	प्रधान आयुक्त का कार्यालय,सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421 **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ** **MUNDRA, KUTCH-GUJARAT** **EMAIL: group1-mundra@gov.in**	

A	File No.	CUS/APR/2486/2026-Gr 1-O/o Pr Commr-Cus-Mundra
B	Order-in-Original No.	**MCH/ADC/ZDC/223/2026-27**
C	Passed by	**Dipak Zala** Additional Commissioner of Customs, Custom House, Mundra.
D	Date of order	**10.07.2026**
E	Noticee/Party/Importer	M/s Bharat Oil Company (IEC: APGPK2572L)
F	SCN No. & Date	Waived.

1. यह अपील आदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।

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

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

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

" सीमा शुल्क आयुक्त (अपील),
चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद-380 009"
"THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
Having his office at 4th Floor, HUDCO Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380 009."

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए ।

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

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

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

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं॰-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए ।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटि/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये ।

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

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

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

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s Bharat Oil Company situated at Mevali, Shamser Purva, Mewli Bujurg, Fatehpur, Meoli, Uttar Pradesh-212601 ('Importer' for the sake of brevity) have filed Bill of Entry No. 7442758 dated 10.02.2026 for import of purportedly said to be '*LUBRICATING OIL- CTH-27101979*' through Customs Broker- M/s Airtrax Freight Logistics-BJOPM0241HCH002 at Mundra Port. The assessable value of the goods declared by the importer is Rs. 78,59,234/- and total gross weight for all 10 X 20' Containers (In Flexi Bags) is 1,92,040 KGs.

2. Examination of the Goods

2.1. On the basis of intelligence, the goods imported under the said Bill of Entry No. 7442758 dated 10.02.2026 had been put on hold for SIIB examination. The goods were examined under Panchnama dated 02.03.2026 [**RUD-1**] in the Mundhra CFS in the presence of the authorized representative of the importer Shri Mit Shah. The details of the import documents are as below:

Sr. No.	BE No./Date	Container No.	BL No./Date	Goods Declared
1	7442758 dated 10.02.2026	EITU0033841	DCLJEAMUN26003 dated 07.02.2026	LUBRICATING OIL, CTH-27101979
2		EITU0103281		
3		EITU0125721		
4		EITU0151401		
5		EITU0209740		
6		EITU0226753		
7		EITU0251890		
8		EITU0321067		
9		EITU0391193		
10		WHLU0309726		

2.2. Firstly, the containers were examined for any external damage or signs of wear and tear, and were found to be in sound condition. The authorized representative of the importer, Shri Mit Shah, and the authorized representative of the CFS, Shri Rabindra Nath Muduli, informed that the container seals had already been cut for examination after obtaining seal cutting permission from the Docks Examination Officers, prior to the placement of hold. Thereafter, the weighment slips of the containers were provided by Shri Rabindra Nath Muduli of the CFS. The weights of the containers are as under:

Sr. No.	Container No.	Net Weight as per Packing List (Kgs)	Net Weight as per CFS Weighment Slip (Kgs)
1	EITU0033841	19110	19205
2	EITU0103281	19090	19085
3	EITU0125721	18920	18985
4	EITU0151401	19190	19385
5	EITU0209740	19280	19400
6	EITU0226753	18990	19115
7	EITU0251890	19020	19085
8	EITU0321067	19190	19270
9	EITU0391193	19310	19410
10	WHLU0309726	18940	19000
Total		**Total**	**191040**

2.3. On opening the container doors, it was observed that the containers were stuffed with flexi bags. Small quantities of oil were drawn from each container, and it was observed that all the containers contained greenish-coloured oil. In order to ascertain the exact nature and composition of the goods, representative samples were drawn in duplicate and filled in aluminium bottles. The bottles were duly signed by the panchas, the authorised representative of the importer, and the Customs officer, and were thereafter properly sealed. Since the goods appeared uniform in physical characteristics across all containers, and the consignment was covered under a single Bill of Entry, imported from a single supplier by a single importer, samples were drawn on a random basis from one container bearing No. EITU0209740. The authorised representative of the importer, Shri Mit Shah, was present during the drawal of samples and expressed satisfaction with the procedure. In token thereof, he affixed his dated signatures on all the sample bottles and envelopes. The samples drawn were forwarded to CRCL, Kandla under Test Memo Nos. 560/2025-26 and 563/2025-26, both dated 02.03.2026 [**RUD-2**].

