कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:
CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421.
PHONE : 02838-271426/271163 FAX :02838-271425
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A	**FILE NO.** फ़ाइल संख्या	**GEN/ADJ/ADC/830/2026-Adjn-O/o Pr. Commr-Cus-Mundra**
B	**OIO NO.** आदेश संख्या	MCH/ZDC/ADC/228/2026-27
C	**PASSED BY** जारीकर्ता	**Dipak Zala,** Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
D	**DATE OF ORDER** आदेश की तारीख	24.07.2026
E	**DATE OF ISSUE** जारी करने की तिथि	24.07.2026
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	**79/2026-27/ADC/ZDC/MCH dated 04.06.2026**
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	**(i) M/s PAVAN INTERNATIONAL (IEC: ATBPP7155R)**

1. यहआदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.

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

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

"सीमाशुल्कआयुक्त (अपील),

चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,

नवरंगपुरा,अहमदाबाद 380 009"

"THE COMMISSIONER OF CUSTOMS (APPEALS)

HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,

NAVRANGPURA, AHMEDABAD-380 009."

3. उक्तअपील यहआदेश 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 be accompanied by –

(i) उक्त अपील की एक प्रति और A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं°-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटि/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

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

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

BRIEF FACTS OF THE CASE

1.1 M/s PAVAN INTERNATIONAL (IEC: ATBPP7155R), having its registered office/principal place located at 1/34/70, T23 Shupth Aarked, Highway Road, Unjha-384170(hereinafter referred to M/s PAVAN INTERNATIONAL as the *"Importer")*, imported goods vide **Bill of Entry No.4890699 dated 03.10.2025 and 4895800 dated 04.10.2025** at Customs House Mundra**.**

1.2 Specific intelligence gathered by the **Directorate of Revenue Intelligence (DRI)** indicated that the aforesaid consignment imported by M/s PAVAN INTERNATIONAL lying at Mundra Port and declared as "**Industrial Oil"** under **CTH 27101990**, were **mis-declared with respect to their description and nature,** with the deliberate intent to clear prohibited/restricted goods.

The details of the import consignment are as follows:

Table-I

	Details of 1st Bill of Entry	**Details of 2nd Bill of Entry**
Bill of Entry No.	4890699 dated 03.10.2025	4895800 dated 04.10.2025
Bill of Lading No.	RSTJEAMUN25000144	RSTJEAMUN25000145
Declared Goods in BE	Industrial Oil	Industrial Oil
Declared Quantity	203120 (in KGS)	200250 (in KGS)
Customs Broker	M/s Gaurav M Jhaverri	M/s Gaurav M Jhaverri
Country of Origin	UAE	UAE
Supplier	M/s. SLS Global FZE	M/s. SLS Global FZE

1.3 Based on the aforesaid intelligence, the consignment imported by M/s PAVAN INTERNATIONAL lying at Mundra Port and declared as "Industrial Oil" under CTH 27101990 were put on hold by the DRI vide email dated 08.10.2025.

2. Examination and drawl of Samples:

The examination of aforesaid consignments was conducted by the DRI under panchnama dated 13/14.10.2025 at Mundra Port, in the presence of the authorized representative of the Customs Broker appointed by the importer. During the said examination proceedings, representative samples, in duplicate, were drawn from each of the 20 containers, for laboratory testing to ascertain the exact nature of the import goods in the said consignment.

3. <u>Testing of the Samples</u>:

3.1 The 20 samples drawn from the containers covered under Bill of Entry No.4890699 dated 03.10.2025 and 4895800 dated 04.10.2025 were sent to Custom House Laboratory, Visakhapatnam for testing vide Test Memo No. 510/2025 to 519/2025 and Test Memo No. 556/2025 to 565/2025 both dated 24.10.2025 respectively.

3.2 The laboratory submitted their test reports reference Lab No.380-DRI to 389-DRI dated 07.01.2026, in respect of Bill of Entry No. 4890699 dated 03.10.2025 and reference numbers 426-DRI to 435-DRI dated 07.01.2026 in respect of Bill of Entry No. 4895800 dated 04.10.2025 respectively.

3.3 The test reports in respect of all 10 samples pertaining to Bill of Entry No. 4890699 dated 03.10.2025, based on the parameters tested by the Custom House Laboratory, indicated that all the samples conform to the stringent parameters of Automotive Diesel Fuel. Since all the samples yielded similar findings, the report in respect of Lab No. 389-DRI is reproduced hereunder for illustration:

- ***The sample has been tested for all the characteristics parameters tested above & which are stringent parameters also to characterize petroleum fuels.***

- ***The sample meets all the stringent parameter of Automotive diesel fuel as mentioned in IS: 1460:2025 except flash point which is 5.0°C***

lower than required (decreased by means of using lighter hydrocarbon).

