

	<p>सीमा शुल्क के प्रधान आयुक्त का कार्यालय सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात</p> <p>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS</p> <p>CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT</p> <p><u>Email-adj-mundra@gov.in</u></p>	
A	<p>FILE NO.</p> <p>फाइल संख्या</p>	<p>GEN/ADJ/ADC/537/2025-Adjn-O/o Pr. Commr- Cus-Mundra</p>
B	<p>OIO NO.</p> <p>आदेश संख्या</p>	<p>MCH/ADC/ZDC/64/2026-27</p>
C	<p>PASSED BY</p> <p>जारीकर्ता</p>	<p>Dipak Zala,</p> <p>Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क,</p> <p>Custom House, Mundra/कस्टम हाउस, मुंद्रा।</p>
D	<p>DATE OF ORDER</p> <p>आदेश की तारीख</p>	<p>05.05.2026</p>
E	<p>DATE OF ISSUE</p> <p>जारी करने की तिथि</p>	<p>07.05.2026</p>
F	<p>SCN No. & Date</p> <p>कारण बताओ नोटिस क्रमांक</p>	<p>VIII/48-01/Adj./ADC/MCH/2024-25 dated 12.02.2025</p>
G	<p>NOTICEE/ PARTY/ IMPORTER</p> <p>नोटिसकर्ता/पार्टी/ आयातक</p>	<p>1. M/s Shree Shyam Fuelco Private Limited (IEC-ABKCS7861D)</p> <p>2. Shri Navneet Pandey, Partner, M/s Shree Shyam Fuelco Private Limited</p>

		3. M/s Gaurav M. Jhaveri, CB 4. M/s Shivshakti Shipping , sub agent of CB 5. Shri Ruparel Ketan, of M/s Shivshakti Shipping, sub agent of CB 6. M/s Ashirwad Shipping & Logistics, sub Agent of CB
H	DIN/दस्तावेज़ पहचान संख्या	20260571MO000000F114

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

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

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

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

“ सीमा शुल्क आयुक्त (अपील),

चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद-380 009”

“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA

Having his office at 4th Floor, HUDCO Building, Ishwar Bhuvan Road,

Navrangpura, Ahmedabad-380 009.”

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

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

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

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

- (i) उक्त अपील की एक प्रति और

A copy of the appeal, and

- (ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

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

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

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

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

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

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

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

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BRIEF FACTS OF THE CASE:

Intelligence was garnered that M/s. Shree Shyam Fuelco Private Limited, (IEC-ABKCS7861D), 266, Anand Puram Colony, Madra Khel, Shahjahanpur, Uttar Pradesh, 242001 (hereinafter referred to as the “*Importer*” or “*Shree Shyam Fuelco*”) 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. All goods import of which is permitted only with an Authorisation/Permission/License or in accordance with the procedure prescribed in a notification/public notice are ‘Restricted’ goods. Restricted items are importable under certain conditions with the necessary approvals from the relevant Competent Authority. According to the intelligence, the said entities

were resorting to the said illicit import by mis-declaring the consignments as “*Mineral Hydrocarbon Oil*” and mis-classifying them under Customs Tariff Item (CTI) 27101990 wherein the import policy is “Free”. Acting on the said intelligence, 10 containers covered under one Bill of Entry, pertaining to the importer were put on hold by DRI Noida Regional Unit (hereinafter referred to as “DRI”) on 15.02.2024 for examination. The details of the containers are given as below:

Sl. No.	BE Number	BE date	Name of the Importer	Container Number	CHA
1	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	CMAU0775862	GAURAV M. JHAVERI
2	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	APZU3718198	GAURAV M. JHAVERI
3	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	CMAU1666341	GAURAV M. JHAVERI
4	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	CMAU1693244	GAURAV M. JHAVERI
5	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	SEGU1766622	GAURAV M. JHAVERI
6	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	TCLU3958834	GAURAV M. JHAVERI
7	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	TEMU4260953	GAURAV M. JHAVERI
8	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	TEMU5921786	GAURAV M. JHAVERI
9	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	TRHU2200028	GAURAV M. JHAVERI
10	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	TRHU2349388	GAURAV M. JHAVERI

2. Thereafter, the said containers as mentioned above were subjected to examination on 13.03.2024 in the presence of the following persons/representatives detailed below:

S.No	Bill Of Entry No	No Of containers	Examination date	CHA/Authorised Representative	Container Freight Station	Representative of CFS
1	2131398	10	13.03.2024	Shri Ravindra	Honeycom	Shri Ashok

	Dt. 14.02.20 24			Kumar H Card Holder of M/s. Gaurav. M. Jhaveri	b CFS Mundra	Reladiya, Senior Executive of Honeycomb CFS
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2.(i) And whereas, during the examination, Shri Ravindra Kumar H Card Holder of M/s Gaurav M Jhaveri provided the relevant documents viz Bill of Entry along with the corresponding Invoice and packing list (ANALYSIS REPORTS). 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 Bill of Entry)	Name of the Supplier (as per Bill of Entry)	Chapter Heading (as per Bill of Entry)	Ass. Value (In Rupees)	Gross Weight (KGs)
1	2131398 Dt. 14.02.202 4	Mineral Hydrocarbon Oil	M/s. Carrutaco Energy FZE	27101990	78,72,598/-	1,77,080/ -
TOTAL					78,72,598/ -	1,77,080

2.(ii). 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 from the container using two litre aluminum 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 panchnama dated 13.03.2024.

3. Samples were sent to the lab of CRCL, Vizag for testing purpose. 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	2131398 Dt. 14.02.2024	SSA3- A2154900

4. And whereas CRCL tested the samples and sent the respective Test Reports of the above samples on 03.06.2024. The test reports as provided by CRCL are reproduced as below:

भारत सरकार वित्त मन्त्रालय, राजस्व विभाग सीमा शुल्क प्रयोगशाला 5वींमंजिल, सीमा शुल्क कार्यालय पोर्ट एरिया, विशाखापत्तनम- 530 001		Government of India Ministry of Finance Department of Revenue CUSTOM HOUSE LABORATORY 5 th FLOOR CUSTOM HOUSE, PORT AREA VISAKHAPATNAM - 530 001 Tel./Fax: 0891-2562900 e-mail :-chemical_examiner@yahoo.com
TEST REPORT		Date: - 03.06.2024
Lab NO.: 06-DRI	Date: 10.04.2024	
F. No. DRI/NRU/CI-26/Int-0/Enq-13/2024/501	Date of drawn: 13.03.2024	
Sample No. & Seal No. SSA3-A2154900		
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 Acidity Inorganic= Nil Ash content= Nil Carbon residue content=0.17 % by wt. Distillation: Temp. at which 95% (v/v) recovered : 358.8 °C Flash Point = 85.2 °C Kinematic Viscosity at 40°C= 3.99 cSt. Density at 15°C= 0.8384 g/ml Total Sulphur = 11.37 mg/Kg Water content= Nil Cetane Index = 58.33		
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. The sample also confirm to the requirements of HPFSD as per IS 16861:2018. There is no specification available "mixed hydrocarbon oil" in any National/ International Standards.		
Scaled remnant sample returned herewith.		
End of Report		 प्रादीप मारु / PRADEEP MAROO सरदार पदविक डी.ए. 1 Chemical Examiner Grade-1 सीमा शुल्क प्रयोगशाला Custom House Laboratory सीमा शुल्क प्रभाग, विशाखापत्तनम-530 035 Custom House, Visakhapatnam-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.		

5. And whereas the parameters of the Test Reports suggested that the goods being imported in the said containers meet the requirements of both Automotive diesel fuel conforming to standard IS: 1460 and High Flash High Speed Diesel Fuel conforming to standard IS:16861.

As per Customs Tariff Act it appears that the goods are classifiable under two different CTIs- i.e. 27101944 [which pertains to "Automotive Diesel Fuel] and 27101949 [which pertains to High Flash High Speed Diesel]. As per General Rules for the Interpretation of the Harmonized System (hereinafter referred to as "GIR") there are certain rules which shall govern the classification of goods in the Nomenclature. The rules are to be followed sequentially to classify goods. In the instant case, the goods cannot be classified under any rule up to Rule 3(c) of GIR. As per Rule 3(c) of the GIR, in such cases where goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. Thus, in view of above it appears that in the instant case the

goods covered under the said containers are liable to be classified under CTI 27101949 which pertains to High Flash High Speed Diesel conforming to IS 16861 .

Further, the specifications of HFHSD as mentioned in IS 16861:2018 of the Bureau of Indian Standards (BIS) are reproduced below:

Table 1 Requirements for High Flash High Speed Diesel (HFHSD)
(Clauses 3.3)

Sl No. (1)	Characteristics (2)	Requirement (3)	Method of test, Ref to [P:] of IS1448/ISO/ASTM/IP (4)
i)	Appearance	Clear and Bright	Visual
ii)	Acid Number, mg KOH/g, <i>Max</i>	0.5	[P : 2] ⁷⁾ /D 664/D 974
iii)	Ash, percent by mass, <i>Max</i>	0.01	[P : 4] ⁷⁾ /ISO 6245/D 482
iv)	Carbon residue on the 10 percent Volume Distillation Residue, mass %, <i>Max</i>	0.3	[P : 8] ⁷⁾ /ISO-10370/D 4530/D 524
v)	Cetane index ¹⁾ , <i>Min</i>	45	ISO 4264 ⁷⁾ /D 4737
vi)	Pour Point ²⁾ , <i>Max</i>		[P : 10] ⁷⁾ /ISO 3016/D 97
	a) Winter	3°C	
	b) Summer	15°C	
vii)	Copper strip Corrosion for 3 h at 100°C	Not worse than No.1	[P : 15] ⁷⁾ /ISO 2160/D 130
viii)	Distillation, percent (v/v), recovered		[P : 18] ⁷⁾ /ISO 3405/D 86
	a) at 350°C, <i>Min</i>	85	
	b) at 370°C <i>Min</i>	95	
ix)	Flash Point Pensky Martens closed cup °C, <i>Min</i>	66	[P : 21] ⁷⁾ /ISO 2719/D 93
x)	Kinematic viscosity, cSt, at 40°C	2.0 to 5.0	[P : 25] ⁷⁾ /ISO 3104/D 445/D 7042
xi)	Density ³⁾ at 15°C, kg/m ³ , <i>Max</i>	860	[P : 16] ⁷⁾ /ISO 3675/ISO 12185/D 4052
xii)	Total sulphur ⁴⁾ , % by mass, <i>Max</i>	0.20	D 4294 ⁷⁾ /ISO 14596/D 2622/ISO 8754
xiii)	Water content, ppm, max.	500	ISO 12937 ⁷⁾ /ISO 6296/D 6304
xiv)	Cold filter plugging point (CFPP), °C	To report	[P : 110] ⁷⁾ /D 6371/IP 309
xv)	Oxidation Stability ⁵⁾ , g/m ³ , <i>Max</i>	25	[P : 154] ⁷⁾ /D 2274/IP 388
xvi)	Lubricity ⁶⁾ , Corrected WSD at 60°C, microns max	520	ISO 12156-1/D 6079

6. And whereas on analysis of the parameters detailed in the Test Reports vis-à-vis the parameters stipulated in the BIS standards of High Flash High Speed Diesel fuel conforming to standard IS 16861, 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.	2131398	14.02.2024	10	High Flash High Speed Diesel fuel conforming to standard IS:16861

Thus, it appeared that the samples drawn from consignments pertaining to BE no.- 2131398 dated 14.02.2024 appeared to conform to limits stipulated in IS:16861 which pertains to High Flash High Speed Diesel fuel. Further High Flash High-Speed Diesel fuel is a restricted commodity and can be imported by the State Trading Enterprises (STEs) only.

7. In the light of the parameters of the Test Reports of the CRCL, the goods imported under BE2131398 dated 14.02.2024, appeared to be liable to be classified under CTH 27101949. The relevant description of 27101949 as per Customs Tariff Act'1985 are as below:

27101943	Light diesel oil conforming to standard IS 15770	kg.	10.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
27101944	Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
27101949	High flash high speed diesel fuel conforming to standard IS 16861	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntjn 12/2018-Cus. SWS - 3% by Ntjn

Chapter Heading 27101949

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:---- High Flash High-Speed Diesel fuel conforming to standard 16861" 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:

27101949	Gas oil and oils obtained from gas oil: ---- High flash high speed diesel fuel conforming to standard IS 16861	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.
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Product Description and Import Policy

Sl.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 was actively involved in assisting and facilitating the improper import and clearance of the restricted goods namely “High Flash High Speed Diesel fuel conforming to standard IS 16861” as mentioned above, Therefore searches were conducted at the premises of CHA - M/s Gaurav M. Jhaveri on 30.04.2024. The proceedings of the searches were recorded under panchnama dated 30.04.2024. During the search it was found that Sh. Ruparel Ketan was handling all the customs clearance related work of M/s Gaurav M Jhaveri. Therefore voluntary statement of Shri Ruparel Ketan was recorded on 01.05.2024

10. Voluntary statement of Shri Ruparel Ketan S/o Late Shri Shiv Ji aged 51 years, resident of 137, Rameshwar Nagar, Ward-12, Anjar, Kachchh, Anjar, Gujarat-370110, (Aadhar Card No:894385983194), Partner of M/s Shivshakti Shipping was recorded on 01/05/2024 under Section 108 of the Customs Act 1962, wherein he inter-alia stated:

- **Ques.1:** Please state about yourself. Also state what are the other firms associated with you?

Ans: I am Ruparel Ketan S/o Late Shri Shiv Ji, permanent resident of House no 137, Rameshwar Nagar, Ward-12, Anjar, Kachchh, Anjar, Gujarat-370110. My age is 51 years and my educational qualification is B.Com from SIS College Bombay. My wife's name is Neeta Ruparel, I have one daughter and one son who live with us at the above-mentioned address. I have been authorized by the CHA firm M/s. Gaurav M. Jhaveri, CHA No AGRPJ9989QCH001 to look after the work of customs filing and clearance work related to Oil consignments for the CHA- Gaurav M Jhaveri and operate from the premises of M/S Ashirwad Shipping & Logistics. I have been doing this Customs filing and facilitation work for M/s. Gaurav M. Jhaveri Since 2017. I am a partner in the firm M/s Shivshakti Shipping and a partner in the firm KR D

Logistics. I will provide documents related to M/s Shivshakti Shipping and KRD logistics as and when required by your good office.

- **Ques. 2:** *Please tell us about M/s Ashirwad Shipping & Logistics?*
Ans: *The business of M/s Ashirwad Shipping & Logistics is being looked after by Shri Deepak Majethiya, Contact no- 9879517194, husband of the proprietor Ms Alka Majethiya. M/s Ashirwad Shipping & Logistics conducts the work of container handling facilitation, fuel pumping facilitation and local transportation of the containers at the Customs port area.*
- **Ques.3:** *Please tell us about M/s. Gaurav M. Jhaveri? Also please state about your responsibilities.*
Ans: *M/s. Gaurav M. Jhaveri, CHA No AGRPJ9989QCH001, is a CHA firm, based in Mumbai that deals in import and export of consignments. Shri Gaurav M. Jhaveri is the proprietor of this CHA firm. As stated above I have been authorized by the CHA firm M/s. Gaurav M. Jhaveri, to look after all operations related to oil imports at Mundra port. However, I don't have any authorisation letter with me currently, however, the authorization letter in original will be submitted to you.*
- **Ques.4:** *Please state about the nature of business /operation/turnover and the commodities being dealt with by M/s. Gaurav M. Jhaveri? Please provide the details of staff and responsibilities*
Ans: *M/s. Gaurav M. Jhaveri deals in importing and exporting of various products such as ceramic Tiles, Engine spare parts, Stone slabs and minerals etc however in import they majorly deal in Mixed Hydrocarbon oil, Fuel oil, Base oil, Industrial Oil, Distillate oil and Naptha. Apart from me, Shri Bharat Parmar, G Card Contact number 9909947041, holder is working for M/s. Gaurav M. Jhaveri.*
- **Ques.5:** *Please provide the details of the imports that are being handled by you for M/s. Gaurav M.Jhaveri?*
Ans: *I only look after import activities related to the import of various oils as mentioned in the question above at Mundra port, I am enclosing the list of import consignments currently live at Mundra port as Annexure I. Other port import activities apart for oils are not dealt by me.*
- **Ques.6:** *Please tell us about the firms namely M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Private Limited.*
Ans: *I am providing you the KYC documents of the importers as mentioned in the question above as Annexure II. I talk to the representative of the importer only once or twice initially, just to finalise the charges for filing the customs paperwork after that Shri Barri Praveen (9909843346), who works in the Ashirwad Shipping & logistics looks after the documentation of the importer. I monitor the whole process and supervise as and when required. Further all of these importers are into the import of Mix Hydrocarbon Oil. M/s Shree Shyam Fuelco Private Limited has imported 5 consignments, M/s A.A. Cable Layers has imported 27 consignments and M/s Shree Hari Krupa Petrochem has imported 41 consignments through M/s Gaurav M Jhaveri. I am enclosing a list (annexure III) of all these imports along with the E-mail communication of my office with M/S Gaurav M Jhaveri regarding the filing of BOE.*

- **Ques.7:** Who files the Bill of Entry on behalf of the importer? And also state the Basis of filing of Bill of entry.
Ans: M/s Gaurav M Jhaveri, files the bills of entry (on behalf of importers) and the same is filed on the basis of documents provided by the importers only, we just collect and forward the documents received from importers. These documents are received on WhatsApp of Shri Barri Praveen which are further forwarded to M/s Gaurav M Jhaveri through our office mail id i.info.shivshakti1121@gmail.com.
- **Ques.8:** Please state what is Mix Hydrocarbon Oil, what is its Chemical Composition? Please state end use of Mix Hydrocarbon Oil imported.
Ans: It is a type of petroleum oil, which is a mixture of Hydrocarbon oils and is used mainly for industrial purposes. We file the bill of entry of the product as per the details given by the importer. Also, sometimes the importer provides the chemical analysis report related to the subject consignment and sometimes not. As far as end use of the product, we are not aware of that. We just file the bill of Entry on behalf of the Importer and the end use of the product may be known to the importer only.
- **Ques.9:** Please provide the Chemical Analysis report/Test reports relating to past imports of the importers mentioned in the question no 6 above?
Ans: It may be noted that as answered above, the chemical analysis reports are not always submitted by the importer and hence cannot be provided for all the consignments. Further, all the reports which are submitted by the importer are uploaded in E-Sanchit and can be retrieved as and when required.
- **Ques.10:** What is the whole process of customs clearance of the consignments of Mix hydrocarbon Oil?
Ans: First of all the importer sends a Bill Of Lading (Usually By WhatsApp), which we further E-mail to the shipping line to know the estimated time of arrival of the consignment and the CFS to which the consignment is scheduled to be placed. After knowing the ETA and CFS the documents received from the importer are further sent to M/s Gaurav M Jhaveri, who files the Bills of Entry on behalf of the importer.
- **Ques.11:** Please provide the details of shipping companies related to the imports done by M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Private Limited.
Ans: I am enclosing the list of shipping companies related to the imports done by M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Private Limited as Annexure IV.
- **Question 12:** Please provide the details of suppliers/items imported.
Ans: The details of the supplier and items imported are available in the bill of entry filed by us, the same can be retrieved from E-Sanchit. And if the same is further required I will submit the same as and when the same is required by your office.
- **Ques.13:** Please state how the orders are placed and who in your CHA firm give the order to supplier?
Ans: The orders are placed by the importer itself, we CHA only file these bills of entry on the basis of documents provided by respective importers, we as CHA have not role to play with the supplier.

