Petroleum failed to provide specific use of the item "Mixed Hydrocarbon Oil". On being asked in his voluntary statement tendered under Section 108 of the Customs Act'1962 whether he was aware about the parameters/specifications of the MHO, Shri Joshi Bhaskarray, Proprietor of M/s Gopinathji Petroleum gave vague reply that the MHO was used for industrial purposes. But he failed to provide information about the specific industry which used the Mix Hydrocarbon Oil, Further, he could not state anything the parameters /specification of Mixed Hydrocarbon Oil. Further even the CHA could not give any information about the use of the Mixed Hydrocarbon Oil. This suggests that they were not aware about the use of the said commodity i.e. "Mix Hydrocarbon Oil" as the same was not intended to be imported actually in the containers put on hold and subsequently examined by the Officers of the DRI.
- xiii. They also appear to have violated the provisions of Petroleum Act, 1934. The Petroleum Act, 1934, classifies petroleum products into 3 categories based on their flash points as detailed below:

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

	200°F)
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Further, as per the test reports the goods in question here fall under the “Class B” category of petroleum products as per the Petroleum Act 1934. Class B petroleum products are hazardous, and their import, storage, and transport are strictly regulated. Now to import the class B category of petroleum products an Importer has to follow certain rules and require certain certifications as discussed below:

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

By importing restricted Class B petroleum in Flexi bags in total disregard of the safety norms which could lead to serious mishaps, M/s Gopinathji Petroleum in the greed for earning illicit profits have put the public and the environment at great risk.

xiv. Shri Joshi Bhaskarray Proprietor of M/s Gopinathji Petroleum on being shown the Test Reports and the parameters mentioned therein has accepted the conclusions and findings of the Test Reports of IOCL and CRCL in his voluntary statement. He has also accepted that the consignments were mis-declared and misclassified in his voluntary statement. On the basis of the conclusions of the Test Reports he accepted that the respective consignments comprised of Automotive Diesel Fuel and Gas Oil as suggested in the said Test Report. However he has sought to shift the onus and blame for mis-declaration upon the supplier and has claimed that the issue of the mis-declaration can be explained by the supplier. The fact that the importer has not produced any document from the supplier or the supplier has not issued any clarification till date, suggests that the consignment was as per the orders placed by Shri Joshi Bhaskarray Proprietor of M/s Gopinathji Petroleum.

xv. The provisions of Section 17 (1) of the Customs Act, 1962 read with Section 2 (2) of the Customs Act, 1962 read with CBIC Circular No. 17/2011-Customs dated 08.04.2011 lay down onus on the importer and the CHAs to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he

declared the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. By furnishing incorrect and wrong information in the import documents, it appears that M/s Gopinathji Petroleum and the CHA – M/s Pacific Clearing and Forwarding Pvt Ltd, appear to have violated the provisions of the said Section 17 (1) of the Customs Act, 1962 read with Section 2 (2) of the Customs Act, 1962.

xvi. In terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bills of Entry. Further, in terms of Section 46 (4A) of the Customs Act, 1962, the importer who presents a bill of entry shall ensure the accuracy and completeness of the information given therein; shall ensure the authenticity and validity of any document supporting it; and shall ensure compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force. In the instant case it appears that the importer was fully aware of the actual goods imported by them. In as much as the importer in his voluntary statements accepted the test reports of the goods imported under subject bills of entry. Also on being shown with the Test Reports, Shri Joshi Bhaskarray accepted that they had mis-declared the description imported under subject bills of entry before the custom authorities. Thus, in view of the facts discussed in the foregoing paras and material evidences available on records, it appears that the importer has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, in as much as they had intentionally mis-declared the description of the goods imported by them with a malafide intention to import a restricted good under the garb and guise of a freely importable good.

xvii. Further, by attempting to import restricted goods, the importer- M/s Gopinathji Petroleum appear to have indulged in the act of smuggling as defined under Section 2(33) of the Customs act'1962. With the introduction of self-assessment and consequent upon amendments to Section 17 of the Customs Act, 1962 w.e.f. 08.04.2011, it was obligatory on their part to declare the actual description and correct classification of the goods imported by them and pay the duty applicable in respect of the said goods. Therefore, by not disclosing the true and correct facts to the proper officer, at the time of filing of Bill of Entry for the respective consignment, the importer appears to have indulged in mis-declaration and mis-classification by way of suppression of facts and willfully mis-declared and mis-classified the imported goods with intent to import restricted goods. Thus, the importer appears to have contravened the provisions of Section 46(4) & 46(4A) of the Customs Act, 1962, in as much as they have mis-classified and mis-declared the goods imported by them by suppressing the true and actual description of the goods, while filing the declaration seeking clearance at the time of importation of impugned goods.

xviii. The facts and the investigations have revealed that the CHA- M/s Pacific Clearing and Forwarding Pvt Ltd were actively involved in facilitating and assisting the customs clearance of the restricted goods namely Automotive Diesel Fuel and Gas Oil under the garb and guise of Mix Hydrocarbon Oil. The CHA appear to have failed to fulfil the following obligations as prescribed under Regulation 10 of Customs Broker Licensing Regulation 2018-

.....

