

 <p style="text-align: center;">आयुक्त, सीमा शुल्क का कार्यालय, OFFICE OF THE COMMISSIONER OF CUSTOMS न्यू कस्टम हाउस, बालाजी मंदिर के पास, न्यू कांडला 370210 NEW CUSTOMS HOUSE, NEAR BALAJI TEMPLE, NEW KANDLA-370210 दूरभास Phone No. 02836-271468-469 फ़ैक्स Fax No 02836- 271467</p> <p style="text-align: center;">E-mail: commr-cuskandla@nic.in</p>		
A	FILE NO.	GEN/ADJ/ADC/805/2022-Adjn-O/o Commr-Cus-Kandla
B	OIO NO.	KDL/ADC/VS/15/2025-26
C	Passed by	SHRI VISHWAJEET SINGH, Commissioner (In-Situ) of Customs, Custom House, Kandla.
D	DATE OF ORDER	30.03.2026
E	DATE OF ISSUE	30.03.2026
F	SCN NUMBER & DATE	SCN F.No. S/15-01/SIIB/ALLEN/2018-19 dated 29.09.2022
G	Noticee / Party / Importer	M/s. ALLEN PETROCHEMICAL PVT. LTD., D-13, Delhi Road, Udyogpuram, Meerut, Uttar Pradesh-250001
H	DIN NUMBER	20260471ML000000A911

- यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
- 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 रोड़, नवरंगपुरा, अहमदाबाद 380 009”
“The Commissioner of Customs (Appeals), Ahmedabad,
4th floor, HUDCO Building, Ishwar Bhuvan Road,
Navrangpura, Ahmedabad- 380009.”**

- 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.
- 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 –

- 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.

Subject:- SCN F.No. S/15-01/SIIB/ALLEN/2018-19 dated 29.09.2022 issued to M/s. ALLEN PETROCHEMICAL PVT. LTD., D-13, Delhi Road, Udyogpuram, Meerut, Uttar Pradesh-250001, i.r.o following Bill of Entry:-

S. No.	B/E No.	B/E Date	Product	Qty. (in MTs)	Ass. Value as declared in B/E (in Rs.)
1	3638408	16.10.2017	LAWS	73.14	29,90,621.46

BRIEF FACTS OF THE CASE:

A specific intelligence was received from DRI, RZU, Gandhidham that, some importers were engaged in importing the “*Industrial Composite Mixture Plus (ICMP)/ Low Aromatic White Spirit (LAWS)*” by mis-declaring the same and in violation of the Foreign Trade Policy. Acting upon the intelligence received from DRI, inquiry was initiated against various importers including one **M/s. ALLEN PETROCHEMICAL PVT. LTD., D-13, Delhi Road, Udyogpuram, Meerut, Uttar Pradesh-250001, (IEC No. 0500059888)** (hereinafter after referred to as “**the Importer**” for the sake of brevity). Accordingly, 317 remnant samples of the imported cargo declared as “*Industrial Composite Mixture Plus (ICMP)/ Low Aromatic White Spirit*”

(LAWS)” imported by various importers, including the Importer, available with Custom House, Kandla were sent by SIIB, Custom House, Kandla to CRCL, New Delhi vide letter F. No. S/15-01/SILB/2018-19/Part-I dated 24.12.2018 for chemical analysis and testing to ascertain the following points for the imported goods intended for clearance with declaration as **“ICMP/LAWS”**:

2. (i) *whether the sample confirms to description and Characteristics, Specification and Parameters of “Super Kerosene Oil” as per Custom Tariff Act,*
(ii) *if “Super Kerosene Oil”, then please specify the smoke point.*
3. *If the same does not qualify as “Industrial Composite Mixture Plus”, please confirm whether the Characteristics, Specifications and parameters confirms to Motor Spirit (CTH 2710 12)/Diesel Oil (CTH 2710 1930 & 2710 1940).*
4. *If none of the above, please confirm the identification of the sample.”*

2. The details of the LAWS imported by the Importer at Kandla Port is given below:

S. No.	B/E No.	B/E Date	Product	Qty. (in MTs)	Ass. Value as declared in B/E (in Rs.)
1	3638408	16.10.2017	LAWS	73.14	29,90,621.46

2.1. The Joint Director, CRCL, New Delhi after due testing of remnant sample in respect of the above listed Bill of Entry filed by the Importer, submitted their report vide letter F. No. 27-Cus/C-32/2018-19 dated 22.07.2019. The Joint Director, CRCL, New Delhi in their above referred test report opined that, the sample conforms to the specification of **Kerosene** as per **IS: 1459:2018 (Fourth Revision)**. It has also been reported that, the sample does not the requirements for Petroleum Hydrocarbon Solvents as per IS:1745-2018 (Third Revision) in respect of Final Boiling Point.