- **Ques.14:** Please peruse the E-mail communications copies of your office with Geo-chem lab (Annexure V) and see the test report of Geo Chem lab about various MHO samples wherein the sulphur levels have been declared between 7 PPM and 20 PPM
Ans: The importer sometimes asks for testing of some specific parameters of some consignments which we ask Geo-Chem lab to test the sample for the desired parameters. The test results are then shared with the importer through WhatsApp by Shri Deepak Majethiya. The sulphur levels indicated in the lab report are as per the testing and further the same are shared with the importer.

- **Ques.15:** Please refer to the question 14 above and state whether sulphur can be in the range as specified in the question above in case of Mix Hydrocarbon Oil?

Ans: About this I have a very little idea. We just do as told by the importer.

- **Ques.16:** Please state how do you receive the documents for filing the Bill of entry and who provided these documents related to M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Private Limited?

Ans: We receive the documents for filing the Bill of entry through WhatsApp only. The importer himself or a representative of the importer sends the relevant documents to Shri Barri Praveen. The details of persons who sends the documents are mentioned below in table :

S.No	Importer	Contact person name	Mobile No.
1	M/s A.A. Cable Layers	Praveen	9811234553
		Vipin	8860160031
2	M/s Shree Hari Krupa Petrochem	Amit	9601768136
3	M/s Shree Shyam Fuelco Private Limited	Chirag Gupta	8826689311

- **Ques.17:** Is there any Standard or Literature that defines your product i.e. “ Mix Hydrocarbon Oil”?
Ans:. Mix Hydrocarbon Oil is generally a blend of 2 or 3 different oils and as per my knowledge there is no specific standard to define the same.
- **Question 18:** Is there any import regulation that has to be followed for importing the said commodity i.e. “Mix Hydrocarbon Oil”
Ans:. I am not aware of any such regulation for importing the commodity in question.
- **Question 19:** Please state can this Mix Hydrocarbon Oil be imported in Flexi bags, Is there any violation of the Petroleum Act?

Ans: As it is a routine product and all the importers are importing the commodity in Flexi Bags and according to me there is no violation in respect of Import in flexi bags. Further I am not aware of any violation of the petroleum Act.

- **Ques 20:** Have the importers viz. M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Private Limited have ever imported diesel or kerosene?

Ans: No, as per my knowledge, the consignments which were custom cleared by M/s Gaurav M Jhaveri in respect of these three parties have never imported diesel or kerosene.

- **Ques.21:** Please state whether goods i.e. Mix Hydrocarbon Oil so imported in consignments/containers hold by DRI and imported in earlier consignments are same?

Ans: Yes sir, as per my understanding they are the same.

- **Ques 22:** Please state what are the BIS parameters applicable on the item i.e. Mix Hydrocarbon Oil?

Ans: No BIS standards are applicable on this imported item i.e. Mix Hydrocarbon Oil.

- **Ques 23:** Please state whether Mix Hydrocarbon Oil is fuel or not?

Ans: As per my understanding MHO is fuel only.

- **Ques. 24:** What is the process once the Container are OOC at the port?

Ans: Once the containers are OOC we receive a delivery order from the shipping line, which we forward to CFS to get NOC from the surveyor. Surveyor then checks the validity of delivery order and issues NOC for the containers. The NOC is then handed over to CFS. After that, the importer sends a tanker truck to load the cargo. Our office then provides a pump to load the oil from flexi-tanks to the tanker truck. The tanker truck is then sent for weighment at the weighment bridge and the weighment slip is sent to the importer through WhatsApp for information and further instruction if any.

- **Ques.25:** Please see the documents in Annexure VI related to Shakti Amba tank storage, what is the role of a storage facility after the OOC of the containers from the port?

Ans: Sometimes the importers do not get orders from the prospective buyers immediately and hence then require the facility to store the already OOC tankers.

- **Ques. 26:** Please mention the partners of the firm Shakti Amba Tank Storage.

Ans: Ms. Neeta Ketan Ruparel W/o Sh. Ruparel Ketan and Ms Alka Deepak Majethiya W/O Sh Deepak Majethiya, are the two partners in Shakti Amba Tank Storage facility. Further it has a total capacity to store 3200 KL Liquid.

- **Ques. 27:** Please state have you made any payments to the supplier of Mix Hydrocarbon Oil or have received any payment from the buyers? If so please provide the Bank Details for the same?

Ans: No, we have never made any payments to the supplier of Mix Hydrocarbon Oil nor have received any payment from the buyers.

- **Ques. 28:** Please provide the certified copy of Buyer-seller agreement for the consignments.

Ans: No such buyer seller agreement is available with us.

- **Ques.29:** Please state whether the overseas suppliers of MHO Oil, are traders or manufacturers. Also provide the communication (emails/letters etc.) with the overseas supplier's w.r.t. the consignments.

Ans: I am not aware of the fact that the overseas suppliers are trader or manufacturer. We are not in touch with any of the suppliers or trader overseas.

- **Ques.30:** Please provide the copy of Invoice for each consignment, including itemized description, quantities, values, and any applicable discounts or rebates.

Ans: The required documents are uploaded in e-sanchit.

- **Quest. 31:** Do you want to say anything.

Ans:No, nothing to add on further.

11. In view of the Test Reports and voluntary statements, it appeared that the imported goods were mis-declared as "Mineral Hydrocarbon Oil" and mis-classified under CTH: 27101990 instead of CTH: 27101949 by the importer with the intent of importing "High Flash High Speed Diesel fuel conforming to standard IS 16861" 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 2131398 dated 14.02.2024 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 consignment was seized vide Seizure memo as detailed below:

S.No	Bill Of Entry No and Date	Seizure memo DIN no.	Seizure date
1	2131398 Dt. 14.02.2024	202410DDZ8000081818F	07.10.2024

12. And whereas, summons were also issued to CHA M/s Gaurav M. Jhaveri on 05.07.2024 for appearance on 12.07.2024 respectively. Shri Gaurav M. Jhaveri appeared in the office in compliance of the summons served upon him and tendered his voluntary statement on 10.07.2024.

13. Voluntary statement of Shri Gaurav Madhusudan Jhaveri S/o Late Shri Madhusudan Jhaveri aged 44 years, resident of 105/7, 4th Floor, Damodar Building, Princess Street, Kalba devi, Mumbai, Maharashtra-400002-, proprietor of firm M/s Gaurav M Jhaveri was recorded on 10/07/2024 under Section 108 of the Customs Act 1962 wherein he inter-alia stated:

- *I completed my B.COM Graduation from the University of Bombay in the year 2000, after that I completed my diploma in import and export management from Indian merchant Chambers in the year 2001. Then I started my career with Niranjana Shipping Agency India Pvt Ltd in Bombay, where I worked from 2001 to 2004. After that, I switched my job to ASR Logistics, India Private Limited and I worked there till 2012. I cleared my CHA exam in the year 2011 and was issued F-card in the year 2012. Since then I have been providing customs clearance services to various customers. I am living with my wife Ms Ritika G. Jhaveri along with my mother and 2 kids, one son and one daughter on the above-mentioned address.*
- *Question 1: Please explain the business of M/s Gaurav M. Jhaveri?*
Answer: M/s Gaurav M Jhaveri is a proprietorship firm, in which I am a proprietor. As stated by me above the firm is engaged in the custom clearance of import and export consignments at various ports.
- *Question 2: Please give details of your F Card and also state the customs formation which has issued you the F card.*
Answer: My F-card bearing no. 4106/2022, has been issued by the office of the Principal Commissioner of Customs (General), New Custom House, Ballard Estate, Mumbai. I am submitting a copy of the said F-card for information under my signature.
- *Question 3: Please state the present location of your firm.*
Answer: Presently my office is located at 305/306 Sai Sadan 3rd floor 76/78 Modi Street fort Mumbai. However, earlier my office was located at 105/7, 4th Floor, Damodar Building, Princess Street, Kalbadevi, Mumbai, Maharashtra-400002 which I shifted to this address in May 2013, which I intimated to the Customs Association Bombay. And the same is updated in the record of customs Mumbai.
- *Question 4: It is seen that the address mentioned in your F card remains unchanged. please clarify in the light of question no 3 above.*
Answer: The address in the F card remains unchanged at which the F card is issued at the first time. If there is any change in the official address the same is communicated through a letter to the customs dept. as well as Bombay Customs Broker Association (BCBA). I will submit a copy of the same for information.
- *Question 5: How many people are working in your firm. Please provide their details, designation, responsibilities and Mobile no*
Answer: A total of 5 people work in my firm whose details are as under:

<i>Name</i>	<i>Designation/ Work Assigned</i>	<i>Mobile No.</i>
<i>Sh Ramesh Patva</i>	<i>Accountant</i>	<i>9820862895</i>
<i>Sh Sahil Chavan</i>	<i>Documentation handling</i>	<i>9594493674</i>
<i>Sh Ajay Kumar Gaur</i>	<i>G card holder- handles field work at the CFS and Customs examination</i>	<i>9322526924</i>
<i>Sh. Rahul Thakur</i>	<i>Field work at the CFS/Customs</i>	<i>7304633611</i>
<i>Sh Ravi Kumar</i>	<i>H-Card Holder</i>	<i>6377584097</i>

- *Question 6: Please name the companies/firms for whom you are providing customs clearance services?*

Answer: Our major clients include:

- *M/s Sunalco Alloys India Pvt Ltd, Mumbai.*
- *M/s Padmini Innovative marketing solutions Pvt Ltd, Mumbai.*
- *M/s AA Cable Layers, Milak- Rampur*
- *M/s Hindustan Copper Ltd.*
- *M/s Impulse Pharma Pvt Ltd.*

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

Answer: Our major business is at Nhava Sheva and Mundra however we also do conduct small business at Bombay Sea Port, Sahar Air Cargo complex, Ahmedabad ICD etc.

- *Question 8: How do you provide customs clearance facilities? Please explain the same with regard to the functioning of your firm.*

Answer: Our client forwards the import documents on our email- gauravjhaveri80@gmail.com/ docsgmj@gmail.com which are examined by the staff who later on prepare check list which is sent to the client for approval. Once the checklist is approved, the bill of entry is filed online on the ICEGATE website. After it is approved, the examination of the cargo by the customs officers is conducted in the presence of the G-card holder 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: Have you authorised companies/firms to provide customs clearance work? If so name the firms/companies who have been authorized to provide customs clearance services by using your F Card.*

Answer: In order to bring more business at the local level of the port, we have an understanding with some business firms who are associated with us but do not have the requisite F-Card for customs clearance. These firms contact clients and send documents through their email to us for filing online at the ICEGATE portal after verification and analysis of the documents by our staff. After approval and generation of the documents, the same is provided to the associate firms who then inform the importer/exporter. After

customs clearance, the associate firms receive the payment and after deducting their share, the balance amount is electronically transferred to us. The names of such associated firms are given below:

- M/s Shiv Shakti Shipping at Mundra, which is being handled by Sh Ketan Ruparel.
- M/s Kinjal Logitrans India Pvt Ltd at Mundra is being handled by Sh Bharat Parmar.

- Question 10: How did you come across these associate firms that are being handled by Sh Ketan Ruparel and Sh Bharat Parmar?

Answer: Sh Bharat Parmar was my office colleague in M/s ASR Logistics India Pvt Ltd in 2009, from there we became good friends, hence this associate firm. I met with Ketan Ruparel in 2015 as he was a mutual friend of Bharat Parmar. Then me and Ketan Ruparel also became friends and I got connected with his firm M/s Shiv Shakti Shipping.

- Question 11: How the firms named in the question No 9 above have been authorized to conduct the business of customs clearance?

Answer: These firms only bring business and forward the documents for further customs-related work to us only. There is no written agreement and we conduct business together on the basis of oral and verbal understanding.

- Question 12: Please name the companies related to Sh. Ketan Ruparel who are provided custom clearance services by your firm.

Answer: Some of the major companies include:

- M/s AA Cable Layers
- M/s Shree Harikrupa Petrochem
- M/s Divya Petrochem
- M/s Rainbow Corporation
- M/s Shree Shyam Fuelco
- M/s Mainline Global Energy Pvt Ltd, Etc

- Question 13: Please state which goods are dealt by Sh Ketan Ruparel at Mundra for which he provides the documentation.

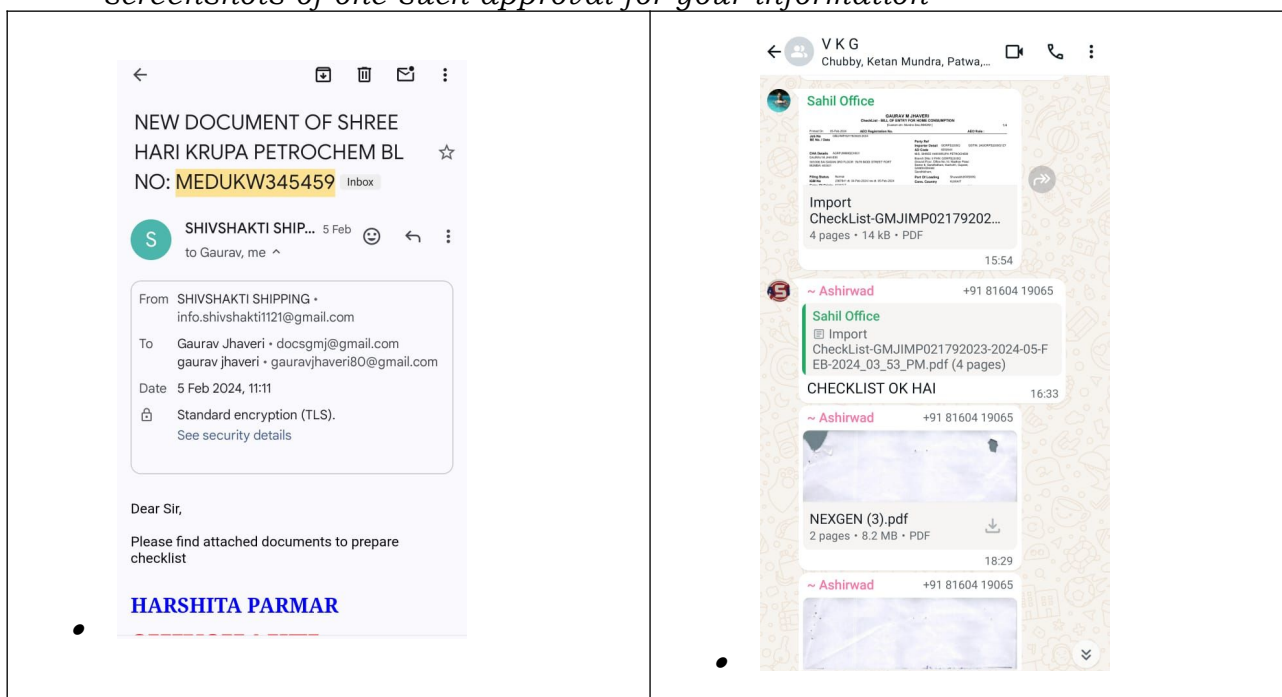
Answer: Sh Ketan Ruparel looks after the clients who import Oil and other petroleum products at Mundra Port.

- Question 14: Please elaborate as to how customs clearance services are provide to the companies mentioned in the reply to the question 12 above.

Answer: First of all Sh. Ketan Ruparel, contacts the clients who wish to get the consignments cleared at Mundra Port. He negotiates the terms and conditions on our behalf with the client. After the terms are finalized and is approved by me, the importer sends the documents related to the import consignment on the E-mail id of M/s Shiv Shakti Shipping, which are then forwarded to us for analysis and examination as per the customs provisions. After analysis and examination, a checklist is prepared which is sent back to M/s Shiv Shakti Shipping via mail/WhatsApp, who then further forwards it to the importer. After the importer gives approval to the checklist, the Bill of entry is filed on the ICEGATE Portal. After the BOE is approved the Duty is paid by the Importer. After the payment of Duty, the consignment is examined by customs. Since the firms being dealt with by M/s Shiv Shakti Shipping, imports MHO, samples are drawn which are sent for testing. After

the test reports are received the consignment are given out of charge by the customs and handed over to the customer.