- ***The GCMS pattern of sample shows presence of lighter hydrocarbons, which cannot be a part of Diesel fuels, as per standard refinery protocol & classification of petroleum fuels. Minor deviation from the required values of above 01 parameter, does not effects its application as diesel fuel for Automotive purpose (IS 1460).***

- ***The sample is adulterated diesel in respect of the definition of "adulteration" as mentioned in 5.1 of marketing discipline guideline published by PSU's.***

- ***There is no specification available for industrial oil in National & International standards.***

- ***The sample also meets the specification of HFHSD (IS 16861) up to the extent of parameter tested above except, flash point which was lowered by using lighter hydrocarbons.***

3.4 The test reports in respect of all 10 samples pertaining to Bill of Entry No. 4895800 dated 04.10.2025, based on the parameters tested by the Custom House Laboratory, indicated that all the samples conform to the stringent parameters of Automotive Diesel Fuel. Since all the samples yielded similar findings, the report in respect of Lab No. 435-DRI is reproduced hereunder for illustration:

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- ***a) The sample is other than Kerosene (IS 1459/IS 1571), Kerosene Intermediate (IS 17793).***

b) The sample meets all the stringent parameter of Automotive Diesel Fuel not containing bio-diesel (IS 1460).

c) The sample is other than Light Diesel Oil - LDO (IS 15770).

d) The sample meets all the stringent parameter of HFHSD (IS:16861) except flash point (which is 21℃ less than required 66℃).

- ***The sample has tested for above parameters mentioned in test report, which are stringent to characterize the product.***
- ***The sample is most akin to Automotive Diesel Fuel not containing bio-diesel (IS 1460) and also meets the requirement of HFHSD (IS:16861).***
- ***There is no specification available for industrial oil in National & International standards.***
- ***It is non-hazardous.***

3.5 For parameters not covered in the Custom Laboratory's Vishakhapatnam testing, additional samples were forwarded to Mangalore Refinery and Petrochemicals Limited (MRPL) vide Test Memo No. 946/2025 dated 06.03.2026 in respect of Bill of Entry No. 4890699 dated 03.10.2025 and Test Memo No. 947/2025 dated 06.03.2026 in respect of Bill of Entry No. 4895800 dated 04.10.2025 respectively, to ensure comprehensive testing of all specifications under IS 1460 and IS 16861, as mandated by the Hon'ble Supreme Court in ***Gastrade International v. Commissioner of Customs, Kandla.***

3.6 The Mangalore Refinery and Petrochemicals Limited (MRPL) has submitted their reports vide Test Report No. MRPL/DRI/2026/26 and MRPL/DRI/2026/27 dated 16.04.2026 respectively.

The findings of the both aforementioned Test Reports are reproduced below:

Table-II

Sl. No.	**Bill of Entry No. & Dated**	**Quantity**	**Declared Description**	**Sample Test Result**	**IS Standards**
01.	4890699 dated 03.10.2025	203120 (in KGS)	Industrial Oil	Conform to the parameters of Automotive Diesel Fuel	IS 1460:2025

				(ADF)	
02.	4895800 dated 04.10.2025	200250 (in KGS)	Industrial Oil	Conform to the parameters of Automotive Diesel Fuel (ADF)	IS 1460:2025

4. Whereas, detailed analysis of the MRPL Test Report indicates that the samples meets all parameters (*including Distillation recovery*) of Automotive Diesel Fuel (IS 1460:2025) except for one parameter, namely Flash Point in respect of Bill of Entry. 4895800 dated 04.10.2025 Therefore, the Test Reports highlighted in **Table-II** above suggested that the goods imported meets the requirements Automotive Diesel Fuel (ADF) conforming to standard IS 1460:2025.

4.1 Further, the specifications of Automotive Diesel Fuel (ADF) as per IS 1460 of the Bureau of Indian Standards (BIS) are reproduced below:

Table 1 Requirement for Automotive Diesel Fuel

(*Clauses* 3.1.4, 3.2 *and Foreword*)

Sl No.	Characteristic	Requirement	Method of Test, Ref to Parts of IS 1448 ISO/EN/Annex
(1)	(2)	(3)	(4)
i)	Appearance	Clear, bright and free from sediments, suspended matter and undissolved water at normal ambient fuel temperature	Visual
ii)	Total Acid Number (TAN), mg of KOH/g, *Max*	0.20	(Part 2)[8]
iii)	Ash, percent by mass, *Max*	0.01	(Part 4/Sec 1)[8]
iv)	Carbon residue, on 10 percent residue[1], percent by mass, *Max*	0.30	(Part 8)[8] /(Part 189)
v)	Cetane number, *Min*	51[2]	(Part 9)[8]
vi)	Cetane index, *Min*	46[2]	(Part 174)[8]
vii)	Pour point[3], °C, *Max*:		(Part 10/Sec 2)[8]
	a) Winter	3	
	b) Summer	15	
viii)	Copper strip corrosion for 3 h at 50 °C, *Max*	Class 1	(Part 15)[8]
ix)	Distillation, 95 percent *v/v* recovery, °C, *Max*	360	(Part 18)[8]/ISO 3405

Table 1 (*Concluded*)

Sl No.	Characteristic	Requirement	Method of Test, Ref to Parts of IS 1448 ISO/EN/Annex
(1)	(2)	(3)	(4)
x)	Flash point, Abel[4], °C, *Min*	35	(Part 20)[8]
xi)	Kinematic viscosity, mm^2/s, at 40 °C	2.0 to 4.5	(Part 25/Sec 1)[8]/(Part 186)
xii)	Total contamination, mg/kg, *Max*	24	EN 12662[8]
xiii)	Density at 15 °C, kg/m^3	810 to 845[5]	(Part 16)[8] /(Part 32)/(Part 167)
xiv)	Total sulphur, mg/kg, *Max*	10	(Part 160)[8]/(Part 34)/ (Part 161)/(Part 159)
xv)	Water content, mg/kg, *Max*	200	(Part 182)[8]
xvi)	Cold Filter Plugging Point (CFPP)[3], °C, *Max*:		(Part 110)[8]
	a) Winter	6	
	b) Summer	18	
xvii)	Oxidation stability[6], g/m^3, *Max*	25	(Part 154)[8]
	Oxidation stability[6], minutes, *Min*	60	EN 16091[12]
xviii)	Oxidation stability (for diesel fuel having FAME content of above 2 percent *v/v*), hours, *Min*	20	EN 15751[8]
	Oxidation stability (for diesel fuel having FAME content of above 2 percent *v/v*), minutes, *Min*	60	EN 16091
xix)	Polycyclic Aromatic Hydrocarbon (PAH), percent by mass, *Max*	8	EN 12916[8]
xx)	Lubricity, wear scar diameter (wsd) at 60 °C, µm, *Max*	460	(Part 149)[8]
xxi)	FAME content[7], percent *v/v*, Max	7.0	Annex B[8]