3. Test Report

3.1. The CRCL Kandla has issued Test Report No. 10487-SIIB dated 02.04.2026 [**RUD-3**] for test memo no. 560/2025-26 dated 02.03.2026. The details of the test report are as under:-

"the sample as received is in the form of pale yellowish coloured oily liquid; it is composed of mixture of hydrocarbon oil having oil content more than 70% by weight with following constants:-
Density @15 Deg. C (gm/ml) = 0.8365
Flash Point (open cup) (Deg. C) = 95
Initial Boiling Point (Deg. C) = 220
05% V/V recovery at (Deg. C) = 241
50% V/V recovery at (Deg. C) = 293
90% V/V recovery at (Deg. C) = 341
95% V/V recovery at (Deg. C) = 356
Final Boiling Point (Deg. C) = 377
% V/v Residue on Distillation = 0.9
% V/v recovery at 210 Deg. C = Nil
Kinematic Viscosity @40 Deg.C (Cst) = 4.04
Ash Content (% by mass) = Nil
Sediments (% by mass) = Nil
Acid Number (mg KOH/gm) = Nil
Water content (% by mass) = Nil
Aniline point (Deg. C) = 82
Calculated Cetane Index = 60.98

*It is other than Lubricating Oil. However, the above tested parameters are agrees with **HFHSD as per BIS 16861**, sulphur content in the sample could not be ascertained for want of testing facility.*
Sealed sample returned herewith."

3.2. The CRCL Kandla has issued Test Report No. 10548-SIIB dated 02.04.2026 [**RUD-4**] for test memo no. 563/2025-26 dated 02.03.2026. The details of the test report are as under:-

"the sample as received is in the form of pale yellowish coloured oily liquid; it is composed of mixture of hydrocarbon oil having oil content more than 70% by weight with following constants:-
Density @15 Deg. C (gm/ml) = 0.8362
Flash Point (open cup) (Deg. C) = 96.0
Initial Boiling Point (Deg. C) = 219
05% V/V recovery at (Deg. C) = 241
50% V/V recovery at (Deg. C) = 292
90% V/V recovery at (Deg. C) = 337
95% V/V recovery at (Deg. C) = 349
Final Boiling Point (Deg. C) = 365
% V/v Residue on Distillation = 1.0
% V/v recovery at 210 Deg. C = Nil
Kinematic Viscosity @40 Deg.C (Cst) = 3.96
Ash Content (% by mass) = Nil
Sediments (% by mass) = Nil
Acid Number (mg KOH/gm) = Nil
Water content (% by mass) = Nil
Aniline point (Deg. C) = 86
Calculated Cetane Index = 60.93

It is other than Lubricating Oil. However, the above tested parameters are agrees with Light Diesel Oil as per BIS 15770, sulphur content in the sample could not be ascertained for want of testing facility.
Sealed sample returned herewith."

3.3. The test reports have been shared with the importer under email dated 13.04.2026 [**RUD-5**], for which no reply has been received from the importer.

4 INVESTIGATION

4.1. As per the test report of CRCL Kandla, it is found that the goods imported under the said BE have been identified as HFHSD as per BIS 16861 and LDO as per BIS 15770. Out of total 1,91,940 KGs of goods, the goods lying at the air valve weighing 3,838.8 KGs are found as LDO as per BIS 15770 and remaining goods found as HFHSD as per BIS 16861 [goods whose samples were drawn from the outlet valve]. In accordance with Para 2.21 of the Foreign Trade Policy (FTP) 2023, the import of such goods is categorized as '**Restricted**', and is permitted only through designated State Trading Enterprises (STEs), subject to compliance with prescribed conditions and procedures. Since the importer has not produced any valid authorisation or evidence showing that the import is routed through a notified State Trading Enterprise, therefore, the import of 'HFHSD as per BIS 16861 and LDO as per BIS 15770' in this case amounts to a violation of the FTP and DGFT regulations. The goods become prohibited and therefore, the goods imported under Bill of Entry No. 7442758 dated 10.02.2026 were rendered liable for confiscation under Section 111(d) of the Customs Act, 1962.

4.2. As per Chapter Note 2 of the CTH 27, "references in heading 2710 to "petroleum oils and oils obtained from bituminous minerals" include not only petroleum oils and oils obtained from bituminous minerals but also similar oils, as well as those consisting mainly of mixed unsaturated hydrocarbons, obtained by any process, provided that the weight of the non-aromatic constituents exceeds that of the aromatic constituents. Further, CTH 2710 covers "*PETROLEUM OILS AND OILS OBTAINED FROM BITUMINOUS MINERALS (OTHER THAN CRUDE) AND PREPARATIONS NOT ELSEWHERE SPECIFIED OR INCLUDED,* ***CONTAINING BY WEIGHT 70% OR MORE OF PETROLEUM OILS*** *OR OF OILS OBTAINED FROM BITUMINOUS MINERALS, THESE OILS BEING THE BASIC CONSTITUENTS OF THE PREPARATIONS OTHER THAN THOSE CONTAINING BIODIESEL AND OTHER THAN WASTE OILS".*

4.3. The chemical examination reports issued by CRCL, Kandla revealed that the samples drawn from the imported cargo consist of hydrocarbon oils containing more than 70% by weight of petroleum oils, thereby satisfying the essential requirement for classification under CTH 2710. The test reports further record that the imported goods meet the parameters of "*HFHSD as per BIS 16861 and LDO as per BIS 15770*" and are not found to be lubricating oil as declared by the importer in the said BE. As per the Indian Customs Tariff, HFHSD as per BIS 16861 and LDO as per BIS 15770 are **classifiable under CTH 27101949 and 27101943 respectively**. Thus, based on the CRCL Kandla test reports, the imported goods are found correctly classifiable as HFHSD as per BIS 16861 and LDO as per BIS 15770 under CTH 27101949 and 27101943 respectively and do not merit classification under the declared CTH 27101979.