- *Question 15: Your kind attention is invited to your reply to Question 14 above wherein you mentioned that once the importers approve the checklist then your office files Bill of Entry on behalf of the importer. Please state by what medium you get the approval and kindly provide a copy of the same.
Answer: As stated above M/s Shiv Shakti Shipping sends the checklist to the importer for approval. After receiving approval from the importer M/s Shiv Shakti Shipping confirms the approval to us for filing of Bill of Entry. These approvals are done usually on WhatsApp or through mail. I am providing screenshots of one such approval for your information*



- *As can be seen from the screenshots attached above, the documents pertaining to BL no MEDUKW345459 pertaining to M/s Shree Hari Krupa Petrochem were sent to our Email i.e. Docsgmj@gmail.com by M/s Shiv Shakti Shipping. After receiving the documents a checklist is prepared with the help of a software namely Live Impex. The Checklist is then forwarded to M/s Shiv Shakti Shipping for approval from the client. After receiving approval from the client through M/s Shiv Shakti Shipping, Bill of entry is filed by our firm. In this case, BOE no 9999773 dated 06.02.2024 was filed on behalf of the importer. I am submitting the screenshots and documents attached in the mail along with the checklist for your perusal.*
- *Question 16: Please define your payment terms/agreements with the associate firms namely M/s Shiv Shakti Shipping and M/s Kinjal Logitrans India Pvt Ltd.
Answer: There is no written agreement or terms for payment with the associate firms, as both the persons namely Sh Ketan Ruparel of M/s Shiv Shakti Shipping and Sh Bharat Parmar of M/s Kinjal Logitrans India Pvt Ltd are old friends. However, we have decided the rates per container, verbally. M/s Kinjal Logitrans India Pvt Ltd usually handles documentation with the clients related to Export and M/s Shiv Shakti Shipping generally handles the documentation for Import. For import, we charge a fee of Rs 750 per*

container from the importer through M/s Shiv Shakti Shipping and for export, we charge a fee of Rs 100 per container from the exporter through M/s Kinjal Logitrans India Pvt Ltd.

- Question 17: Please state how much commission you give to the associate firm M/s Shiv Shakti Shipping for the documentation handling for import consignments.

Answer: As stated above, we have a fixed charge policy for filing BOE with our associate firms. We charge Rs 750/- per container from M/s Shiv Shakti Shipping for which the invoice is raised by M/s Shiv Shakti Shipping. We are not concerned about the commission that M/s Shiv Shakti Shipping might be getting from the importer.

- Question 18: Who files the BOE in respect of the companies for whom M/s Shiv Shakti Shipping, provides necessary documents?

Answer: As stated by me in the answer to above question, M/s Shiv Shakti Shipping provides documents related to the import of the consignments, after that the BOE is filed at the office of M/s Gaurav M. Jhaveri by Sh. Sahil, an employee of the firm through the ICEGATE ID of M/s Gaurav M. Jhaveri.

- Question 19: Please state, who gets the examination conducted at the port for the import consignment of your clients?

Answer: The examination at the port is conducted by Sh. Ravi Kumar, an employee, of M/s Gaurav M. Jhaveri, holding H-Card, who has been appointed by the firm for facilitating customs clearance at Mundra Port.

- Question 20: During the examination and sampling process of the consignments that were put on hold by DRI NRU, Shri Ravi Kumar H-Card holder was not present and due to which the whole proceeding was conducted in the presence of Sh Rafiq your authorized representative. Please elaborate.

Answer: As far as I can remember at the time of examination of consignments by DRI Officers Sh Ravi Kumar H card holder was on leave and hence Shri Rafiq was made the authorized representative of the firm to witness the proceedings.

- Question 21: 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 I am aware of the fact that DRI Noida Regional Unit has put on hold some consignments of MHO of our various clients as detailed below:

S.NO	IEC Name	BOE No	No of containers
1	M/S A. A. Cable Layers	9765080 Dt. 21.01.2024	14
		9765081 Dt. 21.01.2024	12
2	M/s Shree Hari Krupa Petrochem	2083192 Dt. 10.02.2024	10

		2100062 Dt. 12.02.2024	10
		9999773 Dt. 06.02.2024	10
		2043286 Dt. 08.02.2024	10
		2148664 Dt. 15/02/2024	10
3	M/s Shree Shyam Fuelco Private Limited.	2131398 Dt. 14.02.2024	10

- Question 22: Since the Bills of Entry have been filed by you on behalf of the above mentioned importers, please state how did these importers come in contact with you*

Answer: The importers mentioned in the answer to question number 15 above are clients of our associate, Ms Shiv Shakti Shipping. The customs related work in respect of these firms, has come through Ms Shiv Shakti Shipping.
- Question 23: What were the documents that were provided by the importers mentioned by you in reply to question no 15 above and from whom they were received when you filed the BOE on their behalf.?*

Answer: These Importers forwarded invoices, packing list and Bill of Lading to M/s Shiv Shakti through mail which were subsequently forwarded to us through mail on the basis of which we file the respective bill of entry. I am submitting copies of 2 such emails for your perusal.
- Question 24: 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 these importers.*

Answer: As per my understanding and information provided by the importers it is a type of petroleum product.
- Question 25: Please state, what is the use of MHO?*

Answer: As per the information provided by the importer it is for industrial Use.
- Question 26: Please specifically state and clarify the industrial use as mentioned in your reply to question no 26 above.*

Answer: I am not aware of the specific industrial use of the product. This can be clarified by the importer only.
- Question 27: Please state whether you have been provided with any chemical analysis report/ test report of the product by the importer issued by the supplier.*

Answer: No, we have not been provided with any chemical analysis report or test report by the importer issued by the importer.

- Question 28: If no chemical analysis report/ test report of the product is submitted by the importer then what was the basis of classification of the product under Chapter Heading 27101990 in the category of item "Others"*
Answer: As per our understanding and experience in customs clearance since there was no specific entry for the item, it was classified under CTH 27101990 which pertains to others.
- Question 29: Please refer to Question no 29 above and state who classifies the goods to be filed in the Bill of Entry. Further without any chemical analysis report or test report how do you come to the conclusion to classify the product as MHO in the Bill of Entry?*
Answer: The classification of the goods is done by our firm only and the goods are classified under CTH 27101990-"others". However, the classification is based on the documents such as Bill of lading Invoice and packing list provided by the importer, our knowledge as well as the practice being followed at the ports for clearing similar goods. I am submitting all the documents provided by the importer for the consignments that have been put on hold by DRI Noida Regional Unit.
- Question 30: Did you ask the importer or insist upon them, for providing chemical analysis report / test reports?*
Answer: No, we did not insist upon them for any chemical analysis report or test report.
- Question 31: 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 15 above. The test results of each of the consignment have been summarized in the table below.*

S.NO	IEC Name	BOE No	No of containers	Sample no.	Test report result	Test Lab
1	M/S A.A. Cable Layers	9765080 Dt. 21.01.2024	14	AB3-344709	Gas Oil	IOCL
		9765081 Dt. 21.01.2024	12	AA1-344704	Gas Oil	IOCL
2	M/s Shree Hari Krupa Petrochem	2083192D t. 10.02.202	10	HC1-A217700	Automotive Diesel Fuel BS(IV)	CRCL

		4				
		2100062 Dt. 12.02.202 4	10	HD3-A217692	Automotive Diesel Fuel BS(IV)	CRCL
		9999773 Dt. 06.02.202 4	10	HB1-A217693	Adulterated Diesel	CRCL
		2043286 Dt. 08.02.202 4	10	HA1-A217686	Automotive Diesel Fuel BS(IV)	CRCL
		2148664 Dt. 15/02/20 24	10	HE1-A215389	Automotive Diesel Fuel BS(IV)	CRCL
3	M/s Shree Shyam Fuelco Private Limited.	2131398 Dt. 14.02.202 4	10	SSA3- A2154900	HFHSD (High Flash High Speed Diesel)	CRCL

Having perused the test reports please offer your comments.

Answer: I have perused each of the test reports detailed above. I have also gone through the parameters mentioned in each of the test reports. I have signed the test reports as a token of having seen the same. On perusal of the test reports, it is seen that the lab has come to a conclusion that the consignment does not consist of MHO but a different oil as mentioned in the Respective report.

- *Question 32: Do you agree with the outcome of the test reports and the result mentioned therein?*

Answer: Having perused each of the test reports as well as the parameters I am in agreement with the conclusion arrived at by the lab as mentioned in the respective test report

- *Question 33: 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: The goods identified by the laboratory as per the test report and the item description & CTH declared in the Bill of Entry are different.
- *Question 34: Please refer to regulation 10 (e) of the Customs Brokers Licensing Regulations, 2018, wherein it is specifically mentioned that due diligence is to be exercised by customs Broker to ascertain the correctness of any information which is imparted by you to the client with reference to any work related to the clearance of the cargo or baggage. In the light of discrepancies noticed as per test report vis-à-vis declaration made in the Bill of Entry in respect of the goods and its classification, it appears that due diligence has not been exercised to ensure that description of the goods is appropriately given and correctly classified. Please offer your comments.*
Answer: As per my knowledge and documents provided by the importer, the classification of the goods as MHO and under CTH 27101990 is correct. Further as a general trade practice, MHO is being imported at Mundra Port under CTH 27101990 only. The discrepancy has come to notice only as a result of the test report of the sample submitted by the laboratory. The Importer can only explain the Discrepancy so noticed and is not on the end of my firm.
- *Question 35. Your kind attention is invited to the conclusion of the test report for the sample of M/s Shree Shyam Fuelco Private Limited wherein the oil has been found to be "HFHSD as per IS 16861:2018" .On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per IS 16861:2018 and are hence classifiable under CTH 27101949. In the light of the test report and your reply to question No 33 above, do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no 2131398*
Dt. 14.02.2024 filed by you and imported by M/s Shree ShyamFuelco Private Limited, is correctly classifiable under CTH 27101949 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 in the consignment covered under BOE no 2131398 Dt. 14.02.2024 should be under CTH 27101949. The declaration of the item made in the bills of entries is incorrect and wrong.
- *Question 43: Please take cognizance of your reply to the question no 35-42 above and state whether the goods declared in the Bills of entries were mis-declared.*
Answer: I have already admitted that the goods identified by the lab and the one declared in the Bills of entry are different. Though prima-facie it appears to be a case of misdeclaration 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 the respective importers.
- *Question 44: Please take cognizance of the reply to question no 43 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 agree that the items identified by the lab comprising of the said consignments are restricted and can only be imported by STEs. I reiterate that the Bill of entry was filed on the basis of documents and information provided by the importer. Under what circumstance the mis-declared restricted goods were imported can only be explained by the respective importer.

- *Question 45: Your kind attention is invited to CTH 27101990- "Others" and chapter 27, and that there are a lot of restricted goods in this chapter that can only be imported by STEs. Please state whether this particular CTH 27101990 was chosen by you as the import policy associated with this CTH is "free to import"? And further state as CHA should you not be extra careful that the importer should not bring any restricted item/goods in lieu of free goods?*

Answer: As stated in different questions above, the basis of classification of the goods under CTH is because the product does not fall under any other CTH in this chapter. Further general trade practice at the port regarding this product is that it is classified under CTH 27101990. However just to be double sure and being careful about the nature of the goods, we always opt for the first check of the consignment. This allows us to double-check the consignments imported by the importer.

- *Question 46: Do you wish to state anything else?*

Answer: I wish to submit that my firm has no role in the discrepancies noticed in the consignment. The importer is liable to face any action on account of misdeclaration of the consignment. It is requested that this aspect maybe considered accordingly while concluding the instant case.

14. Subsequent to the receipt of the Test Reports from the CRCL, in order to ascertain the role of Sh. Ruparel Ketan, partner of M/s Shivshakti Shipping in facilitating illicit import of High Flash High Speed Diesel fuel at Mundra Port, summons were issued to him on 05.07.2024 for appearance on 10.07.2024 in compliance to which Shri Ruparel Ketan appeared on 10.07.2024 to tender his voluntary statement. His voluntary statement was again recorded on 10.07.2024 under Section 108 of the Customs Act 1962 wherein he inter-alia stated as under .

- **Question. 1:** *Please refer to Question no.1 & 2 of your statement dated 01.05.2024 and explain your relationship with M/s Ashirwad Shipping & Logistics.*

Answer: *As submitted by me in my statement dated 01.05.2024 in reply to question no. 1 that I am utilizing the premises of M/s Ashirwad Shipping & Logistics for conducting Customs related work pertaining to Mundra Port of my firm M/s Shivshakti Shipping. The proprietor of M/s Ashirwad Shipping & Logistics is a very close friend of mine of more than 20 years and therefore in order to save expenses he has permitted me to use his offices for the conduct of business of my firm. I do not pay any rent or any other charges while using the premises for my work, However I share portion of agency*

charges which is received for Customs related work. Further, since M/s Ashirwad Shipping & Logistics is into similar business, I also take the services of his staff in conducting the business.

- **Question 2:** Please provide details of your own office along with the details of your staff.

Answer: it is submitted that I went through a very difficult period about 8 years ago and was under heavy debt. Due to which I lost almost everything. At that time my friends namely; Shri Deepak Majethiya husband of the proprietor of M/s Ashirwad Shipping & Logistics, Shri Gaurav Madhusudan Jhaveri Proprietor of M/s Gaurav M Jhaveri and Shri ApparaoGunti Proprietor of M/s A.R. Shipping &Logistics helped me and supported me during the difficult period from 2016 to 2021. During this period, I used their office premises for conducting business of my own firm as I could not afford rent of an independent office and employees. Since then, I'm still continuing to use their respective premises for conducting my business as well as utilizing the services of their staff also. However, as far as my own staff is concerned, they mostly are doing field work at the Mundra port while some of my staff uses the office premises of M/s A.R. Shipping & Logistics belonging to my friend Shri A.R. Gunti at Plot no.338, Dc-5, Adipur, Katchh. My firm M/s Shivshakti Shipping also is registered at this address only. Further the details of my staff is as under:

Name	Designation/ Work Assigned	Mobile No.
Rafik Odheja	Field Work at Mundra Port	8758975947
Lakharam	Field Work at Mundra Port	9680252051
Tagharam	Field Work at Mundra Port	7976451623
Rahul Saran	Field Work at Mundra Port	7877498116
GovindGirdhari Ram	Field Work at Mundra Port	8302921991
NarayanNarna Ram	Field Work at Mundra Port	8905451800
Vivek Soni	Field Work at Mundra Port	9979689585
Devi Lal	Field Work at Mundra Port	9660253347

- **Question 3:** With reference to your statement tendered on 01.05.2024 please explain your relationship with M/s Gaurav M. Jhaveri.

Answer: As stated by me in the answer to the previous question, Gaurav M. Jhaveri proprietor of M/s Gaurav M Jhaveri is an old friend of mine who helped me in my difficult period which began in 2016. I bring business for M/s Gaurav M. Jhaveri and provide documents obtained from the party, which are forwarded through E-mail "info.shivshakti1121@gmail.com"

or WhatsApp for Customs clearance related work like filing of Bill of Entry, Examination of consignment, Out of charge of consignment after examination etc.

- Question 4: After the documents have been forwarded through your email to M/s Gaurav M Jhaveri, who files the Bill of entry on behalf of the importers.
Answer: As per my knowledge, an employee by the name of Sahil files online Bill of entry on behalf of the importers on ICEGATE website by using the ID of M/s Gaurav M Jhaveri.
- Question 5: Please state what is the agreement or payment terms between your firm and M/s Gaurav M Jhaveri?
Answer: As stated by me in previous questions, I use office space, office staff and facilities of M/s Ashirwad Shipping & Logistics for agency charges which are negotiated with the importer. Bill is raised first by M/s Ashirwad Shipping & Logistics for the entire amount. Thereafter after deducting the share which is approx. 25% of the total amount, M/s Shiv Shakti Shipping raises bill for this amount upon M/s Ashirwad Shipping & Logistics. Thereafter M/s Gaurav M Jhaveri raised a bill for fixed amount of Rs. 750/- per container which is transferred by me online. The balance amount retained by me after deducting the expenses incurred on port handling. There is no written agreement between M/s Shivshakti Shipping and Gaurav M Jhaveri as well as M/s Ashirwad Shipping & Logistics.
- Question 6: Why payment is not being made by the importer directly to the CHA firm instead of the manner as stated by you in reply to your question no. 5?
Answer: According to me there is nothing wrong in this practice. If there is a forwarder or associate in between the importer and the CHA, he is the contact person who takes responsibility for the realization of the payment from the importer. After realization of the payment, the share of the CHA is paid as per agreed terms for the services of the Customs Clearance rendered by him.
- Question 7: Please specify the Customs port for which you negotiate with parties with regard to Customs related works.
Answer: I negotiate with the clients for getting their Customs related works at Mundra Port.
- Question 8: What are the commodities being dealt by you for which you are providing services related to Customs work.
Answer: My firm M/s Shivshakti Shipping deals with the importer who are engaged in the import of petroleum Products
- Question 9: Please specify the petroleum products as replied by you in answer to Ques no.8.
Answer: The Petroleum Products include Mix Hydrocarbon Oil (MHO), Base Oil and Fuel Oil.
- Question 10: What is the reason for specialization and concentration in petroleum products only?
Answer: The clients for whom I am looking after customs related work import only these petroleum Products and I get new business reference in the same field from the existing clients.