- (d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;
- (q) co-operate with the Customs authorities.

It appears that M/s Pacific Clearing and Forwarding Pvt Ltd failed to advise their client M/s Gopinath Petroleum as obligated vide obligation (d) of the Regulation 10 of Customs Broker Licensing Regulation 2018 to comply with the provisions of the Act, other allied Acts and the rules and regulations. They did not advise them against importing restricted commodities by way of misclassification and mis-declaration for not being qualified to do so. Further the restricted goods were imported in flexi bags in violation of the provisions of the Customs Act'1962 and the Petroleum Act'1934. M/s Pacific Clearing and Forwarding Pvt Ltd also appear to have failed to comply with the obligation (e) as they failed to exercise due diligence to ascertain the correctness of the decorations and the details furnished in the import documents and the bill of entries. They also did not ask the importer to procure and file relevant supporting documents to enable identification of the goods. They should have advised M/s Gopinathji Petroleum against filing fudged and fabricated parameters reproduced by the supplier as Chemical Analysis Report. They did not advise them to get proper chemical report from the supplier. Further, they appear to have not fulfilled the obligation (q) of Regulation 10 as they did not co-operate with the Customs authorities during the course of the investigations and did not disclose vital information relating to the case on their own.

xix. Since the consignments consisting of 16 containers pertaining to 02 BEs were imported by way of mis-declaration and mis-classification as Mix Hydrocarbon Oil in the manner as discussed above in contravention of Section 17 (1), Section 46(4) and Section 46 (4A), the same appears liable for confiscation in terms of Section 111(d), (f), (l) and (m) of Customs Act, 1962. Further, M/s Gopinathji Petroleum, (IEC-AGLPJ1650J), through its Proprietor Shri Joshi Bhaskarray and M/s Pacific Clearing and Forwarding Pvt Ltd, CHA, for their respective roles in the instant case appear to have rendered themselves liable for imposition of penalty under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

### **16.1 Role played by the importer (M/s Gopinathji Petroleum):**

Whereas it appears that M/s Gopinathji Petroleum knowingly violated import policy by attempting to import restricted items (Automotive Diesel Fuel and Gas Oil) under the guise of freely importable goods labelled as "Mix Hydrocarbon Oil (MHO)." The importer declared the restricted items as "Mix Hydrocarbon Oil (MHO)" under Customs Tariff Heading (CTH) 27101990, a category with no import restrictions, to evade scrutiny. In collaboration with the supplier (M/s Peregrine General Trading Co FZE) and the clearing agent (M/s Pacific Clearing and Forwarding Pvt Ltd), the importer falsified documents to support the fraudulent declaration.

They submitted fabricated invoices, packing lists, and Chemical Analysis Reports obtained from the supplier, which misrepresented the true nature and parameters of the imported goods. M/s Gopinathji Petroleum deliberately withheld crucial documents, such as buyer-seller agreements, supplier communications, and export declaration forms, to hinder the investigation and conceal the true nature of the imported goods. They manipulated documents and information in order to mislead the customs authorities at Mundra Port and indulge in the illegal import of restricted petroleum products. The illicit import of Automotive Diesel Fuel and Gas Oil tantamount to act of smuggling as defined under Section 2(39) of the Customs Act'1962. Thus, for their acts of omission and commission in the case borne out by the investigation, M/s Gopinathji Petroleum have rendered themselves for penalty under the provisions of Sections 112(a) and/or 112(b) and/or 114AA of the Customs Act'1962.

### **16.2 Role Played by M/s Pacific Clearing and Forwarding Pvt Ltd (CHA):**

Whereas it appears that M/s Pacific Clearing and Forwarding Pvt Ltd were also equally involved in the illicit import of the restricted goods namely restricted items (Automotive Diesel Fuel and Gas Oil) under the guise of freely importable goods labelled as "Mix Hydrocarbon Oil (MHO)." They have been found to have not fulfilled the obligations prescribed under Regulation 10 of Customs Broker Licensing Regulation 2018. As a Customs House Agent, they did not advise M/s Gopinathji Petroleum to comply with the applicable laws under the Customs Act, 1962, and the Petroleum Act, 1934. They allowed misclassification and misdeclaration of restricted petroleum products as "Mix Hydrocarbon Oil (MHO)." M/s Pacific Clearing and Forwarding Pvt Ltd failed to exercise due diligence and did not verify the accuracy and the authenticity of import documents, including invoices and chemical analysis reports. They failed to ensure submission of genuine supporting documents to identify the imported goods. This becomes more important and critical in view of the kind of goods being imported. M/s Pacific Clearing and Forwarding Pvt Ltd filed false/fabricated documents, enabling the import of restricted petroleum products in unsafe Flexi bags, violating the Petroleum Act, 1934, and Customs Act, 1962. For their acts of omission and commission in the case borne out by the investigation, M/s Pacific Clearing and Forwarding Pvt Ltd appeared to have rendered themselves for penalty under the provisions of Sections 112(a) and/or 112(b) and/or 114AA of the Customs Act,1962.