2.2 The details of the “concluding” Test Reports issued by the Joint Director, CRCL, New Delhi in respect of consignment covered under the above listed Bill of Entry is as under:-

S. No.	Characteristics	Specification for Kerosene as per IS:1459-2018	Test Results
			B/E-3638408 dated 16.10.2017
	Report		The sample is in the form of light yellow coloured oily liquid. It is composed of Mineral Hydrocarbon Oil (More than 70% by weight) possessing the following parameters:
1	Acidity, Inorganic	Nil	Nil
2	Density at 15' degree C Kg/m3	Not limited but to be reported	791.4
3	Distillation		
	a) Initial boiling point, °C	-	175

	b) 5% volume distilled, °C	-	180
	c) 90% volume distilled, °C	-	242
	d) % Recovered below 200°C, percentage (v/v), Min.	20	33
	e) Final Boiling Point, °C Max.	300	273
	f) Dry Point, °C	-	271
4	Flash Point (Abel), °C, Min	35	49
5	Smoke Point, mm, Min.	18	24
6	Aromatic Content, % by Volume	-	14
7	Copper strip corrosion for 3h at 50°C	Not worse than No.1	Not worse than No.1
8	Kinematic viscosity cSt, at 40°C	-	1.37
9	Conclusion	-	On the basis of above parameters, the sample under reference conforms to the specification of Kerosene as per IS 1459:2018 (Fourth Revision) . It does not meet the requirements for Petroleum Hydrocarbon Solvents as per IS:1745-2018 (third Revision) in respect of Final Boiling Point.

2.3 The above Test Report of the CRCL, New Delhi confirmed that the goods imported under above mentioned Bill of Entry filed by the Importer was **Kerosene** as per IS 1459:2018 (Fourth Revision), which were required to be classified under CTH No. **27101910**, same were made to clear from customs by the Importer by way of mis-declaring it's description as "Low Aromatic White Spirit (**LAWS**)" as well as classification thereof under CTH **27101990**. The total quantity of imported goods was **73.14 MTs** having assessable value (excluding duties of customs) amounting to **Rs.29,90,621.46/-** as covered under aforesaid Bill of Entry.

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

"(a) Exports and Imports shall be 'Free' except when regulated by way of prohibition', 'restriction' or 'exclusive trading through State Trading Enterprises (STESs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports. The list of 'Prohibited', 'Restricted', and STE items can be viewed by clicking on 'Downloads' at [http // dgft. gov.in](http://dgft.gov.in)

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

2.5 As per the Schedule I of the Indian Trade Classification (HS) Classifications on Import Items 2015-2020, Section V, Chapter 27, Import Policy for the **Superior Kerosene Oil (SKO)**, as covered under Customs Tariff Heading and Tariff Item No. **27101910** is "**State Trading Enterprises**" with remarks that "Import subject to Para 2.20 of the Foreign Trade Policy and condition at Policy condition (2) below."

2.6 Para 2.20 of the Foreign Trade Policy 2015-2020, which was notified under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 specified as follow.

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

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

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

2.7 Further to the above, the Policy condition (2) prescribed at Schedule I of the ITC (Hs) Classifications on Import Items 2015-2020, Section V, Chapter 27 is specified as follows:

“(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 State Trading Enterprises (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.”

2.8 The list of the State Trading Enterprises (STEs) for FTP purpose, as provided vide Appendix 2J of the Foreign Trade Policy 2015-2020 is as follow:

“S. No. STATE-TRADING ENTERPRISES

1. Food Corporation of India (FCI)
2. State Trading Corporation (STC)
3. Indian Oil corporation (IOC)
4. Bharat Petroleum Corporation Ltd. (BPCL)
5. Hindustan Petroleum Corporation Ltd. (HPCL)
6. Oil and Natural Gas Corporation Ltd. (ONGC)
7. Minerals and Metals Trading Corporation (MMTC)
8. Indian Potash Ltd. (IPL)
9. National Dairy Development Board (NDDB)
10. National Cooperative Dairy Federation (NCDF)

11. National Agriculture Cooperative Marketing Federation of India Ltd (NAFED)
12. Projects and Equipment Cooperation of India Ltd. (PEC)
13. Spices Trading Corporation Limited (STCL)
14. Central Warehousing Corporation (CWC)”

2.9 Further to the above, as per Sub-Section (c) of Section 2 of the **Petroleum Act, 1934 (30 of 1934)**, the SKO falls under the category of **“Petroleum Class B”**. Section 2 of the Petroleum Act, 1934 (30 of 1934) reads as under:

“2. Definitions: *In this Act unless there is anything repugnant in the subject or context –*

- (a) “Petroleum” means any liquid hydro-carbon or mixture of hydro-carbon and any inflammable mixture (liquid, viscous or solid) containing any liquid hydro-carbon;*
- (b) “petroleum Class A” means petroleum having a flash-point below twenty-three degrees centigrade;*
- (c) “petroleum Class B” means petroleum having flash-point of twenty-three degrees centigrade and above but below sixty-five degrees centigrade;*
- (d) “petroleum Class C” means petroleum having a flash-point of sixty-five degrees centigrade and above but below ninety-three degrees centigrade;*
- (e) “flash-point” of any petroleum means the lowest temperature at which it yields a vapour which will give a momentary flash when ignited, determined in accordance with the provisions of Chapter II and the rules made thereunder;*
- (f) “to transport petroleum” means to move petroleum from one place to another in India and includes moving from one place to another in India across a territory which is not part of India;*
- (g) “to import petroleum” means to bring it into India by land , sea or air otherwise than during the course of transport;*
- (h) “to store petroleum” means to keep it in any one place, but does not include any detention happening during the ordinary course of transport;*
- (i) “motor conveyance” means any vehicle; vessel or aircraft for the conveyance of human beings, animals or goods, by land, water or air, in which petroleum is used to generate the motive power;*
- (j) “prescribed” means prescribed by rules made under this Act.*
- (k) [Omitted]”*