- *Question 11: How is the classification of the items Mix Hydrocarbon Oil decided.*
Answer: The classification is decided on the basis of import documents provided by the importer. After the documents are forwarded online by M/s Shivshakti Shipping, a checklist is prepared which is forwarded on whatsapp group or through mail to the importer. The importer conveys his approval to the checklist back through either whatsapp or mail which is then accordingly communicated to M/s Gaurav M Jhaveri, Who afterwards files bill of entry on the basis of the said checklist. As far as classification is concerned the same is done on the basis of the description given in the import documents, provisions of Customs Tariff and practice followed in respect of similar items at the Customs Port.
- *Question 12: Please provide the printout of approval granted by the importer and communicated by you to M/s Gaurav M Jhaveri.*
Answer: The approval communicated must be available in the Mobile phone resumed on 01.05.2024.
- *Question 13: Your attention is invited to your reply to Question no. 8 of your statement dated 01.05.2024, wherein you have replied that Mix Hydrocarbon Oil is used for industrial purposes. Please specifically state for which industry and the purpose the said Mix Hydrocarbon Oil imported by your clients namely; M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Pvt Ltd.*
Answer: The said reply was given on the basis of the information provided by the importer as well as my knowledge that the Mix Hydrocarbon Oil is used in the furnace of various industries.
- *Question 14: Please refer to your further reply to Question no. 8 of your statement dated 01.05.2024, wherein you had stated that "sometimes the importer provides the chemical analysis report related to the subject consignment and sometimes not." In the light of this submission please furnish copies of the said chemical analysis report as you have already stated in reply to Question no. 7 of your statement dated 01.05.2024 that the customer provides documents on whatsapp.*
Answer: Yes, I admit that I had made the said submissions in my reply to Question no. 7 & 8 of my statement dated 01.05.2024. As far as submission of the copies of the said submission is concerned, as per my knowledge these three parties namely; M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Pvt Ltd have not provided chemical analysis reports in respect of any of the consignment but apart from these three parties, I look after the Customs related work for several other companies like; M/s Divya Petrochem, M/s Kumar Enterprises, etc. I don't readily remember which party specifically provided chemical analysis report. However, if any party submits chemical analysis report, the same is uploaded with other import documents at the time of filing of the Bill of entry.
- *Question 15: Did you ask the respective importers to provide chemical analysis report/test report/literature in support of the goods declared to be as MHO in the consignment which have been put on hold and currently are in investigation?*
Answer: I made inquiries with the importer regarding chemical analysis report/test report in support of the goods declared to be as MHO in the

import consignment, they informed that no such chemical analysis/Test report was provided by the supplier to them.

- Question 16: Please refer to your reply to the Question above. If the chemical analysis report in respect of the said three importers namely; M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Pvt Ltd was not provided by them. then how it was decided to classify the said goods i.e., Mix Hydrocarbon Oil/Mix Mineral oil under the Customs Tariff heading 27101990 pertaining to “others”.

Answer: Based on the import documents provided by the importer and the practice of the classification being followed at Mundra Port in respect of Mix Hydrocarbon Oil/Mix Mineral oil imported by other parties at the Mundra port, it was decided to classify the consignments accordingly under the Customs Tariff heading 27101990 pertaining to “others”.

- Question 17: Your attention is invited to your reply to Question No. 21 of your statement dated 01.05.2024, wherein on being asked “whether goods i.e., Mix Hydrocarbon Oil so imported in consignments/containers hold by DRI and imported in earlier consignments are same” and you had replied that “Yes sir, as per my understanding they are the same”. In this regard, please peruse the respective test reports of consignments that have been put on hold by DRI Noida regional Unit. The test results of each of the consignment have been summarized in the table below.

S.NO	IEC Name	BOE No	No of containers	Sample no.	Test report result
1	M/S A. A. Cable Layers	9765080 Dt. 21.01.2024	14	AB3-344709	Gas Oil
		9765081 Dt. 21.01.2024	12	AA1-344704	Gas Oil
2	M/s Shree Hari Krupa Petrochem	2083192 Dt. 10.02.2024	10	HC1-A217700	Automotive Diesel Fuel BS(IV)
		2100062 Dt. 12.02.2024	10	HD3-A217692	Automotive Diesel Fuel BS(IV)
		9999773 Dt. 06.02.2024	10	HB1-A217693	Adulterated Diesel
		2043286 Dt. 08.02.2024	10	HA1-A217686	Automotive Diesel Fuel BS(IV)
		2148664 Dt. 15/02/2024	10	HE1-A215389	Automotive Diesel Fuel BS(IV)
3	M/s Shree	2131398Dt. 14.02.2024	10	SSA3-	HFHSD

	Shyam Fuelco Private Limited.			A2154900	(High Flash High Speed Diesel)
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Having perused the test reports please offer your comments in the light of your reply to Question No. 21 of your statement dated 01.05.2024.

Answer: I have seen the test reports detailed above as well as the parameters detailed therein. Further, I have also signed all the said test reports as a token of having seen them. On perusal of the test reports, it is seen that contrary to my submission that Mix Hydrocarbon Oil so declared in the bill of entry and sought to be imported in consignments/containers hold by DRI and imported in earlier consignments are same, the lab has come to a conclusion that the consignment does not consist of MHO but a different oil as mentioned in the Respective report.

- *Question 18: Do you agree with the outcome of the test reports and the result mentioned therein?*

Answer: Since the samples have been tested in approved and competent laboratory, I agree with the test reports and the parameters as mentioned in the respective test.

- *Question 19: Your kind attention is invited to the conclusion of the test report for the sample of M/s Shree Shyam Fuelco Private Limited wherein the oil has been found to be "HFHSD as per IS 16861:2018". On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per IS 16861:2018 and are hence classifiable under CTH 27101949. In the light of the test report and your reply to question No 33 above, do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no 2131398*

Dt. 14.02.2024 filed by you and imported by M/s Shree Shyam Fuelco Private Limited, is correctly classifiable under CTH 27101949 and not 27101990 as classified by you in the bill of entry filed by you.

Answer: I agree with the result of the test report in respect of the said consignment and the conclusion that the same consists of "HFHSD as per IS 16861:2018". I also agree that the correct classification of the oil in the consignment covered under BOE no 2131398 Dt. 14.02.2024 should be under CTH 27101949. Thus the declaration of the item made in the bill of entry is incorrect and wrong.

(Question No 20- 26 are not relevant in the instant investigation and hence not been reproduced here)

- *Question 27: Please take cognizance of your reply to the question no 19-26 above and state whether the goods declared in the Bills of entries were mis-declared.*

Answer: on consideration of the test result and the declaration made in the bill of entry as well as its classification, it is evident that there is a mismatch between the two and thus the declaration made in the Bill of entry is incorrect and wrong. I have already stated my acceptance with all the test reports shown to me and referred to in Question no. 19-26. Though prima-facie it appears to be a case of mis-declaration however I wish to submit that

all the declaration and classification made in the bill of entry were on the basis of the documents provided by the respective importers.

- *Question 28: Please take cognizance of the reply to question no 27 above. The goods 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 mis-declaration for restricted items.*

Answer: I agree that the items identified by the lab comprising of the said consignments are restricted and can only be imported by STEs. I again submit that the Bill of entry was filed on the basis of documents and information provided by the importer. The importer can only explain the discrepancy with regard to the declaration given in the import documents in respects of the goods vis-à-vis the goods identified by the Laboratory.

- *Question 29: Do you wish to state anything else?*

Answer: I wish to request that the facts of the case may be taken into consideration while arriving at the role of my firm. M/s Shivshakti Shipping and that of M/s Gaurav M Jhaveri under whose F-card my firm conducted Custom related work of the companies under investigation.

15. And whereas, investigation and other proceedings of the case could not be completed within stipulated period of six months, an extension of further six months was sought from the competent authority, which was accordingly granted vide letter dated 14.08.2024.

16. And whereas, summons were issued to M/s Shree Shyam Fuelco Private Limited on 21.06.2024 for appearance on 05.07.2024. **Shri Navneet Pandey**, Partner of M/s Shree Shyam Fuelco Private Limited, appeared on 05.07.2024 to tender his voluntary statement. His statement was recorded on 05.07.2024 under Section 108 of the Customs Act 1962 wherein he voluntarily stated as under:

- *I hereby state that I am one of the partners of M/s Shree Shyam Fuelco Pvt Ltd, the other partner being my wife Smt Pooja Pandey, who however is not actively involved in the running of the business and I look after the operation of the business. M/s Shree Shyam Fuelco Pvt Ltd was established in April 2022 as a company engaged in the import of Mineral Hydrocarbon Oil/ Mix Hydrocarbon Oil. The registered office of the company is located at H.NO 85 Anand Puram Colony, Madra Khel, Shahjahanpur, Uttar Pradesh-242001. There is one employee in the company who looks after day-to-day works related to accounts of the company.*

As far as my personal details are concerned, I am a BA Graduate from SS College Shahjahanpur UP, which I completed in 2005. After completing my graduation I helped my father in agriculture and farming. Then in the year 2012, I started a business of Pesticides along with my elder brother Sh. Sunil Pandey and we opened a shop at, BilgramChungi, Sandi Road Hardoi.

In the year 2022 I ventured into this Oil Business and registered my company M/s Shri Shyam Fuelco Pvt Ltd and started importing Mineral/Mix Hydrocarbon Oil. I also have a small transport business under the same company with a total of 3 trucks.

In my family, I am married to Ms Pooja Pandey, and I have 3 kids, Two Daughters and One Son. I have 2 elder sisters, both married and one elder brother, My mother and father live with my elder Brother in Hardoi and I live with my wife and kids on the above-mentioned address.

- *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: 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 generally import through a single supplier only i.e. M/s Carrutaco Energy FZE. The instant consignment also is supplied by the same supplier. I contacted one person namely Sh Gurpreet Singh, in Dubai, who looks after the sales of the M/s Carrutaco Energy FZE, on his mobile +971526844793.

- *Question 4: Please describe your product viz MHO (Mineral Hydrocarbon Oil) and state the characteristic parameters/specifications based on which the declaration has been made.*

Answer: To my understanding, MHO is mineral hydrocarbon oil. As far as the parameters/specification of the product i.e. MHO is concerned I do not know in detail.

- *Question 5: 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 specification of oil is communicated to us by our clients and based on the requirement we place orders with the 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 6: Please provide certified copies of the Chemical Analysis report or Test report of all the consignments of MHO (Mineral Hydrocarbon Oil) imported by you.*

Answer: I wish to state that no chemical analysis report has been provided by the supplier in respect of any of the consignments put on hold.

- *Question 7: 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 8: Please refer to your reply to Question No 6 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 9: What is the status of the overseas supplier of the import of MHO(Mineral Hydrocarbon Oil)?*
Answer: To my knowledge the overseas supplier, i.e M/s Carrutaco Energy FZE is a trader only.
- *Question 10: 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. However, I will try to ascertain the source and provide information accordingly.
- *Question 11: Please provide Certificate Analysis Report issued by the Original manufacturer/refinery/oil firm for each consignment 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: No such document or report is available with me, nor has been provided by the overseas supplier. I am not aware of the address and details of the traders as sought by you.
- *Question 12: Kindly detail the basis of the classification of the consignment under CTI 27101990 and declaration of the same as Mineral 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 13: 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 14: Please refer to the reply of Question 2 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 15: Please provide details of key officials (name and designation) of your company.*
Answer: All the operations of the company are being handled by me only, and as stated above Smt Pooja Pandey is not actively involved in the

Operation of the company. As far as my employee is concerned, he is not concerned with the import of MHO and only follows the instructions given by me.

- *Question 16: 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 Shree Shyam Fuelco Pvt Ltd has imported about 5 Consignments of Mineral/Mix Hydrocarbon oil in the past 2 years including the one that has been put on hold by DRI. At present, I do not have the documents related to these consignments but I promise to provide the documents at the earliest.
- *Question 17: Please provide a Certified copy of bank statement indicating payments made to suppliers for consignments.*
Answer: I am submitting the Import Advance Remittance copy for the instant consignment for the bank account of the company maintained with HDFC Bank having account no.99917722222222.
- *Question 18. Please provide the details of the warehouse/storage place where the imported goods are stored after their import by your firm?*
Answer. M/s Shree Shyam Fuelco Pvt 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.
- *Question 19. Please peruse the test report submitted by CRCL Vizag 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 2131398 dated 14/02/2024. As per the test report the conclusion arrived at by the CRCL regarding the goods is "Automotive Diesel Fuel BSIV as mentioned in IS 1460:2017 and HFHSD as per IS 16861:2018". Please peruse the said report and offer your comments.*
Answer. I have seen the copy of the test report dated 03.06.2024 of the CRCL in respect of the sample drawn from the consignment covered under BOE no 2131398 dated 14/02/2024 pertaining to M/s Shree Shyam Fuelco Pvt Ltd 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 conclusion of CRCL of the oil meets the specifications of "Automotive Diesel Fuel BSIV as mentioned in IS 1460:2017 and HFHSD as per IS 16861:2018".
- *Question 20. Your kind attention is invited to the conclusion of the test report wherein the oil has been found to be "Automotive Diesel Fuel BSIV as mentioned in IS 1460:2017 and HFHSD as per IS 16861:2018". whereas you have declared the same as Mineral Hydrocarbon Oil in BOE no 2131398 dated 14/02/2024 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 2131398 dated 14/02/2024 and the conclusions of the test report of CRCL dated 03.06.2024 are different. The Bill of Entry was filed on the basis of an order placed by me with the overseas supplier and the import documents provided by him. I had specifically ordered for Mineral 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, Vizag, I request that the same may be re-exported back to the supplier.

- *Question 21. Your kind attention is again invited to the conclusion of the test report wherein the oil has been found to be “HFHSD as per IS 16861:2018” .On the basis of the conclusion of CRCL that the goods are actually HFHSD as per IS 16861:2018 classifiable under CTH 27101949. In the light of the test report and your reply to question No 20 above, do you agree that the HFHSD as per IS 16861:2018 imported by you in consignment covered under BOE no 2131398 dated 14/02/2024 is correctly classifiable under CTH 27101949 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 2131398 dated 14/02/2024 is under CTH 27101949, however we had ordered for Mineral Hydrocarbon oil only classifiable under CTH 27101990

- *Question 22. Please refer to your reply to question number 21 above wherein you have agreed that the correct classification of the oil i.e. HFHSD as per IS 16861:2018, is a restricted item 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 HFHSD conforming to IS, 16861:2018, is a restricted item 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 question no 20 above, I once again request that the consignment may be reexported back to the overseas supplier.

17. LEGAL PROVISIONS

17.1 From the foregoing it appears that the goods in the instant case, , High Flash High Speed Diesel is correctly classifiable under CTH 27101949. 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 :		
27101949	---	Gas oil and oils obtained from gas oil: ---- High flash high speed diesel fuel conforming to standard IS 16861	State trading enterprises	Import as per policy conditions (5) of Chapter 27

17.2 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.*

17.3. 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.

17.4. 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;

17.5 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;

17.6 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.

17.7 **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 ;

17.8 Section 2(39) of the Customs Act’1962- *“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;*

17.8 **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.

17.9. **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.

17.10. 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”

17.11. 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.*

17.12 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.

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

The Central Government may makes 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 storages 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.*

17.14 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.

17.15 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.

17.16 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.

17.17 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 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.

17.18 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.

17. 19 GENERAL RULES FOR THE INTERPRETATION OF THE HARMONIZED SYSTEM

Classification of goods in the Nomenclature shall be governed by the following principles :

1. The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions :

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

3. *When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows :*

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

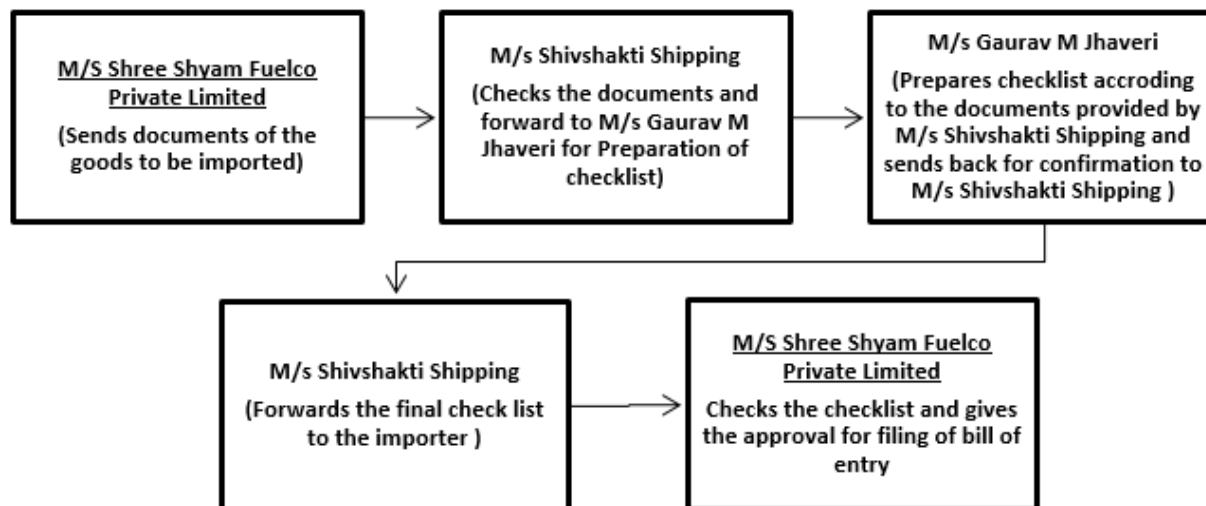
(c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

18. Whereas it appears from the foregoing paras that:

- (i) As per condition No.5 of Import Policy of Chapter 27, import of High Flash High Speed Diesel fuel which was imported by M/s Shree Shyam Fuelco Private Limited 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 such as IOCL, HPCL, BPCL and IBP.
- (ii) M/s Shree Shyam Fuelco Private Limited appeared to be well aware about the said restriction imposed by the Policy. As such in order to circumvent the said provision, in collusion with the CHA namely M/s Gaurav M. Jhaveri along with their respective subsidiary agents of M/s ShivShakti Shipping, as well as Overseas Suppliers namely M/s Carrutaco Energy FZE in Dubai devised a modus operandi to import High Flash High Speed Diesel fuel - (restricted commodity), in the garb of

importing freely importable goods. The nexus of the said entities are explained with the help of chart as under