4.4. Further, import of goods classifiable under CTH 27101949 AND 27101943 are **restricted** in terms of Policy Condition (5) of Chapter 27 of ITC (HS), 2022, as amended vide DGFT Notification No. 08/2023 dated 29.05.2023, and is permitted only through State Trading Enterprises (STEs) in accordance with Para 2.21 of the Foreign Trade Policy, 2023.

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

Notification No. 08/2023 dated 29.05.2023

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

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

ANNEXURE-III

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

Chapter	***Policy***	***Existing Condition***	***Revised Condition***

	Condition		
27	*5*	*Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date.*	*Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date*

4.6. Further, as per Para 2.21 of the FTP-2023, **State Trading Enterprises** have been defined as under:

Import / Export through State Trading Enterprises:

2.21 State Trading Enterprises (STEs)

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

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

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

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

4.8. From the foregoing, it emerges that the goods imported vide Bill of Entry No. 7442758 dated 10.02.2026, though declared as LUBRICATING OIL under CTH 27101979, are in fact restricted petroleum product, namely HFHSD as per BIS 16861 and LDO as per BIS 15770 classifiable under CTH 27101949 and 27101943 respectively, and have been mis-declared in terms of description and classification in the Bill of Entry.

5. Valuation – Examination of Declared Transaction Value

5.1. In the present case, the valuation of the imported goods was examined in accordance with the sequential scheme prescribed under Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, with reference to the actual nature of the goods found on testing, namely HFHSD as per BIS 16861 and LDO as per BIS 15770. Therefore, the value declared by the importer appears doubtful and does not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same is liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of CVR, 2007. Valuation under Rule 4, relating to the transaction value of identical imported goods, could not be applied due to the non-availability of contemporaneous imports of identical HFHSD as per BIS 16861 and LDO as per BIS 15770 of comparable specifications, quantity and commercial level. Similarly, valuation under Rule 5, relating to similar imported goods, was also not feasible due to the absence of reliable contemporaneous import data of similar HFHSD as per BIS 16861 and LDO as per BIS 15770 imports under comparable conditions. Valuation under Rule 6 was found to be impracticable, as the cost of production, manufacturing expenses and profit of the overseas supplier were not available.

5.2. Further, Rule 7 (Deductive Value Method) is also not found feasible, as the reliable data regarding resale price, post-import expenses, and deductions is not available. Further, Rule 8 (Computed Value Method) is also not applicable, as the same requires verifiable data relating to cost of production, manufacturing expenses, and profit of the foreign supplier/exporter, which is neither available nor ascertainable in the present case.

5.3. In view of the above, the value of the goods is required to be determined under Rule 9 of the Customs Valuation Rules, 2007, using reasonable means consistent with the principles and general provisions of these Rules and Section 14 of the Customs Act, 1962. Accordingly, the assessable value has been re-determined with the assistance of an empanelled Chartered Engineer, based on technical parameters such as density, nature of goods, and prevailing international prices of comparable petroleum products.

5.4. The empanelled Chartered Engineer, after examining the nature, specifications and commercial characteristics of the goods, has assessed the C&F value of the imported goods at USD 1,19,977.86 for all the 10 containers containing 1,91,940 KGs of goods (weight as per CFS weighment slip), vide Report No. ABJ:INSP:CE:MUN:SIIB:SVP:26-27:03 dated 13.05.2026 [**RUD-6**]. In contrast, the importer has declared the C&F value of the goods as 85,968 USD.

5.5. It is observed that the importer has declared insurance charges amounting to INR 6,057, which is actual and ascertainable, and the same has been adopted for the purpose of re-determination of value. Accordingly, the revised CIF value is worked out as under:

- Revised C&F value (as per Chartered Engineer): USD 1,19,977.86
- Add: Insurance (actual): INR 6,057

- Revised CIF value: Rs. 1,09,66,034/- [USD 1,19,977.86 * 91.35 + Insurance INR 6,057].

5.6. On conversion of the revised CIF value at the applicable exchange rate of ₹ 91.35 per USD, the revised assessable value works out to **Rs. 1,09,66,034/-,** as against the importer's declared assessable value of Rs. 78,59,234/-.