2.10 The import, storage and handling of the products falling under “Petroleum Class B” are governed by the provisions of the Petroleum Act, 1934 (30 of 1934). Import of SKO; in this case, if to be considered as classifiable as “Petroleum Class B”, then the License issued under the Petroleum Rules, 1976 is mandatory for import of goods falling under “Petroleum Class B” and only such Petroleum is allowed to be imported by

the importer who are already in possession of License issued under the Petroleum Rules, 1976. Further for the storage of such "Petroleum Class B" products, statutory provisions have been made, which requires different manner of compliance, if such goods to be stored in Drums and to be stored in tanks. As per Notification No. 105-Cus dated 06.08.1938, any import made in contravention of the provisions of the Petroleum Act, 1934 (30 of 1934) may have to be treated in deemed violation of the provisions of Section 11 of the Customs Act, 1962.

2.11 From the above facts, the goods, though being SKO falling under CTH No. 27101910, were mis-declared by the Importer as LAWS, falling under CTH No. 27101990, by suppressing its correct description as SKO and correct classification under CTH 27101910 and that the condition stipulated for import through or by STE or against the Special authorisation issued by the DGFT, as per the Foreign Trade Policy 2015-2020, as well as conditions of compliance with the provisions of Petroleum Act, 1934 (30 of 1934), were not at all complied with by the Importer in respect to the import of SKO made by them, which were sought clearance by them under the aforesaid Bill of Entry. Therefore, the said goods are required to be treated as "**Prohibited Goods**" as defined under Section 2(33) of Customs Act, 1962 and accordingly import of such goods without due compliance with the Policy provisions may have to be categorized as "**Smuggling**" within the meaning of Section 2(39) of the Customs Act, 1962.

2.12 Provisions of the relevant sub-sections of Section 2 of the Customs Act, 1962 is as follows:

"Section 2. Definitions -

In this Act, unless the context otherwise requires,

....

(33) "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;

...

(39) "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;"

3. During the course of inquiry/investigation with respect to the import of LAWS summons dated 17.10.2019, 03.12.2019, 06.07.2020 & 06.08.2020 were issued. The Importer vide their letter dated 10.10.2020 has submitted certain documents including Bill of Entry in the table above but did not appear before the authority for recording their statement for further investigation. Further, Summons dated 26.08.2022 & 14.09.2022 were

again issued to the Importer to tender statement, but the Importer never appeared before the Customs authority to tender their statement, submission of evidences for investigation. Therefore, the investigation had been concluded on the basis of available documents and data retrieved from the EDI System.

4. The CRCL, New Delhi in its Test Report has opined that the sample meet the requirements of SKO (Kerosene) as per IS 1459:2018 (Fourth Revision). As per the clarification issued by Bureau of Indian Standards for BIS No IS 1745: 2018 (Third Revision) it has been clarified that:

1. BIS through its technical Committees has published two separate Indian standards for, kerosene and Petroleum Hydrocarbon Solvents, namely IS 1459: 2018 Kerosene - Specification (Fourth Revision) and IS 1745: 2018 Petroleum Hydrocarbon Solvents - Specification (Third Revision).

2. IS 1459 prescribes requirements and methods of sampling and test of Kerosene intended for use as an illuminant and as a fuel and IS 1745 prescribes the requirements and the methods of test for Petroleum Hydrocarbon Solvents generally used in solvent extraction of oils, rubber and paint industries, in the formulation of insecticides, for dry cleaning and for textile printing purposes.

*3. **The requirements specifically prescribed in IS 1459 for Kerosene only are a) Acidity, inorganic; 6) Burning quality; and c) Smoke point** and that in IS 1745 Petroleum Hydrocarbon Solvents are a) Initial boiling point; b) Aromatic content; and c) Residue on evaporation.*

5. Taking into consideration, the Test Report issued by CRCL, New Delhi, it appeared that, the goods in the instant case cleared by the Importer vide Bill of Entry as detailed above were not “Low Aromatic White Spirit (**LAWs**)” falling under CTH No. **27101990**, as described in the Bill of Entry, but they were Superior Kerosene Oil (**SKO**), with its correct classification under CTH No. **27101910**. Further, the item falling under said CTH No. 27101910 can be imported by STEs only and it has to be termed as “**Prohibited Goods**”, by virtue of the provisions of Para 2.01 and 2.20 of the Foreign Trade Policy 2015-2020 read with relevant Policy conditions provided in Tariff Item No. 27101910 in the ITC (HS) Classification of Imported goods 2015-2020, if the relevant conditions for its legal import was not complied with by the concerned importer.

6. In the instant case, it appeared that, the goods were not imported by or through STEs, but it had been negotiated directly by the Importer with the supplier and also not a case of the importer that they were holding Advance License/Advance Authorization or Special License issued by DGFT for import of SKO. Thus, in the instant case, the Importer had imported SKO by mis-declaring its correct description and correct classification and had violated the provisions of Para 2.01 read with Para 2.20 of the Foreign Trade

Policy 2015-2020 and consequently, the goods covered by Bill of Entry listed above as well as other import documents, should be treated as "Prohibited goods" within the meaning of definition provided vide Section 2(33) of the Customs Act, 1962, which makes such goods liable for confiscation under Section 111(d) of the Customs Act, 1962. The testing of the goods had revealed that the same were SKO and thus, there was evident mis-declaration by the Importer, with the sole intention to circumvent the restrictions imposed on its import under the Foreign Trade Policy 2015-2020.