Pictorial depiction of flow of documents from M/s Shree Shyam Fuelco Private Limited to the CHA- M/s Gaurav.M.Jhaveri



- (iii) In accordance with the said modus operandi, the importer resorted to the import of High Flash High Speed Diesel fuel by declaring the same as “Mineral Hydrocarbon Oil (MHO)”. They classified the said goods i.e “Mineral 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. Carrutaco Energy FZE in Dubai appears to have deliberately declared the said goods in the import documents viz invoices and the corresponding packing list as “Mineral Hydrocarbon Oil (MHO)”.
- (iv) It appears that on the basis of fudged and fabricated documents namely invoice, Packing List etc the Importer namely M/s Shree Shyam Fuelco Private Limited filed Bills of Entry wherein they declared the goods as “Mineral 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 Shree Shyam Fuelco Private Limited all along were aware of the fact that the goods which they sought to import actually was restricted item and as such they were not eligible to import the High Flash High Speed 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. Shree Shyam Fuelco Private Limited as well as their related entities involved in the case, 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 that would have enabled the identification of the commodity imported by M/s Shree Shyam Fuelco Private Limited 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 consignment which were sent to Government Lab namely CRCL, Vizag. The parameters of the test conducted by the Lab 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 BEs 2131398 Dt. 14.02.2024 on being tested and analysed, indicate that all the parameters conform to limits stipulated in IS:16861 which pertains to High Flash High Speed Diesel fuel. As there is no deviation in all the parameters as mentioned in the Test report vis-a vis parameters prescribed in IS 16861, there appears to be no doubt about the identity of the said commodity.
- (viii) The commodity sought to be actually imported viz High Flash High Speed Diesel fuel 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 Mineral Hydrocarbon Oil so 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 Mineral Hydrocarbon Oil. It appears that the misclassification was done deliberately so as to mislead the department. The correct classification is 27101949 pertaining to "High Flash High Speed Diesel fuel as per IS 16861".The act of mis-declaration and misclassification leading to the import of restricted goods namely High Flash High Speed Diesel fuel has been categorically accepted and acknowledged in their respective voluntary statements by M/s Shree Shyam Fuelco Private Limited and the CHA M/s Gaurav M. Jhaveri along with their respective subsidiary agent M/s Shiv Shakti Shipping.
- (x) M/s Shree Shyam Fuelco Private Limited 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 Shree Shyam Fuelco Private Limited failed to submit any document in support of the item Mineral Hydrocarbon Oil declared by the supplier in the import documents and Bills of Entry filed by M/s Shree Shyam Fuelco Private Limited. 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 Shree Shyam Fuelco Private Limited failed to provide specific use of the item "Mineral 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 Navneet Pandey, partner of M/s Shree Shyam Fuelco Pvt Ltd gave vague reply that the MHO was used for industrial purposes. But he failed to provide information about the specific industry which used the Mineral Hydrocarbon Oil. Further, he could not state anything about the parameters /specification of Mineral Hydrocarbon Oil. Further even the CHA and the agents could not give any information about the use of the Mineral Hydrocarbon Oil. This suggests that they were not aware about the use of the said commodity i.e

“Mineral 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) The parties also appear to have violated the provisions of Petroleum Act, 1934. The goods were imported in gross violation of the said provisions. 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)

Further, as per the test reports the goods in question here fall under the “Class C” category of petroleum products as per the Petroleum Act 1934. Class C 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 C 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 C petroleum products because they do not meet the stringent safety standards for the containment of flammable liquids. Containers used for storing and transporting Class C petroleum must be certified as per 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 C 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 C petroleum in Flexi bags in total disregard of the safety norms which could lead to serious mishaps, it appears that M/s Shree Shyam Fuelco Private Limited in the greed for earning illicit profits have put the public and the environment at great risk.

- (xiv) Shri Navneet Pandey, partner of M/s Shree Shyam Fuelco Pvt Ltd on being shown the Test Reports and the parameters mentioned therein has accepted the conclusions and findings of the Test Report of CRCL. He has also accepted that the consignments was mis-declared and misclassified. On the basis of the conclusions of the Test Reports he agreed that the respective consignments comprised of High Flash High Speed Diesel fuel 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. He has sought to project his innocence in the case which however was not the case. 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 M/s Shree Shyam Fuelco Pvt Ltd.
- (xv) The provisions of Section 17 (1) of the Customs Act, 1962 read with Section 2 (2) of the Customs Act and 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 declares 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 Shri Navneet Pandey, partner of M/s Shree Shyam Fuelco Pvt Ltd and the CHA M/s Gaurav M. Jhaveri appear to have violated the provisions of the said Section 17(1) 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. Also on being shown with the Test Reports, Shri Navneet Pandey, partner of M/s Shree Shyam Fuelco Pvt Ltd has accepted that they had mis-declared the description imported under subject bills of entry before the custom authorities in his voluntary statement. 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 Shree Shyam Fuelco Pvt Ltd. appear to have indulged in the act of smuggling as defined under Section 2(39) 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 wilfully 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 Gaurav M. Jhaveri was actively involved in facilitating and assisting the customs clearance of the restricted goods namely High Flash High Speed Diesel fuel in the garb of Mineral Hydrocarbon Oil. The CHA appear to have failed to fulfil the following obligations as prescribed under Regulation 10 of Customs Broker Licensing Regulation 2018-

(b) transact business in the Customs Station either personally or through an authorised employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be

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

(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

They failed to fulfil the said obligations as under:

M/s Gaurav M. Jhaveri allowed their sub-agents- M/s Shivshakti Shipping and M/s Ashirwad Shipping & Logistics to utilize their "F" Card for import of restricted goods by way of mis-declaration and misclassification. M/s Shivshakti Shipping and M/s Ashirwad Shipping & Logistics were allowed to engage themselves and conduct business of customs clearance on their behalf in violation of obligation (b) of Regulation 10. M/s Shiv Shakti Shipping have been found to negotiate with M/s Shree Shyam Fuelco Pvt Ltd. on behalf of M/s Gaurav M. Jhaveri, and in fact the bill for the agency charges are raised by M/s Ashirwad Shipping & Logistics upon the Importer. Thereafter M/s Shivshakti Shipping raised bill upon M/s Ashirwad Shipping & Logistics after deducting 25% from the bill amount raised by M/s Ashirwad Shipping & Logistics upon the Importer i.e. M/s Shree Shyam Fuelco Pvt Ltd. Subsequently M/s Gaurav.M.Jhaveri raised bill @ Rs.750/- per container upon M/s Shivshakti Shipping in respect of the amount raised as agency charges. Thus it is seen that the lion's share is taken and shared by the sub-agents and not by the CHA-i.e M/s Gaurav.M.Jhaveri. The employees of sub-agents- M/s Shivshakti Shipping and M/s Ashirwad Shipping & Logistics have been found to be actively involved in the process of customs clearance like obtaining documents, deciding the classification of the goods with the importer in

violation of the obligation though the sub-agents were not authorized to do so. Further M/s Gaurav M.Jhaveri also appear to have not advised their client as obligated vide obligation (d) of the Regulation 10 to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof. They further did not bring the violations and contraventions of the import of restricted goods by way of mis-declaration and mis-classification to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. They did not advise them against importing restricted commodities by way misclassification and mis-declaration in flexi bags in violation of the provisions of the Customs Act'1962 and the Petroleum Act'1934. M/s Gaurav M.Jhaveri appear to also have violated the obligation (e) as they did not exercise due diligence to ascertain the correctness of the details and documents provided by the importer for filing of bill of entries. They have been found to be in the business of customs clearance for a considerable period of time yet they did not ask for any proper chemical/analysis report from the importer in support of the details and the description filed by then in the Bills of Entry in respect of the goods sought to be imported under vide the consignments under investigation. M/s Gaurav M.Jhaveri also did not co-operate with the Customs authorities as provided under obligation (q) of the Regulation 10 of the CBLR. During the course of the investigations they did not disclose vital information relating to the case on their own. However, on being shown the relevant documents subsequently they have accepted the Lab Reports and have also accepted that the consignments were mis-declared and misclassified in their voluntary statements.

Thus the CHA- M/s Gaurav.M.Jhaveri appear to have acted in tandem with the importer- M/s Shree Shyam Fuelco Pvt Ltd., in the illicit and illegal import of the restricted commodity. They have attempted to project their innocence in the case by stating that they filed import documents on the basis of the documents provided by the importer but considering the goods and the Chapter of the goods they had the responsibility of ensuring that the importer does not indulge in the illicit act of smuggling of restricted commodities or violate the provisions of Customs Act'1962 which rested on their shoulders in accordance with the obligations laid down in Regulation 10 of the Customs Broker Licensing Regulation 2018. But they have been found to have not observed and complied with the obligations prescribed under the Customs Broker Licensing Regulation 2018.

- (xix) Since the consignment consisting of 10 containers pertaining to one BE were imported by way of mis-declaration and mis-classification as mineral Hydrocarbon

Oil in the manner as discussed above in contravention of Section 17 (1), Section 46(4) and 46(4A) ,it appears liable for confiscation in terms of Section 111(d), (f), (l) and (m) of Customs Act, 1962. Further, M/s Shree Shyam Fuelco Pvt Ltd, Shri Navneet Pandey, partner of M/s Shree Shyam Fuelco Pvt Ltd, CHA-M/s Gaurav M. Jhaveri, M/s Ashirwad Shipping & Logistics, Shri Ruparel Ketan of M/s Shivshakti Shipping, 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.

19. Role of various entities involved in the case:

A. Role of M/s Shree Shyam Fuelco Pvt Ltd:

Whereas it appears that M/s Shree Shyam Fuelco Pvt Ltd deliberately resorted to illicit import of restricted goods (High Flash High Speed Diesel fuel) under the guise of "Mineral Hydrocarbon Oil (MHO)" to bypass import restrictions applicable to non-State Trading Enterprises (STEs). They misused Customs Tariff Heading 27101990 ("Others") to declare the goods as freely importable. M/s Shree Shyam Fuelco Pvt Ltd colluded with supplier (M/s Carrutaco Energy FZE) to submit falsified invoices, packing lists etc that misrepresented the true nature of the goods. They further failed to declare the correct classification and description of goods during self-assessment under Section 17(1) of the Customs Act, 1962. They appear to have provided inaccurate and incomplete information in the Bills of Entry, violating Sections 46(4) and 46(4A) of the Customs Act, 1962. M/s Shree Shyam Fuelco Private Limited appear to have been fully aware that the imported items were restricted commodities (High Flash High Speed Diesel fuel) and not "Mineral Hydrocarbon Oil," as evidenced by voluntary statements. They deliberately withheld key documents, including buyer-seller agreements and export declarations, to prevent the identification of the goods. The mis-declared goods namely High Flash High Speed Diesel fuel have been categorized as hazardous Class C petroleum products (High Flash High Speed Diesel fuel) but were imported in unsafe Flexi bags, violating and compromising safety norms mandated by the Petroleum Rules, 2002. The misdeeds and malafide acts of M/s Shree Shyam Fuelco Private Limited appear to be confirmed from the fact that they accepted the findings of the lab tests conducted by CRCL, which confirmed the goods as High Flash High Speed Diesel fuel. They have attempted to pass the responsibility for their malafide act of

importing restricted goods on the shoulders of the supplier. The illicit acts of M/s Shree Shyam Fuelco Private Limited which include mis-declaration, misclassification, and illegal importation of restricted petroleum products appear to violate multiple provisions of the Customs Act, 1962, the Foreign Trade Policy, and the Petroleum Act, 1934 for financial gain. The illicit import of the said restricted goods viz High Flash High Speed Diesel fuel amounts 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 Shree Shyam Fuelco Private Limited appear to have rendered themselves liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962.

B. Role played by the partner- Shri Navneet Pandey- Partner of M/s Shree Shyam Fuelco Pvt Ltd

Shri Navneet Pandey partner of M/s Shyam Fuelco Pvt Ltd has been found to be one of the partners of the firm – M/s Shree Shyam Fuelco Pvt Ltd He has been found to the active partner who appears to be actively involved in managing the affairs of the firm. He appears to be fully aware that the imported goods were restricted commodity (High Flash High Speed Diesel) and intentionally mis-declared them as "Mineral Hydrocarbon Oil (MHO)" to bypass import restrictions imposed by the Customs Tariff and Foreign Trade Policy. He appears to have deliberately failed to provide relevant supporting documents, including buyer-seller agreements, export declarations, or specific uses of the purported "Mineral Hydrocarbon Oil" .This further appears to substantiate the charge of consciously importing restricted goods in the guise of mis-declared goods. As a partner of the firm who was responsible for ensuring compliance, Shri Navneet Pandey failed to declare the actual description, classification, and applicable duty of the imported goods, thereby violating the provisions of Section 17(1) of the Customs Act, 1962.Shri Navneet Pandey admitted to the findings of CRCL lab tests that identified the goods as High Flash High Speed Diesel but attempted to shift blame onto the shoulders of the suppliers. He failed to ensure compliance of licensing and safety requirements mandated for handling Class C petroleum products. He withheld vital documents and information during the investigation to prevent the identification of the true nature of the goods.As a key decision-maker, Shri Navneet Pandey appears to have knowingly engaged in acts that meet the definition of smuggling under Section 2(39) of the Customs Act, 1962, and appears to have thereby rendered himself liable for

penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962.

C. Role of CHA- M/s Gaurav M. Jhaveri –

It appears that M/s Gaurav M. Jhaveri, CHA of the Importer-M/s Shree Shyam Fuelco Private Limited was also equally involved in the illicit import of the restricted goods namely restricted items (High Flash High Speed Diesel fuel) under the guise of freely importable goods labelled as "Mineral Hydrocarbon Oil (MHO)." M/s Gaurav M. Jhaveri allowed sub-agents (M/s Shivshakti Shipping and M/s Ashirwad Shipping & Logistics) to transact business at Ports. They permitted sub-agents to actively engage in customs clearance, including document processing and classification decisions. 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 Shree Shyam Fuelco Private Limited to comply with the applicable laws under the Customs Act, 1962, and the Petroleum Act, 1934. They similarly allowed misclassification and misdeclaration of restricted petroleum products as "Mineral Hydrocarbon Oil (MHO)." M/s Gaurav M. Jhaveri failed to exercise due diligence and did not verify the accuracy and the authenticity of import documents, including invoices and chemical analysis reports. This becomes more important and critical in view of the kind of goods being imported. M/s Gaurav M. Jhaveri 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, which tantamount to smuggling in accordance with Section 2(39) of the Customs Act'1962, M/s Gaurav M. Jhaveri appear to have rendered themselves liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962

D. The role of M/s Shivshakti Shipping:

M/s Shivshakti Shipping have acted as sub-agent of M/s Gaurav M. Jhaveri CHA in the instant case. In the voluntary statement tendered by Shri Ruparel Ketan, partner of the firm, he has accepted that they share portion of agency charges which is received for customs related work. They have also accepted that they bring business for the CHA- M/s Gaurav.M.Jhaveri. Further they have stated

that they obtain relevant documents from the clients and forward them to M/s Gaurav.M.Jhaveri for customs related work. They have been found to be the interface between the CHA and the importer and has been stated that they only negotiate with the clients on behalf of M/s Gaurav M.Jhaveri. They have been found to get major chunk of the agency charges amounting to Rs.15,000/- per container while the CHA-M/s Gaurav. M.Jhaveri has been found to be getting a mere amount of Rs.750/- per container for customs clearance work. In spite of the regulations prescribed under the Customs Broker Licensing Regulation 2018, he has found no anomaly in engaging and conducting business of customs clearance work without possessing valid 'F' Card. Further it has also been stated that they look after customs related work of petroleum products only. Further they have been even found to be involved in the decision of classification of goods and forwarding of the checklist from the CHA to the Importer for approval. The involvement of M/s Shivshakti Shipping Services is unauthorized as they do not possess valid 'F' Card and have acted on the basis of the 'F' Card issued to M/s Gaurav M. Jhaveri. For being involved in illicit import of restricted goods by attending to customs clearance work of the said goods which amounts to smuggling in terms of the provisions of Section 2(39) of the Customs Act'1962, they appear to be liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962.

E. Role of Sh Ketan Ruparel- Partner M/s Shivshakti Shipping:

Shri Ruparel Ketan acted as an unauthorized sub-agent of M/s Gaurav M. Jhaveri, handling customs clearance work without possessing a valid 'F' Card. He acted as the intermediary between the importer and the CHA by negotiating with the importer and collecting documents for customs clearance. Shri Ruparel Ketan played a direct role in deciding the classification of goods and forwarding checklists from the CHA to the importer for approval. He received Rs. 15,000 per container as clearance charges while M/s Gaurav M. Jhaveri received only Rs.750/- per container, highlighting his pivotal role in the customs clearance process. He also allowed M/s Shivshakti Shipping to use the office, infrastructure, and employees of M/s Ashirwad Shipping for customs clearance work without a valid 'F' Card. For being associated in the act of importing restricted goods which appears to be akin to smuggling as defined in Section 2(39) of the Customs Act'1962, he appears to have rendered himself liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962.

F. M/s Ashirwad Shipping & Logistics:

M/s Ashirwad Shipping & Logistics provided the office and the premises to M/s Shivshakti Shipping Services to conduct customs clearance work unauthorisedly without a valid 'F' Card. In fact M/s Shivshakti Services is registered at the address of M/s Ashirwad Shipping & Logistics. M/s Shivshakti Services have been found to have not only utilised the premises but they have utilised the infrastructure also. They further utilised the services of the employees of M/s Ashirwad Shipping & Logistics in the process. In order to justify the utilisation of the premises and the infrastructure it has been stated that the same was done as rent was unaffordable. As agency charges for customs clearance work, bill for same is first raised by M/s Ashirwad Shipping & Logistics and subsequently, the bill is raised by M/s Shiv Shakti Shipping for their share upon M/s Ashirwad Shipping & Logistics. Thus it appears that they played an important role in the case and in the act of illicit import of High Flash High Speed Diesel fuel which can be termed as smuggling in terms of Section 2(39) of the Customs Act'1962, they appear to be liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962.