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

6. **RECORDING of STATEMENT:**

6.1. Whereas, summons dated 21.04.2026 issued to the importer, M/s Bharat Oil Company, for recording statement under Section 108 of the Customs Act, 1962. In compliance thereof, Shri Krishn Pal, EXIM Executive and Authorized Representative of the importer, appeared on 30.04.2026 and his statement was recorded under Section 108 of the Customs Act, 1962 [**RUD-7**], wherein he inter alia stated as under:-

i. That he is working as an EXIM Executive in M/s Bharat Oil Company since the last one year and is looking after the day-to-day work related to import/export of goods by the said firm. He is an Authorized Representative of the company, authorized vide authorization letter dated 30.04.2026 to give statement.

ii. That M/s Bharat Oil Company is engaged in the business of petroleum products as a trader, wholesaler and distributor, having its principal place of business at Flat No. 206, The Legend, Sushant Lok-3, Sector-57, Gurugram, Haryana, 122001. The branch address of the firm is Khata No. 280, Mutation No. 4108, Gurgram, Begampur Khatola, Gururam, Haryana-122004.

iii. That Bill of Entry No. 7442758 dated 10.02.2026 was filed for import of "Lubricating Oil", declared to be classifiable under CTH 27101979, imported from UAE.

iv. That goods were imported from M/s. Pehli Oil and Gas FZE, P.O. Box No. 51661, P6-Elob, Office No. E09F-18, Hamriyah Free Zone, UAE, which is their main supplier of lubricating oil.

v. That he has perused the test reports issued by CRCL, Kandla, vide Lab Nos. 10487-SIIB/05.03.2026 and 10548-SIIB/09.03.2026, both dated 02.04.2026, and is in agreement with the findings therein.

vi. That upon receipt of the test reports, they contacted M/s. Pehli Oil and Gas FZE, UAE and were informed telephonically that by mistake wrong consignment had been loaded by them. Thus, they are in agreement that the goods are other than the goods ordered i.e. Lubricating Oil.

vii. That they have been informed by Shri Mit Shah who was authorized representative of the company for examination and withdrawal of samples that the goods in all the containers are of same type. Two samples, one from the outlet valve and another from the air valve withdrawn for container no. EITU0209740. Goods present near the gate i.e. outlet valve are HFHSD and goods in the back side air valve are LDO.

viii. That they have been informed by authorized overseas supplier that in similar way, goods were loaded in all the 10 containers.

ix. That they have not made any payment to the overseas supplier. As per agreed terms, the payment was to be made only after delivery of the goods. However, since the goods have been found mis-declared, no payment has been made.

x. That the overseas supplier has agreed to take back the goods.

xi. That **they do not want any Show Cause Notice or Personal Hearing** in the matter and have requested for re-export of the goods to the same supplier.

7. LEGAL PROVISIONS:

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

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

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

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

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

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

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

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

7.6 In view of the above as per the above provisions of FTP and Hand Book of Procedure, the import of impugned goods, *'HFHSD as per BIS 16861 and LDO as per*

BIS 15770' classifiable under CTH 27101949 and 27101943 respectively, being the canalised item is subjected to the conditions imposed thereunder and allowed to be imported through STEs only. Import of this item by any other parties is in violation and contrary to condition imposed under Foreign Trade Policy of Government of India, rendering the said goods as **'Restricted'** for import into India.

CUSTOMS ACT, 1962

7.7 As per **Section 2 (33)** of the Customs Act, 1962 '**prohibited goods'** means *any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.*

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

7.9 **SECTION 46** of the Act, prescribes that the importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

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

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

> *(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;*
>
> *(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under Section 77;*
>
> *(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54.*

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

Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section111,

shall be liable, -

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

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

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

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

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

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

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

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

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

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

(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:
***Provided** that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.*
***Provided** further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.*

8. OUTCOME OF THE INVESTIGATION:

8.1 After the introduction of self-assessment vide the Finance Act, 2011, the onus lies on the importer to make a true and correct declaration in all respects in the Bill of Entry and to pay the correct amount of Customs duty. In terms of Section 46(4) of the Customs Act, 1962, the importer is required to declare the truth of the contents of the Bill of Entry submitted for assessment.

8.2. From the outcome of the investigation, as discussed in the preceding paragraphs, it appears that the goods imported vide Bill of Entry No. 7442758 dated 10.02.2026, comprising 10 × 20' containers (in flexi bags) and declared as LUBRICATING OIL under CTH 27101979, were mis-declared and mis-classified. The test reports received from CRCL Kandla have certified the goods as HFHSD as per BIS 16861 and LDO as per BIS 15770 classifiable under CTH 27101949 and 27101943 respectively. Out of total 1,91,940 KGs of goods, the goods lying at the air valve weighing 3,838.8 KGs are found as LDO as per BIS 15770 and remaining goods found as HFHSD as per BIS 16861.