7. Even in the context of the Notification No. 105-Cus dated 06.08.1938, the goods in respect of which the restricting provisions of the Petroleum Act, 1934 and the rules made thereunder are applicable and where the compliance with those provisions is required from the importer of such goods; if non-compliance is observed on the part of the importer, then the same may have to be treated as contravention of the deemed prohibition imposed on such goods in terms of Section 11 of the Customs Act, 1962. It appeared from the facts mentioned hereinabove that, since the SKO in the total quantity in possession exceeding the specified quantity falls in the category of "Petroleum Class B" and the import, storage and handling of the products falling under "Petroleum Class B" are governed by the provisions of the Petroleum Act, 1934 (30 of 1934). Import of SKO, further to this, if to be considered as classifiable as "Petroleum Class B", then the License issued under the Petroleum Rules, 1976 is mandatory for import of goods falling under "Petroleum Class B" and only such Petroleum is allowed to be imported which were already in possession of License issued under the Petroleum Rules, 1976. Further for the storage of such "Petroleum Class B" products, Statutory provisions have been made, which requires different manner of compliance, if such goods to be stored in Drums and to be stored in tanks. As per Notification No. 105-Cus dated 06.08.1938, any import made in contravention of the provisions of the Petroleum Act, 1934 (30 of 1934) may have to be treated in deemed violation of the provisions of Section 11 of the Customs Act, 1962. Since the Importer in the instant case has failed to follow such compliance, it appeared that, they have also violated the provisions of Section 11 of the Customs Act, 1962, which makes such goods liable for confiscation under Section 111(d) of the Customs Act, 1962.

8. The import of SKO could be permitted through the STEs only and the exception provided were related to (1) The Advance Licenses holders, through the STEs including STC, as per Policy condition (2) of the Chapter 27 of the ITC (HS) Schedule-1, and (2) the Authorization holder, who were granted such authorization by the DGFT in terms of Para 2.20 (c) of the Foreign Trade Policy. In the instant case, in the absence of compliance by the Importer with any of the aforesaid statutory obligations, redemption of the goods could not be allowed to the importers on payment of fine and penalties after re-classifying the goods and modifying the CTH No. thereof. Even in the context of the provisions of the Petroleum Act, 1934 (30 of 1934), making the goods liable to confiscation, redemption of the goods to

the importer could not be permitted in the absence of continuation of such non-compliance on the part of the importer.

9. It further appeared that, though having knowledge about the character of the goods under import, the Importer had imported and cleared the "Prohibited Goods" by willfully mis-declaring its description and Custom Tariff classification. In terms of Section 46 of the Customs Act, 1962, the importer of any goods is required to declare correct details in the Bill of Entry being filed by them, and also required to make and subscribe to a declaration to the truth of the contents of such Bill of Entry, whereas in the instant case, the Importer had filed Bill of Entry with incorrect particulars with the sole aim to suppress the correct nature of Cargo, which were otherwise to be considered as prohibited goods, if its correct character was revealed. Therefore, the goods imported by the Importer as such, were also liable for confiscation under Section 111(m) of the Customs Act, 1962 and the goods so imported were to be treated as 'Smuggled Goods' as defined under Section 2(39) of the Customs Act, 1962.

10. From the facts discussed herein above, it appeared that, the Importer, in connivance with the foreign supplier cleared the "Prohibited Goods" by intentionally mis-declaring the description and custom tariff classification to the extent of managing and manipulating the import documents like the Commercial Invoice, Test Results from the Custom House Kandla CRC Laboratory, etc. showing the goods as "Low Aromatic White Spirit (LAWS)", though they had all the reasons to believe that the goods being imported were SKO (Kerosene). In terms of Section 46 of the Customs Act, 1962, the importer of any goods is required to declare correct details in the Bill of Entry being filed by them, and also required to make and subscribe to a declaration to the truth of the contents of such Bill of Entry, whereas in the instant case, the Importer had filed Bills of Entry with incorrect particulars with the sole aim to suppress the correct nature of the imported cargo, which were otherwise to be considered as "Prohibited Goods", if its correct character were revealed. Therefore, the goods imported by the Importer as such, were also liable for confiscation under Section 111(m) of the Customs Act, 1962.

11. From the inquiry conducted, Test Report issued by the CRCL, New Delhi in respect of the Bill of Entry as discussed hereinabove, it appeared that, the Importer was well aware that the characteristics of the goods were of SKO, although the Bill of Entry were filed by the Importer for the import of total quantity of **73.14 MTs** of goods and cleared by resorting to mis-declaring the goods as "Low Aromatic White Spirit (LAWS)", under Section 46 of the Customs Act 1962 and accordingly the aforementioned SKO (Kerosene) imported and cleared in the guise of "Low Aromatic White Spirit (LAWS)" having declared assessable Value of **Rs.29,90,621.46** (Rupees Twenty Nine Lakhs Ninety Thousands Six Hundred Twenty One and Forty Six paise) (as declared in the Bill of Entry filed listed above) were liable to confiscation under the provisions of Section 111 (d) and 111(m) of the Customs Act, 1962 in as much as the goods had been imported in gross