20. Accordingly, **M/s Shree Shyam Fuelco Private Limited (IEC-ABKCS7861D)**, 266, Anand Puram Colony, Madra Khel, Shahjahanpur, Uttar Pradesh, 242001, were 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:-

- (i) The declared classification of the impugned goods i.e. High Flash High Speed Diesel fuel conforming to IS:16861 having total quantity 177.080MTS mis-declared as Mineral Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry no. 2131398 Dt. 14.02.2024, should not be denied and re-classified under the Customs Tariff Item 27101949.
- (ii) High Flash High Speed Diesel fuel sought to be imported by them in 10 containers pertaining to one BOE bearing no. 2131398 Dt. 14.02.2024 having declared value of Rs 78,72,598/- (**Rupees Seventy Eight Lakhs Seventy Two Thousands Five hundred and Ninety Eight Only**) seized under Section 110 of the Customs Act'1962 vide Seizure Memorandums dated 07.10.2024 lying seized

at Mundra Port should not be confiscated under Sections 111(d), (f), (l) & (m) of the Customs Act'1962.

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

21. Also, **Shri Navneet Pandey, partner of M/s Shree Shyam Fuelco Pvt Ltd**, (H.NO 85 Anand Puram Colony, Madra Khel, Shahjahanpur, Uttar Pradesh-242001) were 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) or (b) and 114 AA of the Customs Act'1962, for their role in the illicit import of restricted commodity namely High Flash High Speed Diesel in the manner as discussed above.

22. Also, **M/s Gaurav M. Jhaveri**, Customs House Agent-CHA (305/306 Sai Sadan 3rd floor 76/78 Modi Street fort Mumbai) were 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) or (b) and 114 AA of the Customs Act'1962, for their role in the illicit import of restricted commodity namely High Flash High Speed Diesel in the manner as discussed above.

23. Also, **M/s Shivshakti Shipping**, Sub agent of CHA, (Office No 69, 2nd Floor, Grain, Merchant Association Building, Plot No 297, Ward 12/B, near old court, Gandhidham) were hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421 for their role as discussed above, as to why penalty should not be imposed upon them under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

24. Also, **Shri Ruparel Ketan of M/s Shivshakti Shipping**, Sub agent of CHA, (137, Rameshwar Nagar, Ward-12, Anjar, Kachchh, Anjar, Gujarat-370110), was hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421 for his role as discussed

above, as to why penalty should not be imposed upon him under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

25. Also, **M/s Ashirwad Shipping& Logistics**, Sub agent of CHA, (Office No 69, 2nd Floor, Grain, Merchant Association Building, Plot No 297, Ward 12/B, near old court, Gandhidham) was hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421 for his role as discussed above, as to why penalty should not be imposed upon them under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

WRITTEN SUBMISSION AND PERSONAL HEARING

26.1 M/s. Shree Shyam Fuelco Pvt. Ltd. through its Director, vide their letter dated 16.04.2026 (sent via email dated 25.04.2026) (Noticee no. 1 & 2), submitted that they are willing to re-export the above-mentioned goods back to the supplier and therefore requested to kindly grant permission for re-export of the goods. They further requested to decide the case on merit basis and also submitted that they do not need any Personal Hearing in this matter.

26.2 M/s. Gaurav M. Jhaveri (Noticee no. 3) through their authorized representative Shri Chandan Kumar Jain, Advocate, submitted their written submission dated 11.07.2025, wherein they submitted that:

- I. The Noticee, based in Mumbai, handles clearance at Mundra Port through representative Sh. Ruparel Ketan of M/s Shiv Shakti Shipping. After due verification of IEC, GSTIN, PAN, addresses etc. from official websites and compliance with CBLR requirements, the Noticee filed the Bills of Entry on the basis of authorization and KYC documents provided by the importer. Invoices were raised by the Noticee to Sh. Ruparel Ketan, who in turn raised invoices to the importer after adding service charges. This is purely a business expansion arrangement with no violation of the Customs Act or allied laws. There is no bar under law on obtaining business through agents or other service providers.
- II. The allegation that the Noticee allowed sub-agents to use their F-card for restricted items is wrong, as there is no proof that the Noticee or sub-agents were aware that the consignments contained restricted items at the time of

filing. The Noticee did not allow use of F-card but always filed Bills of Entry in their own name, following CBLR obligations. The difference in fees (Noticee charging Rs. 750 per container while sub-agent charged Rs. 15,000/-) does not indicate misconduct; the Noticee received their lawful fee electronically and had no concern with commissions earned by the sub-agent.

- III. The Noticee deals in imports of Mixed Hydrocarbon oil, Fuel oil, Base oil, Industrial Oil, Distillate oil, Naphtha, and in this case Mineral Hydrocarbon Oil. Documents were received from the importer via email/WhatsApp and uploaded on E-Sanchit. The order was placed by the importer; as CHA, the Noticee is authorized only to file Bills of Entry based on documents provided by the importer after verification and due diligence. There is no allegation of any connection with the foreign supplier.
- IV. No statement or incriminating evidence shows mala fide intent or prior knowledge. Goods were found to be kerosene/diesel only after test reports. There is no evidence of collusion or connivance with the importer, other brokers, or supplier. The contravention, if any, is solely attributable to the importer.
- V. The Noticee's role was limited to filing based on importer-provided documents. Awareness of the true nature emerged only after lab testing and the importer's subsequent request for re-export. No proof of intention or involvement in forging documents, therefore, there cannot be any allegation for imposition of penalty under Section 114 AA of the Customs Act, 1962.
- VI. There is no allegation of knowledge of misdeclaration or any act/omission rendering goods liable to confiscation under Section 111, nor any abetment. The Noticee did not acquire possession or deal with goods knowing or having reason to believe they were liable to confiscation, therefore, no penalty can be imposed on the Noticee in the present case.

26.3 M/s. Shivshakti Shipping, (Noticee no. 4) & Shri Ruparel Ketan, Partner of M/s. Shivshakti Shipping (Noticee no. 5) through their authorized representative Shri Chandan Kumar Jain, Advocate, submitted their written submission dated 11.07.2025, wherein they submitted that:

- I. The Noticees are representatives of the Mumbai-based CHA firm handling Mundra Port clearance. The process involves Sh. Barri Praveen of M/s Ashirwad Shipping & Logistics and Sh. Bharat Parmar (G-Card Holder). The invoicing and payment flow as described above is only for business expansion with no violation of law. There is no bar under law for getting business through agents or other service providers.
- II. The allegation of acting as unauthorized sub-agents using the CHA's F-card for restricted items is wrong. There is no proof that the Noticees, CHA or sub-agents were aware that the consignments contained restricted items at the time of filing. The Noticees only arranged clients; filing was done by the CHA following CBLR. The CHA authorized G-Card Holder Sh. Bharat Parmar for customs clearance. The Noticees only monitored and supervised the process.
- III. The allegation regarding major share of fees (Rs.15,000/- vs CHA's Rs.750/-) is doubtful. The CHA lawfully charged Rs.750/- per container, which was paid electronically. The CHA is not concerned with commissions earned by the Noticees. No other financial arrangement showing deliberate misconduct is alleged. Charging Rs.15,000/- for misdeclaration makes no sense.
- IV. The Noticees work with the CHA who deals in Mixed Hydrocarbon oil, Fuel oil, Base oil, etc. Documents received from importer via email/WhatsApp are forwarded to the CHA, who uploads them on E-Sanchit and files the Bills of Entry. No connection with foreign supplier; Noticees only passed on documents received from importer to CHA with no further role.
- V. No incriminating evidence or statement showing mala fide intent. Goods were found to be high speed diesel only after test reports. No prior knowledge alleged. Allegation of involvement in classification decision is uncorroborated; Bills of Entry filed on basis of importer documents. Forwarding of checklist does not amount to unauthorized use of F-card; Noticees only arranged importers and forwarded documents. No bar to act as agent. Bills of Entry filed by CHA only; Noticee only monitored/supervised. No evidence of collusion or connivance; contravention, if any, solely attributable to importer.
- VI. Role limited to forwarding documents received from importer to CHA. Awareness of true nature came only after lab testing and importer's request for re-export. No proof of intention or involvement in forging documents; hence no penalty under Section 114AA.
- VII. No allegation of knowledge of mis-declaration or any act/omission rendering goods liable to confiscation under Section 111 or abetment. No acquisition of possession

or dealing with goods knowing or having reason to believe they were liable to confiscation. Proposed penalty is infructuous.

26.4 M/s. Aashirwad Shipping & Logistics (Noticee no. 6) through their authorized representative Shri Chandan Kumar Jain, Advocate, submitted their written submission dated 11.07.2025, wherein they submitted that:

- I. Though the Noticee allowed Sh. Ruparel Ketan to use its office, the Bills of Entry were filed by the CHA after KYC verification in the name of the CHA. There is no bar under law for obtaining business through agents or service providers. The Noticee has not acted in violation of the Customs Act or allied laws.
- II. The allegation of allowing unauthorized customs clearance without valid 'F' Card is wrong. There is no proof that the Noticee, CHA or sub-agents were aware the consignments contained restricted items at the time of filing. The Noticee only allowed use of office premises and arranged clients; filing was done by the CHA following CBLR. The CHA authorized G-Card Holder Sh. Bharat Parmar for customs clearance. No violation attracting penalty.
- III. Allegations regarding registration of M/s Shivshakti at the Noticee's address, use of premises, infrastructure and employees (due to unaffordable rent) do not prove any violation of the Customs Act.
- IV. The billing arrangement (Noticee raising invoice first, then M/s Shivshakti for its share) is part of the business arrangement and does not indicate any role in illicit import. No other financial arrangement showing deliberate misconduct is alleged. Charging a meager amount of Rs.15,000/- for misdeclaration makes no sense.
- V. No statement or incriminating evidence shows mala fide intent. Goods were found to be kerosene/diesel only after test reports. No prior knowledge alleged. No evidence of collusion or connivance with importer, brokers or supplier. Allegations are uncorroborated and baseless.
- VI. No allegation that the Noticee received any amount over and above payments for its services. The allegation of aiding and abetting is baseless and concocted; no pecuniary benefit is alleged. No one indulges in fraud without undue financial gain.
- VII. The role of the Noticee is limited to allowing office and staff to be used by Sh. Ruparel Ketan and forwarding documents received from the importer to the CHA. The Noticee is in no manner involved in filing of documents. Awareness of true nature came only after lab testing and importer's request for re-export. No proof of

intention or involvement in forging documents. Hence, no penalty under Section 114AA.

VIII. No allegation that the Noticee had knowledge of misdeclaration or did any act/omission rendering goods liable to confiscation under Section 111 or abetted the same. Under Section 112(b), no allegation that the Noticee dealt with goods knowing or having reason to believe they were liable to confiscation. The proposed penalty is infructuous; the SCN deserves to be quashed qua the Noticee.

26.5 Shri Chandan Kumar Jain, Advocate, authorized representative of M/s Gaurav M. Jhaveri (Noticee No. 3), M/s Shivshakti Shipping (Noticee No. 4), Shri Ketan Ruparel, Partner, M/s Shivshakti Shipping (Noticee No. 5), M/s Ashirwad Shipping & Logistics (Noticee No. 6), appeared for personal hearing on 11.07.2025, in person. He re-iterated their respective written submission. He further stated that there is no infirmity as far as their business transaction as Customs Broker is concerned. He further stated that they had business arrangements with M/s. Shiv Shakti Shipping and M/s. Ashirwad Shipping & Logistics and it is not in violation of Customs Broker Regulations.

DISCUSSION AND FINDINGS

27. I have carefully gone through the Show Cause Notice, the relied upon documents, the submission made by the Noticee's both in written and in personal hearing, the legal provisions and the records available before me. I find that in the present case, principle of natural justice have been complied with and therefore, I proceed to decide the case on the basis of applicable laws/rules, written submissions and documentary evidences available on record.

27.1 I now proceed to decide the issues framed in the instant SCN before me. On a careful perusal of the subject Show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided at the stage of adjudication: -

- (i) The declared classification of the impugned goods i.e. High Flash High Speed Diesel fuel conforming to IS:16861 having total quantity 177.080MTS mis-declared as Mineral Hydrocarbon Oil under Customs Tariff Item 27101990

under Bill of Entry no. 2131398 Dt. 14.02.2024, should not be denied and re-classified under the Customs Tariff Item 27101949.

- (ii) High Flash High Speed Diesel fuel sought to be imported by them in 10 containers pertaining to one BOE bearing no. 2131398 Dt. 14.02.2024 having declared value of Rs 78,72,598/- (**Rupees Seventy Eight Lakhs Seventy Two Thousands Five hundred and Ninety Eight Only**) seized under Section 110 of the Customs Act'1962 vide Seizure Memorandums dated 07.10. lying seized at Mundra Port should not be confiscated under Sections 111(d), (f), (l) & (m) of the Customs Act'1962.
- (iii) Penalty should not be imposed upon M/s. Shree Shyam Fuelco Pvt. Ltd., under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.
- (iv) Penalty should not be imposed upon Shri Navneet Pandey, partner of M/s Shree Shyam Fuelco Pvt Ltd, M/s Gaurav M. Jhaveri, M/s Shivshakti Shipping, Shri Ketan Ruparel, Partner of M/s Shivshakti Shipping, M/s Ashirwad Shipping & Logistics, under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

28. I find that as per intelligence, M/s. Shree Shyam Fuelco Private Limited, (IEC-ABKCS7861D), 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. All goods import of which is permitted only with an Authorisation/Permission/License or in accordance with the procedure prescribed in a notification/public notice are 'Restricted' goods. According to the intelligence, the said entities were resorting to the said illicit import by mis-declaring the consignments as "*Mineral Hydrocarbon Oil*" and mis-classifying them under Customs Tariff Item (CTI) 27101990 wherein the import policy is "Free". Acting on the said intelligence, 10 containers covered under one Bill of Entry no 2131398 dated 14.02.2024, pertaining to the importer were put on hold by DRI Noida Regional Unit on 15.02.2024 for examination. The details of the containers are given as below:

Sl.	BE	BE date	Name of the Importer	Container Number	CHA
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No.	Number					
1	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	CMAU0775862	GAURAV JHAVERI	M.
2	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	APZU3718198	GAURAV JHAVERI	M.
3	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	CMAU1666341	GAURAV JHAVERI	M.
4	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	CMAU1693244	GAURAV JHAVERI	M.
5	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	SEGU1766622	GAURAV JHAVERI	M.
6	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	TCLU3958834	GAURAV JHAVERI	M.
7	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	TEMU4260953	GAURAV JHAVERI	M.
8	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	TEMU5921786	GAURAV JHAVERI	M.
9	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	TRHU2200028	GAURAV JHAVERI	M.
10	2131398	14/02/24	SHREE SHYAM FUELCO PRIVATE LIMITED	TRHU2349388	GAURAV JHAVERI	M.

28.1 I find that the said containers were examined on 13.03.2024. 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)

28.2 I find that Representative samples were drawn from one randomly selected container per Bill of Entry. The samples were drawn from the container using two litre

aluminum sample containers and were sent to the lab of CRCL, Vizag for testing purpose. 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	2131398 Dt. 14.02.2024	SSA3- A2154900

28.3. I find that CRCL tested the samples and sent the respective Test Reports of the above sample. The test reports as provided by CRCL are reproduced as below:

<p>भारत सरकार वित्त मन्त्रालय, राजस्व विभाग सीमा शुल्क प्रयोगशाला 5वींमंजिल, सीमा शुल्क कार्यालय पोर्ट एरिया, विशाखापटनम- 530 001</p>		<p>Government of India Ministry of Finance Department of Revenue CUSTOM HOUSE LABORATORY 5th FLOOR CUSTOM HOUSE, PORT AREA VISAKHAPATNAM - 530 001 Tel/Fax: 0891-2562900 e-mail :-chemical_examiner@yahoo.com</p>
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TEST REPORT Date: - 03.06.2024


Lab NO.: 06-DRI Date: 10.04.2024
 F. No. DRI/NRU/CI-26/Int-0/Enq-13/2024/501 Date of drawn: 13.03.2024
 Sample No. & Seal No. SSA3-A2154900
 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
 Acidity Inorganic= Nil
 Ash content= Nil
 Carbon residue content=0.17 % by wt.
 Distillation: Temp. at which 95% (v/v) recovered : 358.8 °C
 Flash Point = 85.2 °C
 Kinematic Viscosity at 40°C= 3.99 cSt.
 Density at 15°C= 0.8384 g/ml
 Total Sulphur = 11.37 mg/Kg
 Water content= Nil
 Cetane Index = 58.33

Concordance with GCMS chromatogram pattern of Automotive Diesel fuel = the sample chromatogram concurs 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. The sample also confirm to the requirements of HFHSD as per IS 16861:2018. There is no specification available "mixed hydrocarbon oil" in any National/ International Standards.
 Sealed remnant sample returned herewith.

End of Report


प्रादीप मारू / PRADEEP MAROO
 राखण परीक्षक ग्रेड-1
 Chemical Examiner Grade-1
 सीमा शुल्क प्रयोगशाला
 Custom House Laboratory
 सीमा शुल्क भवन, विशाखापटनम-530 005
 Custom House,Visakhapatnam-530 005

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.

28.4 In view of the above test report, I find that the imported goods met the requirements of both Automotive diesel fuel conforming to standard IS: 1460 and High Flash High Speed Diesel Fuel conforming to standard IS:16861.