4.2 And whereas on analysis of the parameters detailed in the Test Reports vis-a-vis the parameters stipulated in the BIS standards of IS 1460, it appears in accordance with the intelligence, that goods being imported under aforesaid Bills of appears to be mis-declared and following conclusion appears to flow from the analysis.

Table-III

Sr No	Bill of Entry No.	Quantity	Product description as per analysis of Test Report (CRCL+MRPL)
1	4890699 dated 03.10.2025	203120 (in KGS)	Automotive Diesel Fuel (ADF) conforming to Standards IS 1460:2025

2.	4895800 dated 04.10.2025	200250 (in KGS)	Automotive Diesel Fuel (ADF) conforming to Standards IS 1460:2025

4.3 As per Customs Tariff Act, it appears that the goods found as Automotive Diesel Fuel (ADF)) conforming to standard IS 1460:2025 are classifiable under CTH 27101944.The relevant descriptions of the above mentioned CTHs as per the Customs Tariff Act are as below:

HS CODE (1)	ITEM DESCRIPTION (2)	UNIT (3)	BASIC (4)	EFFECTIVE (5)	PRE. (6)	IGST (7)	SWS (8)	TOTAL (9)	POLICY (10)	REMARKS (11)
2710 19 43	---- Light diesel oil conforming to standard IS 15770	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27*
2710 19 44	---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	2.50	2.50	---	14% + Rs. 15 per litre	0.08		State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn 12/2018-Cus.*

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 "Automotive Diesel Fuel (ADF) conforming to standard IS 1460", 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:

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
6	Import of Pet coke for fuel purpose is prohibited. However, import of Pet coke of the following categories shall be permitted, subject to conditions : a. Import of Pet coke is free for cement, lime kiln, calcium carbide, gasification industries and graphite electrodo industries for use as feed stock or in the manufacturing process only on Actual User basis. b. Total import of 1.9 Million MTs of Raw Petroleum Coke(RPC) for manufacturing Calcined Petroleum Coke(CPC) and 0.5 Million MTs of CPC for Aluminium Industry respectively shall be permissible during 2024-25, and 1.9 Million MTs of RPC for manufacturing CPC Manufacturing and 0.8 Million MTs of CPC for Aluminium Industry respectively shall be permissible from 2025-26 onwards, subject to the following conditions: i. Import of RPC & CPC shall be permitted only as a feedstock / raw material and under no circumstances shall be used as fuel. ii.Import of RPC and CPC shall be permitted to cater entirely to the domestic needs of aluminium	27/2024-25	04/09/2024

5 Confiscation and Seizure:

5.1 As per the test results above, it is evident that the importer had imported restricted petroleum products, by mis-declaring the same as “Industrial oil”. The Custom Laboratory reports confirmed that the goods imported vide Bill of Entry No. Bill of Entry No.4890699 dated 03.10.2025 and 4895800 dated 04.10.2025 was in fact Automotive Diesel Fuel, which is restricted for import into India, and permissible only subject to Condition No. 5 of Chapter 27 of ITC(HS), 2022, Schedule 1 Import Policy issued by DGFT. Therefore, having a reasonable belief that the goods in **Table No-II** above, were liable to be confiscated under the provisions of the Section 111 of the Customs act, 1962, the same were placed under seizure as per the provisions of Section 110(1) of the Customs Act, 1962 vide seizure memo dated 13.01.2026**.**

6. During investigation, statements of following person were recorded under Section 108 of the Customs Act, 1962, which are briefly discussed herein-below:

6.1 Statement of Sh. Nikunj kumar Kantilal Patel, Aged 41 years (DOB: 16.05.1985), Proprietor of M/s PAVAN INTERNATIONAL was recorded on 11.05.2026, wherein he interalia stated that: *(English translation):*

- On being asked as to who is responsible for negotiating terms with overseas suppliers, he stated that being the proprietor, he himself undertakes negotiations with overseas suppliers, generally through telephonic conversations. He further stated that documents between the supplier and the firm are exchanged through WhatsApp and e-mail. He also stated that he looks after the entire work of the firm including local management, import-export activities and GST related work.

- On being asked regarding management of remittances and payment terms, he stated that he alone is responsible for making payments to overseas suppliers. He further stated that the entire payment is made to the supplier only after customs clearance of the goods.

- On being asked regarding specifications of Industrial Oil ordered, he stated that while placing orders they only asked the overseas supplier to provide Industrial Oil classifiable under CTH 27101990 and that he is not aware of any other technical specifications.

- On being asked whether sampling was conducted in his presence, he stated that sampling of the cargo covered under Bill of Entry No. 4890699 dated 03.10.2025 and Bill of Entry No. 4895800 dated 04.10.2025 was carried out in the presence of a person duly authorized by his firm.