8.3. Import of goods classifiable under CTH 27101949 and 27101943 respectively are permitted under the Foreign Trade Policy only subject to fulfilment of the conditions prescribed under Policy Condition (5) of Chapter 27 of ITC (HS), 2022, as amended, which mandates import only through State Trading Enterprises (STEs) or by entities specifically authorised by DGFT. In the present case, the importer is not a State Trading Enterprise as notified under Appendix-2J of the Foreign Trade Policy, 2023, and has not produced any authorisation issued by DGFT. Consequently, the conditions prescribed under the Foreign Trade Policy have not been fulfilled and the goods therefore become "prohibited goods" within the meaning of Section 2(33) of the Customs Act, 1962, rendering them liable to confiscation under Section 111(d) of the Customs Act, 1962.

8.4. Further, investigation has also established that the importer has mis-declared the description and classification of the goods in the Bill of Entry by declaring the same as *LUBRICATING OIL* instead of HFHSD as per BIS 16861 and LDO as per BIS 15770, as actually imported. Such incorrect declaration in respect of the nature and classification of the goods renders the goods liable to confiscation under Section 111(m) of the Customs Act, 1962.

8.5. Further, it is also noted that said goods have been imported in flexi bags fitted in 10x20' containers. Whereas, it is noted from PUBLIC NOTICE NO. 08/2024 issued by this office that storage and transportation of Class A, B and C petroleum products is allowed in containers as defined in the Petroleum Rules, 2002 as amended. Further, Rule 5 and Rule 6 of the Petroleum Rules, 2002 provide the specifications of the containers for Petroleum Class A, B & C products. As per Rule 4 of the Petroleum Rules, 2002, Containers exceeding one litre in capacity for petroleum Class A and five litres in capacity for petroleum Class B or petroleum class C, shall be of a type approved by the Chief Controller. In light of the Petroleum (Amendment) Rules, 2024/ Petroleum Rules, 2002, PESO has clarified that flexi bags fitted in general purpose 20 feet containers are not covered under the definition of container falling under Petroleum Rules, 2002. Further, Petroleum and Explosives Safety Organisation (PESO) is not giving any license/permission for transportation of petroleum products in flexi bags fitted in general purpose 20 feet containers. Therefore, as per Public Notice No. 08/2024, the petroleum products covered under the Petroleum Rules, 2002 framed under Petroleum Act, 1934 must be imported only in containers as specified under the provisions of the said Rules. Further, it is also noted from Public Notice 08/2024 dated 27.09.2024 that Section 2(b) categorizes petroleum class A, B and C on the basis of flash point

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

8.6. The flash point of the HFHSD as per BIS 16861 and LDO as per BIS 15770 as per test report received from CRCL Kandla is more than 93 ℃ (**test report 10487 dated 02.04.2026 – 95 degree C and test report 10548 dated 02.04.2026 – 96 degree C**), thus, it falls under the petroleum Class C products. Accordingly, there is no restriction as per Public Notice and import is allowed in the flexi bags.

8.7. The CE valuation report has been shared with the importer under email dated 13.05.2026. In reply, the importer vide email dated 14.05.2026 [**RUD-8**] has submitted that they are in agreement with the test report and CE valuation reports. They do not want any SCN/PH in the matter. The authorized representative of the importer during the recording of statement has requested for **re-export of the goods**. Further, **he has also requested for waiver of the SCN/PH**.

8.8. From the discussion in para supra, it appears that the importer, M/s Bharat Oil Company has attempted to import a prohibited item in the guise of item of CTH-27101979, by mis-declaration of description and classification in contravention of

various provisions of the Customs Act and Rules made thereunder. The said acts of omission and commission on the part of the M/s Bharat Oil Company have rendered themselves liable for penalty under the provisions of Section 112(a)(i) of the Customs Act, 1962. Further, the importer has also submitted false documents which does not contains the actual description of the goods, thus, the importer is liable for penalty under Section 114AA of the Customs Act, 1962.

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

(i) The declared description of the goods as "LUBRICATING OIL" and the declared classification under CTH 27101979 in respect of the goods imported vide Bill of Entry No. 7442758 dated 10.02.2026 are incorrect and liable to be rejected. Based on examination of the goods, the test reports issued by CRCL, Kandla and the findings recorded during investigation, it appears that out of total 1,91,940 KGs of goods, the goods lying at the air valve weighing 3,838.8 KGs are found as LDO as per BIS 15770 and remaining goods 1,88,101.20 KGs found as HFHSD as per BIS 16861.

(ii) the goods are correctly classifiable as "HFHSD as per BIS 16861" and "LDO as per BIS 15770" under CTH 27101949 and 27101943 respectively. Accordingly, the said Bill of Entry is liable to re-assessment under Section 17(4) of the Customs Act, 1962.

(iii) The imported goods having a re-determined assessable value of **Rs. 1,09,66,034/-** appear to be liable to confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962, inasmuch as:

a. the goods were imported in contravention of the Foreign Trade Policy, rendering them prohibited goods within the meaning of Section 2(33) of the Customs Act, 1962 [Section 111(d)];

b. the goods were mis-declared in respect of description and classification in the Bill of Entry [Section 111(m)].