violation of restriction/ prohibition imposed under the Foreign Policy 2015-2020 as discussed in the Paras supra and by mis-declaring the description of the goods with an intent to clear the prohibited/restricted goods from the Customs Department. The above acts of omission and commission on the part of the Importer has rendered the imported goods liable to confiscation under Section 111(d) & (m) of the Customs Act, 1962 and also constitutes "Smuggling" as defined under Section 2 (39) of the Customs Act, 1962. All the above acts of omission and commission on the part of the Importer has rendered themselves liable for penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962. It thus appeared that the Importer had knowingly and intentionally made a declaration under the Bills of Entry filed under Section 46 of the Customs Act, 1962, which were false and incorrect. Hence, they have committed offences of the nature as described under the Section 114AA of the Customs Act, 1962 and have consequentially rendered themselves liable to penalty under the said Section 114AA of the Customs Act, 1962. Further, the Importer has failed to comply with various provisions of the Customs Act, 1962 with which it was his duty to comply. Therefore, the Importer has also rendered them liable for the penalty under section 117 of the Customs Act, 1962.

12. From the facts discussed hereinabove, it appeared that, the Importer had declared the description of the goods as "Low Aromatic White Spirit (LAWS)" classified under CTH 27101990 in the Bill of Entry listed above whereas they had actually imported the Superior Kerosene Oil (SKO) falling under CTH No. 27101910 as per the Test Report of CRCL, New Delhi as discussed hereinabove in the guise of "Low Aromatic White Spirit (LAWS)" under CTH No. 27101990 from Kandla Port which were restricted for importation and clearance thereof. The policy condition stipulate that:

"import of SKO (Kerosene) is subject to Para 2.20 of Foreign Trade Policy and shall be allowed through State Trading Enterprises (STEs) ie. ROC. 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".

12.1 Further, the SKO stands classified as "Petroleum Class B" Thus, Goods became liable for confiscation under Section 111 (d) and 111 (m) of the Customs Act, 1962.

13. In view of above, it appeared that, the goods imported into India, without providing correct information in the Bill of Entry as tabulated above, without properly classifying and in contraventions of various provisions of the Customs Act, 1962, Foreign Trade Policy, 2015-2020 as well as Petroleum Act, 1934, which rendered subject goods liable to confiscation as discussed below:

- (i) The subject goods, which were imported and cleared by mis-declaring the same as of "Low Aromatic White Spirit (LAWS)" under

CTH No. 27101990, are restricted in nature and imported in the guise of the import of LAWS, thus rendering the goods liable to confiscation under Section 111(d) of the Customs Act, 1962;

- (ii) The correct information was not declared in Bill of Entry listed above, thus rendering the goods liable to confiscation under Section 111(m) of the Customs Act, 1962, and
- (iii) The subject goods were imported and cleared by mis-declaring the goods as of "Low Aromatic White Spirit (LAWS)" under CTH No. 27101990, in violation of the Provisions of Petroleum Act, 1934 and consequently violating the Notification No. 30 of 1934, which has deemed application under Section 11 of the Customs Act, 1962, thus rendering the goods liable to confiscation under Section 111 of the Customs Act, 1962.

14. In view of the above, a Show Cause Notice vide **F.No. S/15-01/SIIB/ALLEN/2018-19 dated 29.09.2022** was issued to the Importer, **M/s. ALLEN PETROCHEMICAL PVT. LTD., D-13, Delhi Road, Udyogpuram, Meerut, Uttar Pradesh-250001, (IEC No. 0500059888)**, wherein they were called upon to show cause to Adjudicating Authority i.e. the Additional Commissioner, Customs House, Kandla, Guajrat-370 210, as to why:-

- (a) the declared description and classification of the imported goods i.e. **73.14 MTs** of "Low Aromatic White Spirit (LAWS)" under CTH 27101990 covered under the Bill of Entry, as discussed above, valued at **Rs.29,90,621.46** (Rupees Twenty Nine Lakhs Ninty Thousands Six Hundred Twenty One and Forty Six paise) should not be rejected and the goods should not be considered as Superior Kerosene Oil (SKO).
- (b) the goods imported vide the Bill of Entry listed above should not be re-classified under the Customs Tariff Heading 27101910 instead of declared Customs Tariff Heading 27101990.
- (c) the imported goods i.e. **73.14 MTs** of SKO falling under CTH No. 27101910 mis-declared as "Low Aromatic White Spirit (LAWS)" under CTH 27101990 in the Bill of Entry as discussed above valued at **Rs.29,90,621.46** (Rupees Twenty Nine Lakhs Ninty Thousands Six Hundred Twenty One and Forty Six paise) should not be held liable for confiscation under Provisions of Section 111(d) and 111(m) of the Customs Act, 1962;
- (d) Penalty should not be imposed on the Importer, M/s. Allen Petrochemical Pvt. Ltd., D-13, Delhi Road, Udyogpuram, Meerut, Uttar Pradesh-250001, (IEC No. 0500059888) under Section 112(a) & (b), 114AA and 117 of the Customs Act, 1962.

KEEPING IN ABEYANCE AND RETRIEVAL FROM CALL BOOK:

15. The adjudicating authority has observed that in one case of M/s. Swarna Oil Services pertains to import of SKO (Superior Kerosene Oil) by mis-declaring the same as Petroleum

Hydrocarbon Plus, departmental appeal was pending before the Hon'ble High Court of Gujarat. Accordingly, the competent authority i.e. the then Commissioner, Customs Kandla has accorded permission & approved that the present case qualified to be kept in abeyance in terms of Section-28(9A) of the Customs Act, 1962 read with Circular No. 162/73/95-CX dated 14.12.1995 and 992/16/2014-CX dated 26.12.2014. The Importer has also been informed vide letter dated 13.01.2023 that said SCN has been kept in abeyance with the approval of competent authority.