**17.** Now therefore, **M/s Gopinathji Petroleum, (IEC-AGLPJ1650J)**, through their Proprietor Shri Joshi Bhaskarray, (Address 1- Trapaj Sd,Alang Gam, Talaja, Bhavnagar, Gujarat, 364140 and Address 2- S/o Joshi Chandubhai, VPO- Borala, Bela, Bhavnagar, Gujarat-364150) are hereby called on to show cause in writing to the Additional/Joint Commissioner of Customs,5B, Port User Building,Mundra Port, Mundra, Gujarat – 370421 as to why:-

- (i) The declared classification of the impugned goods i.e. Automotive Diesel Fuel having total quantity 189.640MTS mis-declared as Mix Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of entry no. 9868117 Dt. 28.01.2024; should not be rejected/denied and re-classified under the Customs Tariff Item 27101944
- (ii) The declared classification of the impugned goods i.e. Gas Oil having a total quantity 111.960 MTS mis-declared as Mix Hydrocarbon Oil under Customs Tariff Item 27101990

under Bill of entry no. 9737593 Dt. 19.01.2024; should not be rejected/denied and re-classified under the Customs Tariff Item 27101941

(iii) Automotive Diesel Fuel and Gas Oil sought to be imported by them in 16 containers pertaining to 02 BOEs having declared value of Rs1,27,64,451/- (Rupees One Crore Twenty Seven Lakh Sixty Four Thousand Four Hundred and Fifty One) seized under Section 110 of the Customs act'1962 vide Seizure Memorandums dated 27.05.2024 and 14.09.2024 lying seized at Mundra Port should not be confiscated under Section 111(d), 111(f), 111(l) & 111(m) of the Customs Act'1962.

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

**18.** Now therefore **M/s Pacific Clearing and Forwarding Pvt. Ltd** are hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421 as to why penalty should not be imposed upon them under Section 112(a) and/or 112(b) and/or 114AA of the Customs Act,1962, for their role in the illicit import of restricted commodity namely Automotive Diesel Fuel and Gas Oil in the manner as discussed above.

**19.** The Noticees should state in their written reply to this notice to the Adjudicating Authority i.e. the Additional/Joint Commissioner of Customs, 5B, Port User Building,Mundra Port, Mundra, Gujarat – 370421as to whether they desire to be heard in person. If no reply to this notice is received from them within 30 days from the date of receipt of this notice or if they fail to appear for the personal hearing on the date and time intimated to them, the case is liable to be decided ex parte on the basis of evidences available on record without any further reference to them

**20.** The Noticees has an option to make an application under Section 127(B) of the Customs Act, 1962 prior to adjudication of this case, to the Settlement Commission to have the case settled, in such form and in such manner, specified in the rules and also inform the same to the Adjudicating Authority

**21.** The copies of the documents relied upon in this Show Cause Notice are enclosed.

**22.** The Department reserves its rights to add, alter, amend, modify or supplement this Show Cause Notice at any time on the basis of any evidence, material facts related to import of goods in question and/or persons who could not be traced out during the investigation, which may come to the notice of the department after issuance of this notice and prior to the adjudication of the case. This Show Cause Notice is issued under Section 124 of Customs Act, 1962 without prejudice to any other action that may be taken against the persons/firms mentioned herein above or any other person under the Customs Act, 1962 or any other law for the time being in force in India.

**23.** A copy of the Show Cause Notice is also transmitted to the Noticees at their e-mail-id as under in terms of clause (c) of sub-section 1 of section 153 of the Customs Act, 1962, so that

such service through e-mail shall be deemed to have been received by the Noticees in terms of clause (c) of sub-section 1 of section 153 of the Customs Act, 1962.

S. No.	Name of the Noticee	Email-id
1.	M/s Gopinathji Petroleum (Shri Joshi Bhaskarray)	gopinathji3353@gmail.com
2.	M/s Pacific Clearing and Forwarding Pvt Ltd	pacificcnf2018@gmail.com

**Encl: RUDs of the SCN.**

**Additional Commissioner  
Custom House, Mundra**

फाइल संख्या/F. No. GEN/ADJ/ADC/298/2025

**DIN/ दस्तावेज़ पहचान संख्या:** 20250171MO0000616066

1. **M/s Gopinathji Petroleum, IEC-AGLPJ1650J (Proprietor- Shri Joshi Bhaskarray),**  
**Address 1:** Trapaj SD, Alang Gam,  
 Talaja, Bhavnagar,  
 Gujarat-364140  
**Address 2:** S/o Joshi Chandubhai,  
 VPO- Borala, Bela,  
 Bhavnagar, Gujarat-364150,
2. **M/s Pacific Clearing and Forwarding Pvt Ltd**  
 Office no.124, 1st Floor,  
 Shiv Centre, Sector 17,  
 Plot No 72, Vashi, Navi Mumbai- 400705

**Copy to:-**

1. The Deputy Director, DRI, Noida Regional Unit, Noida(E-mail: [dri-noida@gov.in](mailto:dri-noida@gov.in) )
2. The Deputy/Assistant Commissioner, Group-I, Custom House, Mundra.
3. The Supdt. (EDI), Customs House, Mundra to upload a copy on the website.