28.5 I further find that as per Customs Tariff Act, the goods are classifiable under two different CTIs- i.e. 27101944 [which pertains to "Automotive Diesel Fuel] and 27101949 [which pertains to High Flash High Speed Diesel]. As per General Rules for the

Interpretation of the Harmonized System, there are certain rules which shall govern the classification of goods in the Nomenclature. The rules are to be followed sequentially to classify goods. In the instant case, the goods cannot be classified under any rule up to Rule 3(c) of GIR. As per Rule 3(c) of the GIR, in such cases where goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. Thus, in view of above, the goods covered under the said containers are liable to be classified under CTI 27101949 which pertains to High Flash High Speed Diesel conforming to IS 16861.

Further, the specifications of HFHSD as mentioned in IS 16861:2018 of the Bureau of Indian Standards (BIS) are reproduced below:

Table 1 Requirements for High Flash High Speed Diesel (HFHSD)
(Clauses 3.3)

SI No.	Characteristics	Requirement	Method of test, Ref to [P:] of IS1448/ISO/ASTM/IP
(1)	(2)	(3)	(4)
i)	Appearance	Clear and Bright	Visual
ii)	Acid Number, mg KOH/g, <i>Max</i>	0.5	[P : 2] ⁷⁾ /D 664/D 974
iii)	Ash, percent by mass, <i>Max</i>	0.01	[P : 4] ⁷⁾ /ISO 6245/D 482
iv)	Carbon residue on the 10 percent Volume Distillation Residue, mass %, <i>Max</i>	0.3	[P : 8] ⁷⁾ /ISO-10370/D 4530/D 524
v)	Cetane index ¹⁾ , <i>Min</i>	45	ISO 4264 ⁷⁾ /D 4737
vi)	Pour Point ²⁾ , <i>Max</i>		[P : 10] ⁷⁾ /ISO 3016/D 97
	a) Winter	3°C	
	b) Summer	15°C	
vii)	Copper strip Corrosion for 3 h at 100°C	Not worse than No.1	[P : 15] ⁷⁾ /ISO 2160/D 130
viii)	Distillation, percent (v/v), recovered		[P : 18] ⁷⁾ /ISO 3405/D 86
	a) at 350°C, <i>Min</i>	85	
	b) at 370°C <i>Min</i>	95	
ix)	Flash Point Pensky Martens closed cup °C, <i>Min</i>	66	[P : 21] ⁷⁾ /ISO 2719/D 93
x)	Kinematic viscosity, cSt, at 40°C	2.0 to 5.0	[P : 25] ⁷⁾ /ISO 3104/D 445/D 7042
xi)	Density ³⁾ at 15°C, kg/m ³ , <i>Max</i>	860	[P : 16] ⁷⁾ /ISO 3675/ISO 12185/D 4052
xii)	Total sulphur ⁴⁾ , % by mass, <i>Max</i>	0.20	D 4294 ⁷⁾ /ISO 14596/D 2622/ISO 8754
xiii)	Water content, ppm, max.	500	ISO 12937 ⁷⁾ /ISO 6296/D 6304
xiv)	Cold filter plugging point (CFPP), °C	To report	[P : 110] ⁷⁾ /D 6371/IP 309
xv)	Oxidation Stability ⁵⁾ , g/m ³ , <i>Max</i>	25	[P : 154] ⁷⁾ /D 2274/IP 388
xvi)	Lubricity ⁶⁾ , Corrected WSD at 60°C, microns max	520	ISO 12156-1/D 6079

On analysis of the parameters detailed in the Test Report vis-à-vis the parameters stipulated in the BIS standards of High Flash High Speed Diesel fuel conforming to standard IS 16861, 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:

28.6 In the light of the parameters of the Test Reports of the CRCL, I find that the goods imported under BE no. 2131398 dated 14.02.2024, are liable to be classified

under CTH 27101949. The relevant description of 27101949 as per Customs Tariff Act'1985 are as below:

27101943	--- Light diesel oil conforming to standard IS 15770	kg.	10.00	5.00	---	18.00	0.50	24.490	ing Enterprises State Trading Enterprises	Condition (5) of Chapter 27 Import as per Policy Condition (5) of Chapter 27
27101944	--- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
27101949	--- High flash high speed diesel fuel conforming to standard IS 16861	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	SWS - 3% by Nfn 12/2018-Cus. Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Nfn

Chapter Heading 27101949

28.7. Further, I find that 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:--- High Flash High-Speed Diesel fuel conforming to standard 16861”* 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:

27101949	---	Gas oil and oils obtained from gas oil: --- High flash high speed diesel fuel conforming to standard IS 16861	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.
----------	-----	---	--------------------------	---

Product Description and Import Policy

Sl.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

28.8 Policy Condition (5) of Chapter 27 of ITC (HS) Import Policy: As per Policy Condition 5 of Chapter 27, only State Trade enterprises can import the said goods. The said policy was amended by Notification No. 27/2015-2020 dated 16.09.2021. The same is produced below:

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade

Notification No. ~~27~~2015-2020
New Delhi, Dated: 16th September, 2021

Subject: Amendment of policy condition no. 5 of Chapter 27 of ITC (HS), 2017, Schedule – I (Import Policy).

S.O.(E): In exercise of powers conferred by Section 3 read with Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby amends policy condition no.5 of Chapter 27 of ITC (HS), 2017, Schedule – I (Import Policy) as under:

Existing Policy Condition	Revised Policy Condition
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 and 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 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2002 for products excluding gasoline conforming to standard IS 2796 (ITC HS Code: 27101241) and Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460 (ITC HS Code 27101944) which would be allowed to be imported by entities in terms of MoPNG Resolution No. P-12029(11)/2/2018-OMC-PNG dated 08.11.2019”.

2. **Effect of the Notification:** Policy condition no.5 of Chapter 27 of ITC (HS), 2017, Schedule – I (Import Policy) amended in terms of Government Resolution No. P-12029(11)/2/2018-OMC-PNG dated 08.11.2019.

28.9 From above, it is seen that import of restricted goods is allowed subject to para 2.20 of Foreign Trade Policy (now para 2.21 of FTP) and the same is produced below:

“2.20 State Trading Enterprises (STEs)

(a) State Trading Enterprises (STEs) are governmental and nongovernmental 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 to compete for participation in such purchases or sales.

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

28.10 I find that in the instant case, the importer M/s. Shree Shyam Fuelco Private Limited, (IEC- ABKCS7861D) is neither a STE (State Trading Enterprise) nor any authorization has been granted by DGFT to the Importer for import of said restricted goods.

28.11 I also find that M/s. Shree Shyam Fuelco Private Limited, have also violated the provisions of Petroleum Act, 1934. The goods were imported in gross violation of the said provisions. 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)

Further, as per the test report, the Flash Point was report as 85.2 °C. Therefore, the goods in question here fall under the “Class C” category of petroleum products as per the Petroleum Act 1934. 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 C petroleum products because they do not meet the stringent safety standards for the containment of flammable liquids. Containers used for storing and transporting Class C petroleum must be certified as per 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.

In reference to above, Public Notice no. 08/2024 dated-27.09.2024 was also issued by the Principal Commissioner, Mundra Customs. As per Public Notice no. 08/2024 dated-27.09.2024 and Petroleum Rules, 2002 framed under Petroleum Act, 1934, it is clear that flexi bags fitted in general purpose 20 feet containers are not covered under the definition of container falling under Petroleum Rules, 2002.

Hence, the goods imported above in Flexi Bags are in violation of the Public Notice No. 08/2024 read with Petroleum Rules, 2002.

29. I find that the provisions of Section 17 (1) of the Customs Act, 1962 read with Section 2 (2) Customs Act, 1962 and 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, I find that M/s. Shree Shyam Fuelco Private Limited, have violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act'1962. Further, in terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bills Entry. In as much as Shri Navneet Pandey, Partner of M/s. Shree Shyam Fuelco Private Limited, in his voluntary statements accepted the test report of the goods imported under subject bills of entry. Also on being shown with the Test Report, Shri Navneet Pandey has accepted the the correct classification of the imported goods i.e. HFHSD as per IS 16861:2018 as CTH 27101949. Thus, in view of the facts discussed in the foregoing paras and material evidences available on records, 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.

30. CONFISCATION OF GOODS:

30.1 I find that the Show Cause Notice has proposed confiscation of the impugned goods under Sections 111(d), 111(f), 111(l) and 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), 111(f), 111(l) and 111(m) of the Customs Act, 1962 are reproduced below: -

...

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

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an [arrival manifest, import manifest] or import report which are not so mentioned;

(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;”

30.2 I find that M/s. Shree Shyam Fuelco Private Limited filed Bill of Entry No. 2131398 dated 14.02.2024 at Mundra Port declaring the description of the goods as “Mineral Hydrocarbon Oil” and classifying the same under CTI 27101990. Upon examination and testing of the representative sample drawn from the consignment by the Central Revenue Control Laboratory (CRCL), Vizag, the goods were found to be “High Flash High Speed Diesel fuel conforming to standard IS:16861:2018” classifiable under CTH 27101949.

Thus, there is no ambiguity that the goods were **mis-declared** by the importer with respect to description, classification and import policy status. The goods actually imported i.e. “High Flash High Speed Diesel fuel conforming to IS 16861” are **restricted** goods under Policy Condition No. 5 of Chapter 27 of ITC (HS) and can be imported only by State Trading Enterprises (STEs) or entities specifically authorized by DGFT. M/s. Shree Shyam Fuelco Private Limited is neither a STE nor possesses any such authorization from DGFT.

30.3 I find that the Importer has violated the Policy condition (5) of the ITC (HS) for Exports and Imports 2015-2020 for chapter 27 which mandates that “Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2002 for products excluding gasoline

conforming to standard IS 2796 (ITC HS Code: 27101241) /and Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460 (ITC HS Code 27101944) which would be allowed to be imported by entities in terms of MOPNG Resolution No. P-12029(11)/2/2018- OMC-PNG dated 08.11.2019".

By mis-declaring the restricted goods as "Mineral Hydrocarbon Oil" under CTH 27101990 (Free), the importer has deliberately attempted to circumvent the import restrictions. Therefore, the goods are liable for confiscation under **Section 111(d)** of the Customs Act, 1962.

30.4 I also find that the goods were imported in Flexi bags fitted inside general purpose 20 feet containers. As per the test report, the flash point of the goods is 85.2 °C, which places them under **Class C** petroleum products as per the Petroleum Act, 1934. Import, transport and storage of Class C petroleum products are strictly regulated under the Petroleum Rules, 2002. Flexi bags are not approved containers for transportation of Class C petroleum products as they do not meet the safety standards prescribed under the said Rules and Public Notice No. 08/2024 dated 27.09.2024 issued by this office. Thus, the goods have also been imported in violation of the provisions of the Petroleum Act, 1934 and Rules made thereunder, rendering them liable for confiscation under **Section 111(d)** of the Customs Act, 1962 on this count as well.

30.5 Further, the goods declared as "Mineral Hydrocarbon Oil" under CTH 27101990 in the Bill of Entry do not correspond with the actual goods found on testing i.e. "High Flash High Speed Diesel fuel conforming to IS 16861". The description, classification and policy status mentioned in the Bill of Entry are completely at variance with the actual nature of the goods. Therefore, the goods are also liable for confiscation under **Section 111(m)** of the Customs Act, 1962.

30.6 Since the goods were not correctly declared in the Bill of Entry and the import manifest/IGM in respect of the actual description and classification, the goods are also liable for confiscation under **Section 111(f) and 111(l)** of the Customs Act, 1962.

30.7 Accordingly, in the manner as discussed above and in contravention of Section 17 (1), Section 46(4) and 46(4A), I find that the said act of omission and commission on the part of the importer has made the imported goods under Bill of Entry No. 2131398 dated 14.02.2024 in 10 containers having declared assessed value of Rs. 78,72,598/-, are liable for confiscation under Section 111 (d), 111(f), 111(l) and 111(m) of the Customs Act, 1962 *ibid*.

31. IMPOSITION OF REDEMPTION FINE IN LIEU OF CONFISCATION UNDER SECTION 125 OF THE CUSTOMS ACT, 1962:

31.1 As the impugned goods have been held liable for confiscation under Sections 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962, I now proceed to consider whether an option to redeem the goods on payment of redemption fine under Section 125 of the Customs Act, 1962 should be given to the importer.

31.2 Section 125(1) of the Customs Act, 1962 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 ... an option to pay in lieu of confiscation such fine as the said officer thinks fit.”

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 for release of confiscated goods by paying redemption fine where there is no restriction on policy provision for domestic clearance. The permission of clearance of the goods for home consumption is limited to the goods where there is no policy restriction. In the present case, the goods are restricted/prohibited in nature for the importer (non-STE) and have been imported in violation of Policy Condition No. 5 of Chapter 27 as well as the provisions of the Petroleum Act, 1934 and Petroleum Rules, 2002. Therefore, the goods are not fit for clearance for home consumption.

31.3 During the adjudication proceedings, M/s. Shree Shyam Fuelco Private Limited vide their letter dated 16.04.2026 (received via email dated 25.04.2026) have requested for permission to re-export the consignment, stating that they are willing to send the goods back to the supplier. They have also submitted that they do not wish to avail personal hearing and requested the case to be decided on merits. As the importer has sought for re-export of the goods, hence, option to re-export can be given to the Notice, as the goods are not fit for clearance for home consumption due to non-fulfilment of import policy. I state that the re-exportation process ensures that prohibited goods do not remain in the country. I find that the goods once confiscated can be redeemed under Section 125 of the Customs Act 1962. However, redemption is not a right but discretion to be exercise by the Adjudication Authority. In the instant case, the goods were found non-compliance of the policy conditions. I observe that its re-export shall not jeopardize

any parameter detailed for prohibition. Thus, I offer the Importer to redeem the goods on payment of redemption fine which shall be subject to payment of applicable charges, if any and also compliance with any procedural and regulatory requirements.

32. **Submission by Noticees regarding non-applicability of penalty under Section 112 and 114AA of the Customs Act, 1962.**

I have carefully gone through all the facts of the case, the material evidence on record, the voluntary statements of all the Noticees recorded under Section 108 of the Customs Act, 1962, the test report of CRCL Vizag, and the written submissions made by the Noticees in response to the Show Cause Notice. Accordingly, I find that the submission of the Noticees that penalty under Section 112 and Section 114AA of the Customs Act, 1962 is not imposable upon them is factually incorrect, misleading and is a deliberate attempt to wriggle out of their liability established clearly by the material evidence on record and their own voluntary statements recorded under Section 108 of the Customs Act, 1962 renders their submissions devoid of any merit and liable to be rejected. It would now be appropriate to lift the veil on the role of each Noticee individually and the same is being discussed and justified hereinafter noticee-wise.

DISCUSSION ON IMPOSITION OF PENALTIES ON NOTICEES

33. **Penalty on M/s. Shree Shyam Fuelco Private Limited (Importer) and Shri Navneet Pandey, Partner of M/s. Shree Shyam Fuelco Private Limited**

33.1 I find that M/s. Shree Shyam Fuelco Private Limited filed Bill of Entry No. 2131398 dated 14.02.2024 declaring the goods as "Mineral Hydrocarbon Oil" classifiable under CTH 27101990 (Free), whereas the goods on testing by CRCL, Vizag were found to be "High Flash High Speed Diesel fuel conforming to standard IS:16861:2018" classifiable under CTH 27101949, which is a restricted item under Policy Condition No. 5 of Chapter 27 of ITC(HS) and can be imported only by State Trading Enterprises (STEs). Hence, the imported goods covered under Bill of Entry No. 2131398 dated 14.02.2024, were mis-declared by the importer, M/s Shree Shyam Fuelco Private Limited, with respect to description and classification to circumvent the import policy.

33.2 M/s. Shree Shyam Fuelco Private Limited, importer, deliberately withheld key documents, including buyer-seller agreements and export declarations, to prevent the identification of the goods. The mis-declared goods namely High Flash High Speed Diesel fuel have been categorized as hazardous Class C petroleum products (High Flash High Speed Diesel fuel) but were imported in unsafe Flexi bags, violating and compromising safety norms mandated by the Petroleum Rules, 2002. The misdeeds and malafide acts of M/s. Shree Shyam Fuelco Private Limited have confirmed from the fact that they accepted the findings of the lab tests conducted by CRCL, which confirmed the goods as High Flash High Speed Diesel fuel. They have attempted to pass the responsibility for their malafide act of importing restricted goods on the shoulders of the supplier. The illicit acts of M/s. Shree Shyam Fuelco Private Limited, which include mis-declaration, misclassification, and illegal importation of restricted petroleum products appear to violate multiple provisions of the Customs Act, 1962, the Foreign Trade Policy, and the Petroleum Act, 1934 for financial gain. The illicit import of the said restricted goods viz High Flash High Speed Diesel fuel amounts 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. Shree Shyam Fuelco Private Limited have rendered themselves liable for penalty under the provisions of Sections 112 (a)(i) of the Customs Act'1962.

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act.

Further, M/s. Shree Shyam Fuelco Private Limited knowingly and intentionally filed Bills of Entry containing false and incorrect declarations in material particulars namely description and classification of goods, and further caused to be used fabricated invoices, packing lists, in support thereof, thereby rendering themselves liable for penalty not exceeding five times the value of goods under Section 114AA of the Customs Act, 1962.

34. Penalty on Shri Navneet Pandey, Partner of M/s. Shree Shyam Fuelco Private Limited:-

34.1 Shri Navneet Pandey partner of M/s. Shyam Fuelco Pvt Ltd, has been found to be one of the partners of the firm – M/s Shree Shyam Fuelco Pvt Ltd. He has been found to be the active partner who appears to be actively involved in managing the affairs of the firm. He was fully aware that the imported goods were restricted commodity (High Flash High Speed Diesel) and intentionally mis-declared them as "Mineral Hydrocarbon Oil (MHO)"

to bypass import restrictions imposed by the Customs Tariff and Foreign Trade Policy. Shri Navneet Pandey, in his voluntary statement dated 05.07.2024, accepted the test report of CRCL and admitted that the goods are HFHSD as per IS 16861:2018 and are classifiable under CTH 27101949. He, however, tried to shift the blame on the supplier stating that wrong goods were sent by mistake. He failed to produce any corroborative evidence such as purchase order, buyer-seller agreements, export declarations, email/chat correspondence, or any communication with the supplier showing that he had ordered only "Mineral Hydrocarbon Oil" and had protested upon receiving wrong goods. No Chemical Analysis Report or test report from the supplier side was ever submitted. This suggests that the consignment was as per the orders placed by the importer and the claim of wrong delivery is merely an afterthought to escape penal liability.