(iv) By virtue of the acts and omissions discussed above, the importer has knowingly concerned himself in the improper importation of the said goods, which have been rendered liable to confiscation, and therefore appears to be liable to penalty under Section 112(a)(i) of the Customs Act, 1962.

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

DISCUSSION AND FINDINGS

10. I have carefully gone through the facts of the case available on records. The importer has requested permission for re-export of the impugned goods and has also waived the requirement of personal hearing and Show Cause Notice. Thus, I find that

principle of natural justice as provided in Section 122A of the Customs Act, 1962 have been complied with and therefore, I proceed to decide the case on the basis of documentary evidences available on records. I have carefully gone through the facts available on the record. I find that the following issues are required to be decided in present adjudication proceedings:

(i) Whether description of the goods declared as 'Lubricating Oil' classified under CTI 27101979 is liable to be rejected and the same is required to be re-determined as "LDO as per BIS 15770" under CTI 27101943 and "HFHSD as per BIS 16861" under CTI 27101949, or otherwise.

(ii) Whether the declared value liable to rejected and the same is required to be re-determined or otherwise;

(iii) Whether the impugned goods are liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962, or otherwise.

(iv) Whether the importer is liable for penalty under Section 112(a) and/or 114AA of the Customs Act, 1962, or otherwise.

10.1 I find that M/s Bharat Oil Company filed Bill of Entry No. 7442758 dated 10.02.2026 for clearance of goods declared as "Lubricating Oil" classifiable under Customs Tariff Item 27101979. The consignment imported under 10x20-foot containers carrying the goods in flexi bags with a declared assessable value of Rs. 78,59,234/-. Acting upon specific intelligence, the goods were examined under panchnama dated 02.03.2026 in the presence of independent pancha witnesses as well as the authorised representative of the importer. During examination, all the containers were found to contain a pale greenish coloured oily liquid stored in flexi bags. Since the goods contained in all the containers were found to be identical in their physical appearance and imported under a single Bill of Entry, representative samples were drawn from Container No. EITU0209740 from both the outlet valve and the air valve. The samples were drawn, sealed and forwarded to CRCL, Kandla.

10.2. I further find that CRCL, Kandla issued Test Report Nos. 10487-SIIB and 10548-SIIB, both dated 02.04.2026. The laboratory categorically reported that the samples were other than Lubricating Oil. One sample was found to conform to the tested parameters of High Flash High Speed Diesel (HFHSD) as per BIS 16861, whereas the other sample was found to conform to the tested parameters of Light Diesel Oil (LDO) as per BIS 15770. Both reports also recorded that the samples consisted of mixtures of hydrocarbon oils containing more than 70% by weight of petroleum oils. Thus, the goods imported were different from the goods declared in the Bill of Entry.

10.3. I also note that copies of the CRCL test reports were furnished to the importer for comments. The importer did not dispute the findings recorded by the laboratory. During the course of investigation, summons were issued under Section 108 of the Customs Act, 1962 and the authorised representative of the importer, Shri Krishn Pal, appeared

before the investigating officers and his statement was recorded. In his statement, he accepted that the test reports and stated that the overseas supplier informed them that the wrong consignment had inadvertently been shipped instead of the lubricating oil ordered by them. He further stated that no payment had been made to the overseas supplier, as payment was agreed to be made only after delivery of the goods, and that the overseas supplier had agreed to take back the consignment. The authorised representative also confirmed that they did not dispute the laboratory findings and requested permission for re-export of the goods.

10.4 From the foregoing facts, it established that although the goods were declared in the Bill of Entry as "Lubricating Oil", the scientific examination conducted by CRCL, Kandla established that the imported goods were different from the declared goods. The test reports have been accepted during investigation.

12. I observed that the importer has not questioned the correctness of the laboratory report. It is a settled position of law that the test report of the Central Revenue Control Laboratory, being an authorized Government laboratory, carries significant evidentiary value and prevails over trade description or private test certificates. In the case of M.M. Trading Company vs. Commissioner of Customs, Mundra (Final Order No. A/11695/2023 dated 14.08.2023), the Hon'ble CESTAT, Ahmedabad has categorically held that when the importer does not seek re-test of the sample or challenge the laboratory findings at the appropriate stage, the test report attains finality and cannot subsequently be assailed. The Tribunal further observed that an error not resisted is deemed to have been accepted and that acquiescence to the laboratory findings precludes later challenge. In the present case, the importer has not contested the CRCL findings. Therefore, the CRCL report establishes the nature of the goods as Automotive Diesel fuel (major portion) and LDO (minor portion).