- On being shown the CRCL Visakhapatnam Test Reports and asked to comment, he stated that he has seen the printouts and has put his dated signatures in token of having seen the same. He admitted that as per the said reports, the samples meet all the parameters of Automotive Diesel Fuel (IS 1460). However, he stated that they had ordered Industrial Oil only and claimed that the overseas supplier had exported the wrong cargo/consignment, i.e. ADF.

- On being shown the MRPL Test Reports dated 16.04.2026 and asked to comment, he stated that he has seen the reports and has put his dated signatures on the same. He admitted that in respect of Bill of Entry No. 4890699, all 21 parameters prescribed under IS 1460:2025 are met and in respect of Bill of Entry No. 4895800, 20 out of 21 parameters are met, with deviation only in flash point. He further stated that the reports establish that

the goods are a restricted commodity (ADF). However, he reiterated that the overseas supplier had exported the wrong cargo.

- On being asked whether he had specifically ordered goods with lower flash point or addition of lighter hydrocarbons, he denied the same and stated that they had only ordered Industrial Oil and had not given any such instructions to the supplier.

- On being asked whether he was aware that the imported goods were diesel and that deviation in flash point was deliberate, he denied the same and stated that they were not aware that the goods were a restricted commodity. He reiterated that no adulteration was carried out at his end or at his direction and again attributed the same to the supplier.

- On being asked with reference to the judgment dated 09.03.2026 of the Hon'ble Gujarat High Court, he stated that he respects the verdict and acknowledged that as per the CRCL and MRPL test reports, the goods are ADF. However, he reiterated that the supplier had exported the wrong cargo.

- On being asked whether the goods fall under the category of adulterated diesel in terms of the said judgment, he stated that he respects the findings of the Hon'ble Court but maintained that no adulteration was carried out at his end or under his directions and that only Industrial Oil was ordered.

- On being asked regarding the observations of the Hon'ble High Court distinguishing the case from Gastrade International, he stated that the same has been read over and explained to him and he has understood the same. He reiterated that there was no intention to import restricted goods and that the overseas supplier had supplied the wrong consignment. He further stated that due to financial distress arising from detention of consignments since October 2025, they are not preferring an appeal before the Hon'ble Supreme Court.

7 <u>Hon'ble High Court of Gujarat at Ahmedabad order and judgement dated 09.03.2026 R/Special Civil Application No. 16799 of 2025 and allied matters</u> :

7.1 During the course of investigation, the importer had filed **Special Civil Application 1239 of 2026** before the Hon'ble High Court of Gujarat at Ahmedabad, challenging the seizure memo and seeking provisional release of their consignment.

7.2 <u>The observations of the Hon'ble High Court on the test reports issued by the Customs Laboratory, Visakhapatnam (CRCL) and Mangalore Refinery and Petrochemicals Limited (MRPL) are reproduced below</u>:

"46. *Keeping in mind the aforesaid principles enunciated by the Supreme Court, we have attempted to distinguish the case of the petitioners for the following reasons.*

47. Significantly, in the Test Reports in the case of ***Gastrade International (supra),*** *the Apex Court has recorded that there was no opinion and finding expressed that the imported goods are "most akin" to HSD, which is not the issue in the Test Reports in question. In the first test report of CRCL, Visakhapatnam, out of 18 parameters tested, except for the parameters relating to flash point, distillation recovery and sulphur, the report categorically records that the sample is mainly composed of diesel fraction, is adulterated with lighter hydrocarbons, and is most "akin to HFHSD (IS 16861) / adulterated HFHSD". The diesel fraction is found to be between 95% to 98%). Thus, out of 21 parameters, the 18 parameters tested by CRCL, Visakhapatnam and MRPL, there is a clear opinion by the laboratory that the sample meets all characteristics of ADF and HFHSD, except the flash point, which is lowered by mixing lighter hydrocarbons. In this context, we may refer to the definition of 'adulteration' as supplied in the 'Malpractices Order,2005'. It reads thus:*

> *"2(a) "adulteration" means [presence of marker in motor spirit and high speed diesel and/or] [Inserted by Notification No. G.S.R. 18(E) dated 12.1.2007 (w.e.f. 21.12.2005).] the introduction of any foreign substance into motor spirit or high speed diesel illegally or unauthorisedly with the result that the product does not conform to the requirements of the Bureau of Indian Standards specifications number IS 2796 and IS 1460 for motor spirit and high speed diesel respectively or any other requirement notified by the Central Government from time to time;"*

Thus, any foreign substance, which is blended in high-speed diesel illegally or unauthorizedly, which ultimate results into failure of requirements of BIS specifications IS 1460 is an adulteration.

48. In the instant case, there is a definite conclusion that the flash point, which is one of the most important parameters as emphasized by the Supreme Court, has been lowered by the use of lighter hydrocarbons and the product is therefore characterized as

adulterated HFHSD. No such clear and unambiguous opinion was rendered by any of the three laboratories in the case of ***Gastrade International(supra)*** *and also by the expert, who was examined during the inquiry."*

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7.3 Application of the "Most Akin Test" by the Hon'ble Gujarat High Court:

"50. Thus, if the rule of the "most akin test" is applied, the product declared by the petitioners as industrial oil is found to be Automotive Diesel Fuel / HFHSD, which is a restricted commodity. Hence, in view of the settled legal position laid down in the cases of ***Om Prakash Bhatia (supra)*** *and* ***Raj Grow Impex (supra)****, we are not inclined to set aside the action of seizure of goods in question."*

7.4 Observations of the Hon'ble Gujarat High Court on Testing Conducted at Different Laboratories:

"Hence, even if there are two or more Test Reports from different laboratories, so long as they conform to the directions of the Supreme Court in the case of ***Gastrade International (supra)*** *and test the parameters prescribed under the relevant Indian Standards, such test results cannot be discarded merely because they were undertaken by different laboratories."*

7.5 Emphasis by the Hon'ble Gujarat High Court on Environmental Impact:

"53. The product imported by the petitioners, if released, will have a direct environmental impact affecting society at large. In such circumstances, having regard to the nature of the product, the Test Reports cannot be discarded merely because different parameters were tested in two different laboratories."