34.2 As a partner of the firm who was responsible for ensuring compliance, Shri Navneet Pandey failed to declare the actual description, classification, and applicable duty of the imported goods, thereby violating the provisions of Section 17(1), Section 46(4) and Section 46(4) of the Customs Act, 1962. He failed to ensure compliance of licensing and safety requirements mandated for handling Class C petroleum products. He withheld vital documents and information during the investigation to prevent the identification of the true nature of the goods. As a key decision-maker, Shri Navneet Pandey have knowingly engaged in acts that meet the definition of smuggling under Section 2(39) of the Customs Act, 1962. Therefore, Shri Navneet Pandey has thereby rendered himself liable for penalty under the provisions of Sections 112 (a)(i) of the Customs Act'1962.

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act.

Further, Shri Navneet Pandey knowingly and intentionally filed Bills of Entry containing false and incorrect declarations in material particulars namely description and classification of goods, and further caused to be used fabricated invoices, packing lists in support thereof, thereby rendering themselves liable for penalty not exceeding five times the value of goods under Section 114AA of the Customs Act, 1962.

35. Penalty on M/s. Gaurav M. Jhaveri, CB :-

35.1 M/s Gaurav M. Jhaveri, as the Customs Broker, filed the subject Bill of Entry using their F-card. They allowed their sub-agents M/s Shivshakti Shipping and M/s Ashirwad Shipping & Logistics to handle the entire documentation, negotiation with the

importer, classification decision, and forwarding of checklists. M/s Shiv Shakti Shipping have been found to negotiate with M/s Shree Shyam Fuelco Pvt Ltd. on behalf of M/s Gaurav M. Jhaveri, and in fact the bill for the agency charges are raised by M/s Ashirwad Shipping & Logistics upon the Importer. Thereafter M/s Shivshakti Shipping raised bill upon M/s Ashirwad Shipping & Logistics after deducting 25% from the bill amount raised by M/s Ashirwad Shipping & Logistics upon the Importer i.e. M/s Shree Shyam Fuelco Pvt Ltd. Subsequently M/s Gaurav M. Jhaveri raised bill @ Rs.750/- per container upon M/s Shivshakti Shipping in respect of the amount raised as agency charges. Thus it is evident that the lion's share is taken and shared by the sub-agents, indicating that the real control of the clearance work was with the sub-agents. They have been found to have not fulfilled the obligations prescribed under Regulation 10 of Customs Broker Licensing Regulation 2018. As a Customs Broker, they did not advise the importer i.e. M/s. Shree Shyam Fuelco Private Limited, to comply with the applicable laws under the Customs Act, 1962, and the Petroleum Act, 1934. Shri Gaurav Madhusudan Jhaveri in his statement dated 10.07.2024 accepted the test reports and admitted that the declared goods and actual goods are different and that the correct classification is CTH 27101949. He, however, tried to shift the entire responsibility on the importer stating that they filed the BE on the basis of documents provided by the importer.

35.2 This defence is not acceptable. As a licensed Customs Broker, M/s Gaurav M. Jhaveri was duty bound under Regulation 10 of the Customs Brokers Licensing Regulations, 2018 to exercise due diligence, advise the client properly, and ensure correctness of classification and compliance with import policy. They failed to insist on Chemical Analysis Report for such sensitive petroleum products. They allowed unauthorized sub-agents to transact business using their F-card in violation of Regulation 10(b). They did not bring the violation of import policy to the notice of Customs officers. Their conduct facilitated the mis-declaration of restricted HFHSD as freely importable Mineral Hydrocarbon Oil. M/s Gaurav M. Jhaveri 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, which tantamount to smuggling in accordance with Section 2(39) of the Customs Act'1962, M/s Gaurav M. Jhaveri have rendered themselves liable for penalty under the provisions of Sections 112 (a)(i) of the Customs Act'1962.

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(b) of the Act.

Further, M/s. Gaurav M. Jhaveri knowingly and intentionally filed Bill of Entry containing false and incorrect declarations in material particulars namely description and classification of goods, and further caused to be used fabricated invoices, packing lists in support thereof, thereby rendering themselves liable for penalty not exceeding five times the value of goods under Section 114AA of the Customs Act, 1962.

36. Penalty on M/s. Shivshakti Shipping:

36.1 I find that M/s Shivshakti Shipping had acted as sub-agent of M/s Gaurav M. Jhaveri CB in the instant case. In the voluntary statement tendered by Shri Ruparel Ketan, partner of the firm, he has accepted that they share portion of agency charges which is received for customs related work. They have also accepted that they bring business for the CB- M/s Gaurav M. Jhaveri. Further they have stated that they obtain relevant documents from the clients and forward them to M/s Gaurav M. Jhaveri for customs related work. They have been found to be the interface between the CB and the importer and has been stated that they only negotiate with the clients on behalf of M/s Gaurav M. Jhaveri. They have been found to get major chunk of the agency charges while the CB- M/s Gaurav M. Jhaveri has been found to be getting a mere amount of Rs.750/- per container for customs clearance work. In spite of the regulations prescribed under the Customs Broker Licensing Regulation 2018, he has found no anomaly in engaging and conducting business of customs clearance work without possessing valid 'F' Card. I find that Shri Ruparel Ketan in his statements dated 01.05.2024 and 10.07.2024 accepted the test reports and admitted that the goods are HFHSD and not MHO. Further it has also been stated that they look after customs related work of petroleum products only.

36.2 I find that M/s. Shivshakti Shipping, through its Partner Shri Ruparel Ketan, was actively and substantially involved in the entire process of customs clearance of the impugned consignment. They negotiated the terms with the importer M/s. Shree Shyam Fuelco Private Limited, received the import documents (including invoice, packing list and Bill of Lading) through WhatsApp and email, prepared/forwarded the checklist for approval, supervised the classification under CTH 27101990. Their defence that they were only acting as a sub-agent and had no knowledge of the mis-declaration is not acceptable. Being specialists in clearance of petroleum products and having handled

multiple similar consignments of the same importers, they had sufficient reason to believe that the goods declared as “Mineral Hydrocarbon Oil” under CTH 27101990 were actually restricted High Flash High Speed Diesel. They were not merely forwarding documents but were de facto handling the customs clearance operations using the F-card of M/s. Gaurav M. Jhaveri without possessing their own valid F-card. By actively participating in the clearance of the goods which they knew or had reason to believe were liable to confiscation under Section 111 of the Customs Act, 1962 (as the goods were restricted HFHSD mis-declared as freely importable Mineral Hydrocarbon Oil), M/s. Shivshakti Shipping has rendered themselves liable for penalty under Section 112(b)(i) of the Customs Act, 1962

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act.

Further, M/s. Shivshakti Shipping was actively involved in facilitating the filing of Bills of Entry containing false and incorrect declarations in material particulars. It clearly establishes that M/s. Shivshakti Shipping was fully aware of the nature of the goods being cleared and yet actively facilitated the process of filing false and incorrect declarations in the Bills of Entry, thereby rendering themselves liable for penalty under **Section 114AA** of the Customs Act, 1962.

37. Penalty on Shri Ruparel Ketan, Partner of M/s. Shivshakti Shipping:-

37.1 I find that Shri Ruparel Ketan acted as an unauthorized sub-agent of M/s Gaurav M. Jhaveri, handling customs clearance work without possessing a valid ‘F’ Card. I find that Shri Ruparel Ketan, Partner of M/s. Shivshakti Shipping, was the key person who actively handled and supervised the customs clearance work of the impugned consignment on behalf of M/s. Shree Shyam Fuelco Private Limited. He personally negotiated the charges with the importer, received the import documents through WhatsApp, forwarded the same to M/s. Gaurav M. Jhaveri for filing of Bill of Entry, supervised the preparation and approval of the checklist, coordinated the classification of the goods under CTH 27101990. He was fully aware that the goods being cleared were petroleum products and that they were being declared as “Mineral Hydrocarbon Oil” under the freely importable category, whereas in reality the goods were High Flash High Speed Diesel (HFHSD) conforming to IS 16861:2018, a restricted item under Policy Condition No. 5 of Chapter 27.

I find that Shri Ruparel Ketan in his statements dated 01.05.2024 and 10.07.2024 accepted the test reports and admitted that the goods are HFHSD and not MHO. His defence that he was merely forwarding documents as a sub-agent is not tenable, as he was the central figure controlling the entire clearance operation of restricted goods by way of mis-declaration. He was not merely forwarding documents but was de facto handling the customs clearance operations using the F-card of M/s. Gaurav M. Jhaveri without possessing own valid F-card. By actively participating in the clearance of the goods which they knew or had reason to believe were liable to confiscation under Section 111 of the Customs Act, 1962 (as the goods were restricted HFHSD mis-declared as freely importable Mineral Hydrocarbon Oil), Shri Ruparel Ketan, Partner of M/s. Shivshakti Shipping has rendered themselves liable for penalty under Section 112(b)(i) of the Customs Act, 1962

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act.

Further, Shri Ruparel Ketan, Partner of M/s. Shivshakti Shipping was actively involved in facilitating the filing of Bills of Entry containing false and incorrect declarations in material particulars. It clearly establishes that Shri Ruparel Ketan, Partner of M/s. Shivshakti Shipping was fully aware of the nature of the goods being cleared and yet actively facilitated the process of filing false and incorrect declarations in the Bills of Entry, thereby rendering themselves liable for penalty under Section 114AA of the Customs Act, 1962.

38. Penalty on M/s Ashirwad Shipping & Logistics:

38.1 I find that M/s. Ashirwad Shipping & Logistics played a significant and active role in facilitating the clearance of the impugned restricted goods. They provided their office premises, infrastructure, and staff to M/s. Shivshakti Shipping and Shri Ruparel Ketan for carrying out the customs clearance operations of petroleum products, including the subject consignment. In fact M/s Shivshakti Services is registered at the address of M/s Ashirwad Shipping & Logistics. They further utilised the services of the employees of M/s Ashirwad Shipping & Logistics in the process. In order to justify the utilisation of the premises and the infrastructure it has been stated that the same was done as rent was unaffordable. As agency charges for customs clearance work, bill for same is first raised

by M/s Ashirwad Shipping & Logistics and subsequently, the bill is raised by M/s Shiv Shakti Shipping for their share upon M/s Ashirwad Shipping & Logistics.

38.2 It is evident that M/s. Ashirwad Shipping & Logistics was fully aware that unauthorized customs clearance work relating to sensitive petroleum products was being conducted from their premises using the F-card of M/s. Gaurav M. Jhaveri. By allowing their office, infrastructure, and employees to be used for the clearance of goods which they knew or had reason to believe were liable to confiscation under Section 111 of the Customs Act, 1962 (restricted HFHSD mis-declared as freely importable Mineral Hydrocarbon Oil), M/s. Ashirwad Shipping & Logistics became concerned in dealing with such goods.

Their defence that they merely provided office space on account of friendship and had no direct role in filing the Bill of Entry is not acceptable. By actively extending their premises and resources for the execution of the entire clearance process involving mis-declared restricted goods, they have rendered themselves liable for penalty under Section 112(b)(i) of the Customs Act, 1962

I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty, therefore, I refrain from imposition of penalty under Section 112(a) of the Act.

Further, M/s. Ashirwad Shipping & Logistics was actively involved in facilitating the filing of Bills of Entry containing false and incorrect declarations in material particulars. It clearly establishes that M/s. Ashirwad Shipping & Logistics was fully aware of the nature of the goods being cleared and yet actively facilitated the process of filing false and incorrect declarations in the Bills of Entry, thereby rendering themselves liable for penalty under Section 114AA of the Customs Act, 1962.

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

39.1 Order for Classification, Confiscation and Redemption

- i. I order to reject the declared classification of the impugned goods i.e. 'High Flash High Speed Diesel fuel (HFHSD)' having total quantity 177.080 MTS mis-declared as 'Mineral Hydrocarbon Oil' under Customs Tariff Item 27101990 imported vide Bill of Entry No. 2131398 dated 14.02.2024 and order to re-classify the same under the Customs Tariff item 27101949.
- ii. I order to confiscate the impugned goods i.e. High Flash High Speed Diesel fuel (HFHSD) sought to be imported by **M/s. Shree Shyam Fuelco Private Limited**, in 10 containers pertaining to Bill of Entry no. 2131398 dated

14.02.2024, having declared value of **Rs 78,72,598/- (Rupees Seventy Eight Lakhs Seventy Two Thousands Five hundred and Ninety Eight Only)** seized under Section 110 of the Customs Act'1962, lying seized at Mundra Port under Sections 111(d), 111(f), 111(l) & 111(m) of the Customs Act'1962. However, I give an option to the Importer to redeem the goods only for re-export purpose, upon payment of redemption fine of **Rs.7,80,000/- (Rupees Seven Lakh Eighty Thousand Only)** under the provisions of Section 125 of the Customs Act, 1962.

39.2 **Penalty Under Section 112(a) and/or 112(b) of the Customs Act, 1962.**

i. I impose a penalty of **Rs. 3,90,000/- (Rupees Three Lakhs Ninety Thousand Only)** on **M/s Shree Shyam Fuelco Private Limited**, under Section 112 (a)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(b) of the Customs Act'1962, for the reasons discussed above.

ii. I impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only)** on **Shri Navneet Pandey, Partner of M/s Shree Shyam Fuelco Private Limited** under Section 112 (a)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(b) of the Customs Act'1962, for the reasons discussed above.

iii. I impose a penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** on **M/s Gaurav M. Jhaveri, Customs Broker**, under Section 112 (a)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(b) of the Customs Act'1962, for the reasons discussed above.

iv. I impose a penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** on **M/s Shivshakti Shipping, Sub Agent of CB**, under Section 112 (b)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(a) of the Customs Act'1962, for the reasons discussed above.

v. I impose a penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** on **Shri Ruparel Ketan, of M/s Shivshakti Shipping, Sub agent of CB**, under Section 112 (b)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(a) of the Customs Act'1962, for the reasons discussed above.

vi. I impose a penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** on **M/s Ashirwad Shipping & Logistics, Sub Agent of CB**, under Section 112 (b) (i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(a) of the Customs Act'1962, for the reasons discussed above.

39.3 **Penalty Under Section 114AA of the Customs Act, 1962.**

- i. I impose a penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** on **M/s Shree Shyam Fuelco Private Limited**, under Section 114AA of the Customs Act, 1962.
- ii. I impose a penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** on **Shri Navneet Pandey, Partner of M/s Shree Shyam Fuelco Private Limited** under Section 114AA of the Customs Act, 1962.
- iii. I impose a penalty of **Rs. 10,000/- (Rupees Ten Thousand Only)** on **M/s Gaurav M. Jhaveri, Customs Broker**, under Section 114AA of the Customs Act, 1962.
- iv. I impose a penalty of **Rs. 10,000/- (Rupees Ten Thousand Only)** on **M/s Shivshakti Shipping, Sub Agent of CB**, under Section 114AA of the Customs Act, 1962.
- v. I impose a penalty of **Rs. 10,000/- (Rupees Ten Thousand Only)** on **Shri Ruparel Ketan, of M/s Shivshakti Shipping, Sub Agent of CB**, under Section 114AA of the Customs Act, 1962.
- vi. I impose a penalty of **Rs. 10,000/- (Rupees Ten Thousand Only)** on **M/s Ashirwad Shipping & Logistics, Sub Agent of CB**, under Section 114AA of the Customs Act, 1962.

40. This OIO is issued without prejudice to any other action that may be taken against the claimant under the provisions of the Customs Act, 1962 or rules made there under or under any other law for the time being in force.

41. The Show Cause Notice issued vide VIII/48-01/Adj./ADC/MCH/2024-25 dated 12.02.2025 is hereby disposed of on above terms.

DIPAK ZALA

ADDITIONAL COMMISSIONER OF CUSTOMS,

MUNDRA CUSTOMS HOUSE

To,

- 1. M/s Shree Shyam Fuelco Private Limited (IEC- ABKCS7861D)**
266, Anand Puram Colony,
Madra Khel, Shahjahanpur,
Uttar Pradesh-242001
- 2. Shri Navneet Pandey, S/o Shyam Nath Pandey**
Partner-M/s Shree Shyam Fuelco Pvt Ltd
H.NO 85 Anand Puram Colony,
Madra Khel, Shahjahanpur,
Uttar Pradesh-242001
- 3. M/s Gaurav M.Jhaveri, Customs Broker,**
305/306 Sai Sadan 3rd floor 76/78

Modi Street Fort, Mumbai.
- 4. M/s Shivshakti Shipping,**
Office No 69, 2nd Floor, Grain,
Merchant Association Building, Plot No 297,
Ward 12/B, Near Old Court,
Gandhidham-370201
- 5. Shri Ruparel Ketan S/o Late Shri Shiv Ji**
Partner of **M/s Shivshakti Shipping,**
137, Rameshwar Nagar, Ward-12, Anjar,
Kachchh, Anjar, Gujarat-370110
- 6. M/s Ashirwad Shipping & Logistics,**
Office No 69, 2nd Floor, Grain, Merchant Association Building,
Plot No 297, Ward 12/B, Near Old Court,
Gandhidham-370201

Copy to:-

1. The Deputy Director, DRI, Noida Regional Unit, Noida(E-mail: dri-noida@gov.in)
2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.
3. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra... (with the direction to upload on the official website immediately)
4. The Deputy/Assistant Commissioner of Customs, Group-I, Custom House, Mundra.