15.1 Said appeal has been withdrawn in the case of M/s. Swarna Oil Services from the Hon'ble High Court of Gujarat on Monitory Ground in view of Circular dated 6th August, 2024 issued by CBIC. Hon'ble High Court of Gujarat vide Oral Order dated 09.10.2024 disposed of that appeal as not maintainable in view of low tax effect. Considering the facts that no departmental appeal was pending before the Hon'ble High Court of Gujarat in similar matter, the instant Show Cause Notice has been retrieved from Call Book vide approval dated 17.02.2025 granted by the Competent Authority. Thus, the aforesaid SCN dated 29.09.2022 has been retrieved from the Call Book on 17.02.2025 for further process.

WRITTEN SUBMISSION AND PERSONAL HEARING

16. The Importer was required to submit reply of the SCN within 30 days from the date of receipt of the same. However, even after the lapse of three years, no reply has been received. However, to follow the principles of natural justice, letter dated 19.06.2025, 03.07.2025, 15.07.2025 were issued to the Importer asking them to appear for Personal Hearing on the scheduled dates and time. However, neither anyone has appeared nor any written submission has been received by this office on behalf of the Importer.

16.1 However, to follow the principles of natural justice, further letter dated 24.12.2025 for appearance in Personal Hearing was issued to the Importer. The same was sent to the Importer through Speed Post at the address mentioned in the Show Cause Notice, i.e. M/s. Allen Petrochemical Pvt. Ltd., D-13, Delhi Road, Udyogpuram, Meerut, Uttar Pradesh-250001, (IEC No. 0500059888). From the online tracking on the postal department, it is found that the letter was delivered at the given address. However, neither anyone appeared for Personal Hearing on the scheduled date and time nor any communication has been received from the Importer in this regard. Subsequently, another PH letter dated 12.02.2026 for appearance in Personal Hearing was again issued to the Importer. The same was sent to the Importer through Speed Post at the address mentioned in the

Show Cause Notice. From the online tracking on the postal department, it is found that the letter was also delivered at the given address. However, neither did the importer or any authorized representative appeared for the personal hearing, nor was any written submission received.

16.2 It is further noted that the letter dated 24.12.2025 and 12.02.2026, fixing personal hearings were also affixed on the notice board of Custom House, Kandla.

16.3 The modes of service of notices under the Customs Act, 1962 are specifically provided under Section 153 of the Act. As per the said provision, service through Speed Post, e-mail, and affixture on the notice board constitutes valid service, and service is deemed to have been affected unless the contrary is proved.

153. Modes for service of notice order, etc. — (1) *An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:—*

- (a) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;*
- (b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;*
- (c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;*
- (d) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or*
- (e) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.*

(2) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section (1).

(3) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

16.4 Accordingly, it is evident that despite multiple opportunities for personal hearing and valid service of notices through multiple modes, neither did the importer or any authorized representative appeared for the personal hearing nor were any written submissions filed.

DISCUSSION & FINDING:

17. I have carefully gone through the Show Cause Notice as well as available of records of the case. Five Personal Hearings were given to the Importer on 26.06.2025, 10.07.2024, 21.07.2025, 29.12.2025 and 18.02.2026. Before going into the merits of the case, I find that, enough opportunities were given to the Importer to attend Personal Hearing before deciding the case. However, neither the Importer nor any representative appeared for attending the Personal Hearing on any scheduled dates. Thus, I find that principle of natural justice as provided in Section 122A of the Customs Act, 1962 have been complied with and therefore, I proceed to decide the case ex-parte on the basis of documentary evidences available on records.

17.1 I find that, the points to be decided in the instant case before me are as under:-

- Whether declared description and classification of imported goods i.e. Low Aromatic White Spirit (LAWS) (CTH 27101990) covered under the Bills of Entry listed above, is required to be denied?
- Whether the imported goods is required to be correctly described as Superior Kerosene Oil (SKO) instead of Low Aromatic White Spirit.
- Whether the imported goods is required to be re-classified under the Customs Tariff Heading 27101910 instead of declared Customs Tariff Heading 27101990?
- Whether the imported goods i.e. **73.14 MTs** of SKO falling under CTH No. 27101910 mis-declared as Low Aromatic White Spirit under CTH 27101990 in the Bill of Entry listed above by way of Misdeclaration and Misclassification valued at **Rs.29,90,621.46** (Rupees Twenty Nine Lakhs Ninty Thousands Six Hundred Twenty One and Forty Six paise) are liable for confiscation under Section 111(d) & 111(m) of the Customs Act, 1962;
- Whether the Importer has failed to comply with the Provisions of Petroleum Act, 1934 and consequently violating the Notification No. 30 of 1934, which has deemed application under Section 11 of the Customs Act, 1962 and thereby rendered the goods liable for confiscation under section 111 (d) & 111(m) of the Customs Act, 1962

and therefore, rendered himself liable for penal action under Section 112(a) and 112(b), 114AA and 117 of the Customs Act, 1962.