7.6 The High Court of Gujarat dismissed the SCA filed by the importer vide common oral judgment and order dated 09.03.2026, in R/Special Civil Application No. 16799 of 2025 and allied matters.

8. Extension under Section 110(2) of the Customs Act, 1962

Since the investigation could not be completed within the mandated six-month period, the competent authority granted a further extension of four months under Section 110(2) of the Customs Act, 1962, which was conveyed to the importer vide this office letter dated 06.04.2026**.**

9. Relevant Legal provisions:

9.1 The relevant portion of 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 is reproduced as under:

27101939	---	obtained from kerosene intermediate: ---- Aviation turbine fuels, kerosene type conforming to standard IS 1571	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101941	---	Gas oil and oils obtained from gas oil: ---- Gas oil	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101942	---	Gas oil and oils obtained from gas oil: ---- Vacuum gas oil	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101943	---	Gas oil and oils obtained from gas oil: ---- Light diesel oil conforming to standard IS 15770	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101944	---	Gas oil and oils obtained from gas oil: ---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101949	---	Gas oil and oils obtained from gas oil: ---- High flash high speed diesel fuel conforming to standard IS 16861	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101951	---	Fuel oils conforming to standard IS 1593: ---- Grade LV	Free	

9.2 Further, Para 2.21 of the Foreign Trade Policy, 2023 reads as under:

"***2.21 State Trading Enterprises (STEs)***

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

(b) Such STE(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale in a non-discriminatory manner and shall afford enterprises of other

countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.

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

9.3 Further, Policy Condition of Chapter 27 of the Customs Tariff is reproduced as below:

"(5) Import allowed through IOC subject to Para 2.21 of the Foreign Trade Policy, except for companies who have been granted rights for marking of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2022 for products excluding gasoline conforming to standard IS 2796 (ITC HS Code: 27101241) and Automotive Diesel Fuel, not containing Bio Diesel 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.

(B) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

9.4 Section 2(22): *"goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;*

Section 2(23): *"import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;*

Section 2(25): *"imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;*

Section 2(26): *"importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;*

Section 2(39): *"smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.*

Section 11A: *"illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.*

9.5 Section 17 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.

..

(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.

9.6 Section 46 Entry of goods on importation:

(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, relating to the imported goods.*

(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.

9.7 Section 111. Confiscation of improperly imported goods, etc.:

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

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

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

Section 112 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 5 [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 penaltyot exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever n is higher:*

Section 114AA Penalty for use of false and incorrect material:

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

(C) Relevant Provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:

"*Rule 4. Transaction value of identical goods.* - *(1) (a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;*

……..

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

"Rule 5. Transaction value of similar goods. *- (1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:*

Provided that …….

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

Rule 7 of the CVR, 2007, stipulates that: -

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or

identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

(i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;

(ii) the usual costs of transport and insurance and associated costs incurred within India;

(iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

(3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.

(b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1).

Rule 8 of the CVR, 2007, stipulates that: -

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of: -

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;

(c) the cost or value of all other expenses under sub-rule (2) of rule 10.

Rule 9 of the CVR, 2007, stipulates that: -

(1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;

Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

(2) No value shall be determined under the provisions of" this rule on the basis of –

(i) the selling price in India of the goods produced in India;

(ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;

(iii) the price of the goods on the domestic market of the country of exportation; (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;

(v) the price of the goods for the export to a country other than India;

(vi) minimum customs values; or

(vii) arbitrary or fictitious values.

***Rule 12. Rejection of declared value**. - (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.*

10. <u>Valuation:</u>

10.1 From the foregoing paras, it is evident that M/s PAVAN INTERNATIONAL was involved in mis-declaration of goods in terms of description and classification and the declared value in the corresponding Bills of Entries appear to be not acceptable as true transaction value and merits rejection in terms of Section 14 of Customs Act, 1962 read with Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Since exact comparative data in respect of the import goods covered under the subject consignments are not available in absence of clear descriptions and mis-declaration on the part of the importer, the value of the subject import consignments cannot be determined as per the provisions of Rule 4 to Rule 8 to the Customs Valuation (Determination of value of Imported goods) Rules, 2007. Since the goods cannot be fully compared with similar/identical imports as the same are restricted goods, their value appears to be determinable under Rule 9 (Residual method) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with sub-section (1) of Section 14 of Customs Act, 1962 and on the basis of objective and quantifiable data available in India. For valuation of the seized goods-ADF, the prevailing market rates of the goods in the 1st week of October-2025 were taken, such as invoices generated by Nayara

Energy Limited, ADF-**Rs 52,541.75/KL**. Accordingly, in terms of Rule 9 of the Customs Valuation Rules, 2007, the same value can be adopted for the offending goods in this case.