13. Classification of the goods:

13.1 I find that the importer has declared the impugned goods as "Lubricating oil" under CTH 27101979. I Heading 2710 covers "Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals." Within Heading 2710, specific tariff items exist for Motor Spirit, Aviation Turbine Fuel, High Speed Diesel, Lubricating Oil, Heating Oil (LDO) and other defined petroleum products, followed by a residual entry "Other". However, the test reports issued by CRCL, Kandla clearly establish that the samples consist of hydrocarbon oils containing more than 70% by weight of petroleum oils. Test reports specifically record that the samples are "HFHSD" and "LDO". Therefore, the declared classification under CTH 27101979 is incorrect.

13.2 I further find that Chapter Note 2 to Chapter 27 provides that references in Heading 2710 to "petroleum oils and oils obtained from bituminous minerals" include not only such oils but also similar oils, provided that the weight of non-aromatic constituents exceeds that of aromatic constituents. In the present case, the test reports confirm that the goods are composed mainly of petroleum hydrocarbons with more than 70% oil content by weight. Therefore, the goods squarely fall within the scope of Heading 2710. On a closer analysis of the test reports, I find that the sample drawn from the air valve has the characteristics of LDO, whereas the remaining goods conforms to the

parameters of HFHSD. I find that the sample drawn from the air valve is composed of hydrocarbon oil having mineral oil content exceeding 70% by weight and having the characteristics of LDO. Further, I find that the remaining goods found to be agree with High Flash High Speed Diesel as per IS 16861. I find that the importer has not disputed the finding of the test reports.

13.3 I further find that the quantity 3,838.8 Kgs corresponding to the samples drawn from the air valves has correctly been identified as LDO as per IS 15770 and remains classifiable under CTH 27101943. However, the remaining quantity of 1,88,101.20 Kgs has been identified as HFHSD conforming to IS 168614. Thus, the remaining goods (other than LDO) as classifiable under CTH 27101949.

13.4 I find that products HFHSD and LDO are specifically recognized petroleum products with well-defined technical specifications. I further find that, as per the Indian Customs Tariff, HFHSD is specifically classifiable under CTH 27101949 and LOD is classifiable under CTH 27101943. Applying Rule 1 of the General Rules for Interpretation, I hold that classification must be determined according to the terms of the headings and relevant Section and Chapter Notes. In view of the conclusive identification, I find that the goods are more specifically covered under the appropriate tariff entries relating to such petroleum products within Heading 2710. I also find that the principle of **specific over general** is applicable in the present case. Where a product is specifically identifiable as HFHSD and LDO, it cannot be classified under a different tariff heading. Therefore, the declared classification under tariff heading 2710 is not sustainable. Accordingly, I hold that the classification declared by the importer is incorrect and not sustainable. The impugned goods are correctly classifiable under CTH 27101949 (HFHSD) and CTH 27101943 (LDO), and the Bill of Entry is liable to be reassessed accordingly under Section 17(4) of the Customs Act, 1962.

14. Valuation of the Goods

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

14.2 As discussed above, it is evident that imported goods covered under the subject shipments were found mis-declared in respect of description, classification, Nature and other particulars, thus, it is beyond doubt that the value as declared by the Importer is liable to be rejected under Rule 12 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007. The value declared by the importer did not qualify to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (determination of Value of Imported Goods) Rules, 2007 and thus the same is liable to be rejected in terms of Rule 12 of CVR, 2007. The value is required to be re-determined as per the provisions of Rule 3 to 9 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007. However, due to the non-availability of contemporaneous import data of identical or similar goods, and the impracticability of determining value under Rules 4, 5, 6, 7 and 8 of the said Rules, the assessable value could not be determined under those rules. Therefore, I find that recourse has been taken to Rule 9, which permits determination of value using reasonable means consistent with the principles of Section 14 of the Customs Act, 1962 and the Valuation Rules, 2007. I further find that, for this purpose, the opinion of an empanelled Chartered Engineer/valuer was obtained. The Chartered Engineer/valuer after examining the nature, composition and commercial characteristics of the goods, vide Report No. ABJ:INSP:CE:MUN:SIIB:SVP:26-27:03 dated 13.05.2026, has determined the C&F value at 85,968 USD for the total quantity of **1,91,940 Kgs**. I note that he importer has declared insurance charges amounting to Rs. 6,057. Accordingly, the revised CIF value is worked out to Rs. 1,09,66,034/-. The item wise value (C&F) is as per below table for assessment purpose:

Sr. NO.	Description of goods	Qty	Value (in AED)
1	HFHSD	1,91,940 Kgs	4,27,638.778
2	LDO	3,838.8 Kgs	7,553.97

14.3 In view of the foregoing discussion, I hold that the declared assessable value of Rs. 78,59,234/- is liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. I further hold that the assessable value has been correctly re-determined under Rule 9 of the said Rules at Rs. 1,09,66,034/-. Accordingly, the Bill of Entry is liable to be re-assessed on the basis of the said re-determined assessable value.