18. I find that, the Importer has imported a consignment declared as 'Low Aromatic White Spirit (LAWS)' under Bill of Entry listed above at Kandla Port. The declared quantity was **73.14 MTs** having an assessable value of **Rs.29,90,621.46** (Rupees Twenty Nine Lakhs Ninty Thousands Six Hundred Twenty One and Forty Six paise). The imported goods were cleared under CTH 27101990. Subsequent investigations by the Directorate of Revenue Intelligence, remnant samples were sent to the Central Revenue Control Laboratory (CRCL), New Delhi, for re-testing. On perusal of the CRCL Test Report, I find that the sample conforms to the specifications of Kerosene as per IS:1459-2018. The sample did not meet the requirements of Petroleum Hydrocarbon Solvents as per IS:1745-2018 (Fourth Revision). I further find that, the Importer did not challenge the said Test Report of the CRCL, New Delhi. Therefore, I find that, the imported goods are correctly described as Superior Kerosene Oil (SKO) falling under CTH 27101910 instead of 'Low Aromatic White Spirit (LAWS) CTH 27101990 as declared.

19. I find that, the CRCL, Delhi Test Report established that, the imported goods was Superior Kerosene Oil (SKO) as per IS:1459:2018, which falls under the restricted category as per Foreign Trade Policy 2015-2020 and could only be imported through State Trading Enterprises (STEs) like IOC, BPCL, HPCL, and IBP. I find that, the importer is neither an STE nor held any Licence of DGFT authorization to import SKO.

20. I find that, the Importer did not possess any authorization from DGFT nor did they act through an STE. Thus, the goods imported are in violation of Para 2.01 and 2.20 of the FTP 2015-2020 and are to be treated as "Prohibited Goods" under Section 2(33) of the Customs Act, 1962. The importation, therefore, is contrary to the prohibitions imposed under the Customs Act and Foreign Trade Policy, rendering the goods liable for confiscation under Section 111(d) of the Customs Act, 1962.

21. Further, find that, in the instant case, the SKO being imported falls under "Petroleum Class B", based on the quantity and type of product. Import, storage, and handling the products falling under "Petroleum Class B" are governed by the provisions of the Petroleum Act, 1934 (30 of 1934). I find that, the License issued under the Petroleum Rules, 1976 is mandatory for import of goods falling under "Petroleum Class B" and only such Petroleum is allowed to be imported which were already in possession of License issued under the Petroleum Rules, 1976. Without this license, the import of Petroleum Class B products is not permitted. Storage in drums or tanks is subject to separate statutory conditions. Notification No. 105-Cus dated 06.08.1938 states that any import made in contravention of the Petroleum Act, 1934 (30 of 1934) is deemed a violation of Section 11 of the Customs Act, 1962.

22. Since the Importer in the instant case has failed to follow the provisions of the Petroleum Act, 1934 (30 of 1934), I find that, they have also violated the provisions of Section 11 of the Customs Act, 1962, which makes such goods liable for confiscation under Section 111(d) of the Customs Act, 1962. In the instant case, in the absence of compliance by the Importer with any of the aforesaid statutory obligations, redemption of the goods could not be allowed to the Importer on payment of fine and penalties after re-classifying the goods and modifying the CTH No. thereof.

23. Further, I find that, the Hon'ble High Court of Chennai, in the case of Visteon Automotive Systems India Limited²⁷, has held that availability of goods is not necessary for imposing redemption fine. The Hon'ble Court held "...opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act.

23.1 I find that, the above view of the Hon'ble Madras High Court was relied upon by Hon'ble Gujarat High Court in the case of M/s. Synergy Fertichem Pvt. Ltd. Hon'ble Gujarat High Court at para 174 and 175 held that "We would like to follow the dictum as laid down by the Madras High Court in Para-23 in the case of Visteon Automotive Systems India Limited Vs CESTAT, Chennai."

23.2 Hence, I conclude that, the imported goods are liable for confiscation under section 111 of the Act; and redemption fine is imposable on the imported goods even if they have been cleared from the customs port and are not presently available for confiscation.

24. I find that, the goods declared in the Bill of Entry listed above were found to be mis-declared in terms of classification and also there is requirement of authorization from DGFT or an Advance Licence for import of SKO. Since in this case, the condition has not been complied with, I find that, the imported goods are liable to be treated as prohibited goods. Section 111(d) provides for confiscation of goods which are imported/attempted to be imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force. I find that, Section 111(m) provides for confiscation of any goods which do not correspond in respect of value or in any other particular with the entry made under this Act. I therefore hold that, in absence of authorization from DGFT and intentional mis-declaration & mis-classification of imported goods, the goods covered under Bill of Entry listed above valued at **Rs.29,90,621.46** (Rupees Twenty Nine Lakhs Ninty Thousands Six Hundred Twenty One and Forty Six paise), are liable for

confiscation under provisions of Section 111 (d) & 111 (m) of the Customs Act, 1962.