10.2 Further, import of "**Automotive Diesel Fuel *(ADF) as per IS 1460:2025***", is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27 of Customs Tariff, which stipulates that only '*import is 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*' to import the same. It therefore appears that said importer mis-declared restricted goods i.e. "**Automotive Diesel Fuel *(ADF) as per IS 1460:2025***" as "Industrial Oil" in the consignments.

10.3 As discussed above, the consignment covered under Bill of Entry No.4890699 dated 03.10.2025 and 4895800 dated 04.10.2025 was reported as "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***" by the Custom Laboratory, Vishakhapatnam and MRPL.The outcome of the test reports indicate that the invoice value declared by the importer does not reflect the actual value of the goods. Since the goods were mis-declared in the Bill of Entry, the declared collective assessable value of Rs **1,84,61,388/-** (Rs. 92,96,384/- + Rs. 91,65,004/-) in Bills of Entries cannot be accepted as the true "transaction value" under Section 14 of the Customs Act, 1962, and is liable to rejection under Rule 12 of the CVR, 2007.

10.4 Accordingly, for valuation purpose, to arrive at a fair and reasonable value within the framework of law and procedures under the Valuation Rules, the ADF data dated 01.10.2025 of the Nayara Energy Limited was referred. The base price was noted as **Rs 52,541.75/KL**. Based on this, the re-determined value of the import consignments of "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***", having a total quantity of **403370 KGs** (203120 Kgs + 200250 Kgs) equivalent to total 486.37 KL (using average density of 0.829g/ml in respect of Bill of Entry No. 4890699 dated 03.10.2025 and 0.8297g/ml in respect of Bill of Entry 4895800 dated 04.10.2025 as reported by Custom House Laboratory,

Visakhapatnam), is **Rs. 2,55,54,751/-**, in terms of provisions of Rule 9 of the CVR, 2007.

Thus, the value of the goods, as per the test reports of the Custom Laboratory and MRPL, is determined accordingly, are as below:

Table-IV

Sl. No.	Bill of Entry No.	Sample Test Result	Declared Description	Quantity (in KGs)	Declared value as per BoE	Approx. Market Value (in Rs.)
01.	4890699 dated 03.10.2025	Automotive Diesel Fuel (ADF)	Industrial Oil	203120	9296384/-	12873679/-
02.	4895800 dated 04.10.2025	Automotive Diesel Fuel (ADF)	Industrial Oil	200250	9165004/-	12681072/-
Total					**1,84,61,388/-**	**2,55,54,751/-**

Therefore, the said goods having declared value of Rs. **1,84,61,388/-** and re-determined value of Rs. **2,55,54,751/-** as per Table-IV, appear to be liable for confiscation under Section 111(d) and 111 (m) of the Customs Act, 1962.

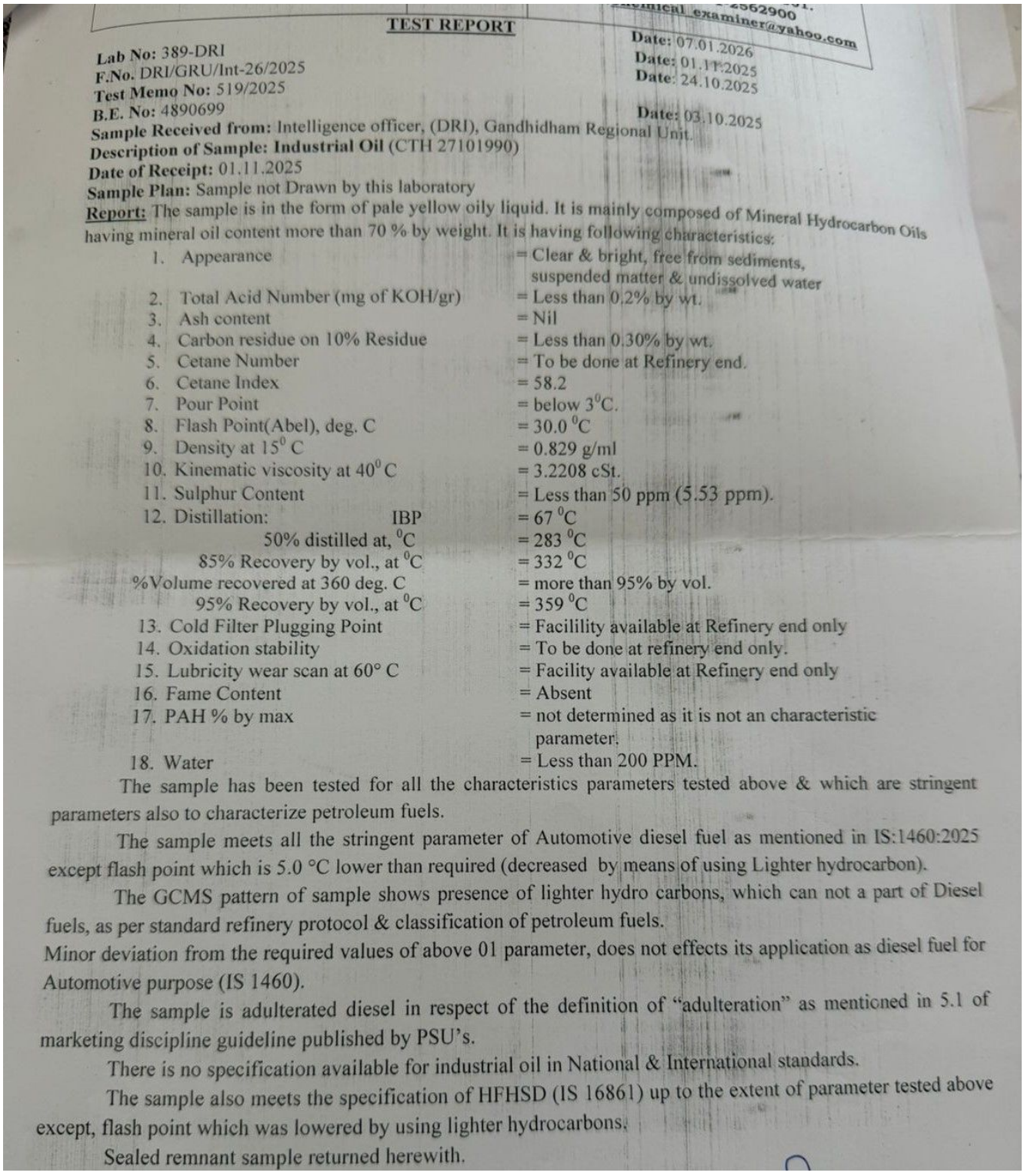
11. Findings of the investigation:

11.1 Specific intelligence gathered by the Directorate of Revenue Intelligence indicated that M/s PAVAN INTERNATIONAL was indulged in import of restricted goods through mis-declaration. The importer had declared the consignment as Industrial Oil, whereas examination and sampling carried out by the DRI revealed otherwise. The representative samples drawn in respect of Bill of Entry No. 4890699 dated 03.10.2025 and 4895800 dated 04.10.2025 were forwarded to the Custom House Laboratory, Visakhapatnam which confirmed that the goods met all characteristics parameters of Automotive Diesel Fuel (ADF) under IS 1460:2025.

To ensure comprehensive testing of all parameters mandated by the Hon'ble Supreme Court in ***Gastrade International v. Commissioner of Customs, Kandla***, additional samples were sent to Mangalore Refinery and Petrochemicals Limited (MRPL). The combined reports from CRCL and MRPL conclusively

established that the imported goods were in fact Automotive Diesel Fuel conforming to IS 1460, and not Industrial Oil as declared.

11.2 The sample Test report (CRCL Visakhapatnam, Lab No. 389-DRI, Test Memo No. 519/2025) in respect of Bill of Entry No. 4890699 dated 03.10.2025 is reproduced below:



TEST REPORT

examiner@yahoo.com

Lab No: 389-DRI
F.No. DRI/GRU/Int-26/2025
Test Memo No: 519/2025
B.E. No: 4890699
Sample Received from: Intelligence officer, (DRI), Gandhidham Regional Unit.
Description of Sample: Industrial Oil (CTH 27101990)
Date of Receipt: 01.11.2025
Sample Plan: Sample not Drawn by this laboratory

Date: 07.01.2026
Date: 01.11.2025
Date: 24.10.2025
Date: 03.10.2025

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

1.	Appearance	= Clear & bright, free from sediments, suspended matter & undissolved water
2.	Total Acid Number (mg of KOH/gr)	= Less than 0.2% by wt.
3.	Ash content	= Nil
4.	Carbon residue on 10% Residue	= Less than 0.30% by wt.
5.	Cetane Number	= To be done at Refinery end.
6.	Cetane Index	= 58.2
7.	Pour Point	= below 3^0C.
8.	Flash Point(Abel), deg. C	= 30.0 ^{0}C
9.	Density at 15^0 C	= 0.829 g/ml
10.	Kinematic viscosity at 40^0 C	= 3.2208 cSt.
11.	Sulphur Content	= Less than 50 ppm (5.53 ppm).
12.	Distillation: IBP	= 67 ^{0}C
	50% distilled at, ^{0}C	= 283 ^{0}C
	85% Recovery by vol., at ^{0}C	= 332 ^{0}C
	%Volume recovered at 360 deg. C	= more than 95% by vol.
	95% Recovery by vol., at ^{0}C	= 359 ^{0}C
13.	Cold Filter Plugging Point	= Facilility available at Refinery end only
14.	Oxidation stability	= To be done at refinery end only.
15.	Lubricity wear scan at 60° C	= Facility available at Refinery end only
16.	Fame Content	= Absent
17.	PAH % by max	= not determined as it is not an characteristic parameter.
18.	Water	= Less than 200 PPM.

The sample has been tested for all the characteristics parameters tested above & which are stringent parameters also to characterize petroleum fuels.

The sample meets all the stringent parameter of Automotive diesel fuel as mentioned in IS:1460:2025 except flash point which is 5.0 °C lower than required (decreased by means of using Lighter hydrocarbon).

The GCMS pattern of sample shows presence of lighter hydro carbons, which can not a part of Diesel fuels, as per standard refinery protocol & classification of petroleum fuels.

Minor deviation from the required values of above 01 parameter, does not effects its application as diesel fuel for Automotive purpose (IS 1460).

The sample is adulterated diesel in respect of the definition of "adulteration" as mentioned in 5.1 of marketing discipline guideline published by PSU's.

There is no specification available for industrial oil in National & International standards.

The sample also meets the specification of HFHSD (IS 16861) up to the extent of parameter tested above except, flash point which was lowered by using lighter hydrocarbons.

Sealed remnant sample returned herewith.