15. CONFISCATION OF IMPORT GOODS AND REDEMPTION FINE IN LIEU OF CONFISCATION:

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

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

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54;"

15.2 I find that the impugned goods have been declared as "Lubricating Oil" under CTH 27101979, whereas the test reports and investigation establish that the goods are HFHSD along with a minor proportion of LDO. I further find that both item are restricted/canalised item in terms of Policy Condition No. 5 of Chapter 27 of ITC (HS), read with DGFT Notification No. 08/2023 dated 29.05.2023 and Para 2.21 of the Foreign Trade Policy, 2023. These goods can be imported only through State Trading Enterprises (STEs) or by entities who were specifically allowed to import such canalised items. In the present case, I find that the importer is not a notified State Trading and has not authorised to import these items. Therefore, the import of these goods is in clear contravention of the Foreign Trade Policy and import policy of Chapter 27 of ITC (HS). Therefore, I hold that the import of the impugned goods is in contravention of the provisions of the Foreign Trade Policy. In terms of Section 2(33) of the Customs Act, 1962, goods imported in violation of any prohibition imposed under any law for the time being in force are to be treated as "prohibited goods". Accordingly, I find that the impugned goods are liable to confiscation under Section 111(d) of the Customs Act, 1962.

15.3 Further, I find that the importer has declared the goods as "Lubricating Oil" under CTH 27101979, whereas the goods are actually HFHSD and LDO classifiable under Chapter 2710. The importer has mis-declared the goods in respect of the description, classification and valuation of the goods. The importer has also tried to import 'restricted' item by mis-declaring it as freely importable goods. These acts rendered the subject goods liable for confiscation under Section 111(m) of the Customs Act, 1962.

15.4 During examination, samples were drawn from the outlet valves and the air valves of the flexi bags. The CRCL, Kandla, in its test reports, has certified that the samples drawn possess the characteristics of HFHSD and LDO. 60. I observe that the imported goods were contained in flexi bags fitted inside 20-foot containers. A flexi bag is a single-compartment flexible container without any internal partitions or separate chambers. Under normal circumstances, two different petroleum products cannot remain physically segregated within the same flexi bag unless they have been deliberately arranged in a particular manner at the time of stuffing.

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

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

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

16.2 I find that import of certain petroleum products, including diesel and related products, is canalized through State Trading Enterprises and requires authorization, which the importer admittedly does not possess. Thus, the issue that arises is not one of absolute prohibition of the goods per se, but of non-fulfilment of the statutory and policy conditions governing their import. In the present case, the importer has failed to obtain the requisite authorization and has thus not satisfied the mandatory pre-conditions for import and clearance of the goods for home consumption. Therefore, the infirmity lies in the importer's failure to comply with the prescribed statutory conditions. In the absence of fulfilment of these essential conditions, the goods cannot be permitted to be cleared into the domestic market.

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

16.4 In view of the above discussion, I am of the considered view that the ends of justice would be met by allowing redemption of the subject goods for the limited purpose of re-export. Imposition of redemption fine along with penalty is sufficient to address the violation and convey a clear deterrent message to similarly placed importers. At the same time, this course ensures that the goods do not enter the domestic market in violation of statutory conditions. Therefore, under the provisions of Section 125 of the

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

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

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

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

ORDER

(i) I reject the declared classification of the goods "Lubricating Oil" under CTI 27101979 and hold that the impugned goods are correctly classifiable under CTI 27101949 (1,88,101.20 Kgs) and 27101943 (3,838.85 Kgs) with the correct description as HFHSD as per IS 16861" and "LDO as per IS 15770", respectively.

(ii) I reject the declared value of Rs. 78,59,234/- and order to re-determine same at Rs. 1,09,66,034/- under Rule 9 of CVR, 2007 read with Section 14 of the Customs Act, 1962.

(iii) I confiscate the impugned goods having re-determined value at Rs. 1,09,66,034/- under the provisions of Sections 111(d) and 111(m) of the Customs Act, 1962. However, in exercise of powers conferred under Section 125 of the Customs Act, 1962, I give an option to the importer to redeem the confiscated goods for the limited purpose of re-export only, on payment of redemption fine of **Rs. 11,00,000/- (Rupees Eleven Lakh only)**.

(iv) I impose a penalty of **Rs 5,50,000/- (Rupees Five Lakh Fifty Thousand only)** upon the Importer under Section 112(a)(i) of the Customs Act, 1962.

(v) I impose a penalty of **Rs 1,00,000/- (Rupees One Lakh only)** upon the Importer under Section 114AA of the Customs Act, 1962.

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

Digitally signed by
Dipakbhai Zala
Date: 10-07-2026
15:48:23

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

To,

M/s Bharat Oil Company,
Mevali, Shamser Purva, Mewli Bujurg,
Fatehpur, Meoli, Uttar Pradesh-212601.

Copy to:

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