25. Based on the inquiry conducted, the Test Report issued by CRCL, New Delhi in respect of Bill of Entry listed above, I find that, the Importer was aware that the imported goods had the characteristics of Superior Kerosene Oil (SKO). However, the goods were mis-declared as Low Aromatic White Spirit (LAWS) in the Bill of Entry filed under Section 46 of the Customs Act, 1962 for a total quantity of **73.14 MTs**, with a declared assessable value of **Rs.29,90,621.46** (Rupees Twenty Nine Lakhs Ninty Thousands Six Hundred Twenty One and Forty Six paise). This mis-declaration was made with the intent to evade restrictions/prohibitions under the Foreign Trade Policy 2015–2020. As a result, the goods are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. I find that, such act of mis-declaring restricted/prohibited goods for clearance constitutes “Smuggling” under Section 2(39) of the Customs Act. Thus I hold that, the Importer is therefore liable for penalty under Sections 112(a) and 112 (b) for their role in the improper importation. Furthermore, the false declaration made under the Bills of Entry renders them liable for penalty under Section 114AA of the Customs Act, 1962. The importer also failed to comply with mandatory provisions of the Act, attracting penalty under Section 117 *ibid*.

26. I further find that the declaration of the goods as “Low Aromatic White Spirit” in the Bill of Entry cannot be accepted as a mere classification dispute. The CRCL Test Report establishes that the goods possess characteristics such as flash point, smoke point and distillation parameters which conform to the specification of kerosene as per IS 1459:2018 and are materially different from the specifications applicable to petroleum hydrocarbon solvents under IS 1745:2018. Considering the distinct technical characteristics of these products, the declaration made by the importer cannot be considered an inadvertent error. By declaring the goods as LAWS instead of SKO, the importer effectively circumvented the import policy restrictions applicable to SKO. Therefore, the declaration made in the Bill of Entry is held to be a mis-declaration attracting the provisions of Section 111(m) of the Customs Act, 1962.

27. In view of foregoing discussion and findings, I hold that, the imported goods i.e. **73.14 MTs**, with a declared assessable value of **Rs.29,90,621.46** (Rupees Twenty Nine Lakhs Ninety Thousands Six Hundred Twenty One and Forty Six paise) imported by the Importer **M/s. Allen Petrochemical Pvt. Ltd., D-13, Delhi Road, Udyogpuram, Meerut, Uttar Pradesh-250001, (IEC No. 0500059888)**, under the Bill of Entry listed above, declared as 'Low Aromatic White Spirit' are correctly and properly describable & classifiable as 'Superior Kerosene Oil (SKO)' under CTH 27101910. I also hold that, the imported goods are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962.

28. Accordingly, I pass the following order:

:: ORDER ::

- (i) I hereby reject the declared description and classification of the imported goods i.e. 'Low Aromatic White Spirit' (LAWS) under HSN-27101990, under Bill of Entry listed above and order it to be correctly described and classified as 'Superior Kerosene Oil (SKO)' under HSN-27101910.
- (ii) I hold that the imported goods total quantity of **73.14 MTs**, with a declared assessable value of **Rs.29,90,621.46** (Rupees Twenty Nine Lakhs Ninety Thousands Six Hundred Twenty One and Forty Six paise) is liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. However, as the goods have already been cleared by customs, I impose a redemption fine of **Rs.3,00,000/-** (Rupees Three Lakhs Only) in lieu of confiscation under Section 125(1) of the Act.
- (iii) I impose a penalty of **Rs.3,00,000/-** (Rupees Three Lakhs Only) on the importer M/s. Allen Petrochemical Pvt. Ltd., D-13, Delhi Road, Udyogpuram, Meerut, Uttar Pradesh-250001, (IEC No. 0500059888), under Section 112(a)(i) of the Customs Act, 1962.
- (iv) I further impose a penalty of **Rs.7,50,000/-** (Rupees Seven Lakhs Fifty Thousands Only) on the importer M/s. Allen Petrochemical Pvt. Ltd., D-13, Delhi Road, Udyogpuram, Meerut, Uttar Pradesh-250001, (IEC No. 0500059888), under Section 114AA of the Customs Act, 1962 for making false declarations in the Bill of Entry.
- (v) I impose a penalty of **Rs.2,00,000/-** (Rupees Two Lakh only) on the Importer M/s. Allen Petrochemical Pvt. Ltd., D-13, Delhi Road, Udyogpuram, Meerut, Uttar Pradesh-250001, (IEC No. 0500059888), under Section 117 of the Customs Act, 1962 for contravention of other provisions of the Act.

29. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved, under the provisions of the Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

30. The SCN F.No. S/15-01/SIIB/ALLEN/2018-19 dated 29.09.2022 issued by the Additional Commissioner, Customs House, Kandla, is hereby disposed off.

31. This order is issued without prejudice to any other action which may be required to be taken against any person as per the provision of the Customs Act, 1962 or any other law for the time being in force.

(VISHWAJIT SINGH)
Digitally signed by
VISHWAJEET SINGH
Date: 30-03-2026
14:54:41

COMMISSIONER (In-Situ),
CUSTOM HOUSE, KANDLA.

F. No. GEN/ADJ/ADC/805/2022-Adjn-O/o Commr-Cus-Kandla
Date:03.2026.

To,
M/s. Allen Petrochemical Pvt. Ltd.,
D-13, Delhi Road, Udyogpuram,
Meerut, Uttar Pradesh-250001,
(IEC No. 0500059888).

Copy to :-

1. The Assistant Commissioner of Customs (SIIB), Custom House, Kandla.
2. The Assistant Commissioner of Customs (GR-I), Custom House, Kandla.
3. The Assistant Commissioner of Customs (RRA), Custom House, Kandla.
4. The Assistant Commissioner of Customs (TRC), Custom House, Kandla.
5. The Assistant Commissioner of Customs (EDI), Custom House, Kandla.
6. Guard File