The sample Test report (CRCL Visakhapatnam, Lab No. 434-DRI, Test Memo No.564/2025) in respect of Bill of Entry No. 4895800 dated 04.10.2025 is reproduced below:

Lab No: 434-DRI
F.No: DRI/GRU/Int-26/2025
Test Memo No: 564/2025
B.E. No: 4895800

TEST REPORT

Date: 07.01.2026
Date: 01.11.2025
Date: 24.10.2025

Sample Received from: Intelligence officer, (DRI), Gandhidham Regional Unit. **Date:** 04.10.2025
Description of Sample: Industrial Oil (CTH 27101990)
Date of Receipt: 01.11.2025
Sample Plan: Sample not Drawn by this laboratory.
Report: The sample is in the form of pale yellow coloured oily liquid. It is mainly composed of Mineral Hydrocarbon Oils having mineral oil content more than 70 % by weight. It is having following characteristics:

1.	Appearance	= clear & bright, free from sediments, suspended matter & undissolved water
2.	Total Acid Number (mg of KOH/gr)	= Less than 0.10% by wt.
3.	Ash content	= Nil
4.	Carbon residue on 10% Residue	= Less than 0.30% by wt.
5.	Cetane Number	= To be done at Refinery end.
6.	Cetane Index	= 59.6
7.	Pour Point	= below 3^0C.
8.	Flash Point(Abel), deg. C	= 22.0 ^{0}C
9.	Density at 15^0 C	= 0.8292 g/ml
10.	Kinematic viscosity at 40^0 C	= 3.13 cSt.
11.	Sulphur Content	= Less than 50 ppm.
12.	Distillation: IBP	= 64^0C
	50% distilled at, ^{0}C	= 295^0C
	85% Recovery by vol., at ^{0}C	=344^0C
	%Volume recovered at 360 deg. C	= 94% by vol.
	95% Recovery by vol., at ^{0}C	= 366^0C
13.	Cold Filter Plugging Point	= Facility available at Refinery end only
14.	Oxidation stability	= To be done at refinery end only.
15.	Lubricity wear scan at 60° C	= Facility available at Refinery end only
16.	Fame Content	= Absent
17.	PAH % by max	= not determined as it is not an characteristic parameter.
18.	Water	= Less than 200 PPM.

Point wise reply to queries raised is as the following:

1. a) The sample is other than Kerosene (IS 1459/IS 1571), Kerosene Intermediate (IS 17793).
   b) The sample meets all the stringent parameter of Automotive Diesel Fuel not containing bio-diesel (IS 1460) except flash point (which is 13 °C lower than required (decreased by means of using Lighter hydrocarbon) and Distillation Recovery at 360 °C (which is 1% less than required 95%).
   c) The sample is other than Light Diesel Oil- LDO (IS 15770).
   d) The sample meets all the stringent parameter of HFHSD (IS:16861) except flash point (which is 44°C less than required 66°C).
2. The sample has tested for above parameters mentioned in test report, which are stringent to characterize the product.
3. The sample is most akin to Automotive Diesel Fuel not containing bio-diesel (IS 1460) and also meets the requirement of HFHSD (IS:16861).
4. There is no specification available for industrial oil in National & International standards.
5. It is non-hazardous.

Sealed remnant sample returned herewith.

The above test reports in respect of Bill of Entry No. 4890699 dated 03.10.2025 and 4895800 dated 04.10.2025 clearly establish, as the intelligence had suggested, that the importer had in fact imported restricted goods, namely

Automotive Diesel Fuel (ADF), conforming to the parameters and specifications of **IS 1460.**

11.3 As per Schedule 1 Import Policy under ITC(HS), 2022 for Chapter-27 (Mineral Fuels, Mineral Oils, etc.), import of "***Automotive Diesel Fuel (ADF) as per IS 1460***" covered under CTH 27101944, is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27. Accordingly, there being a reasonable belief that that the said goods are liable for confiscation under the provisions of Section 111 of the Customs Act, the same were placed under seizure under Section 110 of the Customs Act, 1962,

11.4 During the investigation, DRI ensured that all 21 parameters under IS 1460 were tested, as mandated by the Hon'ble Supreme Court in ***Gastrade International v. Commissioner of Customs, Kandla.***

On analyzing the comprehensive test reports of CRCL, Visakhapatnam and MRPL, a combined parameter-wise assessment was carried out for both consignments against all 21 parameters prescribed under IS 1460:2025 for Automotive Diesel Fuel. The consolidated findings are summarized in the Table below:

Table-V:

Combined Parameter-wise Summary of Test Reports (CRCL + MRPL) vs. IS 1460:2025

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4890699 (Result / Match) with IS 1460:2025	B.E. No. 4895800 (Result / Match) with IS 1460:2025	Remarks
1	Flash Point (°C)	Min. 35°C	43°C / MATCHING	~20°C / Not MATCHING	Deliberately Lowered by addition of lighter hydrocarbons For the B.E.4895800 dated 04.10.2025

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4890699 (Result / Match) with IS 1460:2025	B.E. No. 4895800 (Result / Match) with IS 1460:2025	Remarks
2	Sulphur Content (ppm)	Max. 10 ppm	6 ppm (MRPL) / MATCHING	6 ppm (MRPL) / MATCHING	Within range
3	Lubricity	Max. 460	440/ MATCHING	440/ MATCHING	Within range
4	Appearance (Visual)	Clear, bright, free from sediments, suspended matter & undissolved water	Clear & bright	Clear & bright	Within range
5	Total Acid Number (mg KOH/g)	Max. 0.20	0.04	0.04	Within range
6	Ash Content (% by mass)	Max. 0.01	<0.001	<0.001	Within range
7	Carbon Residue on 10% Residue (% by mass)	Max. 0.30	<0.1	<0.1	Within range
8	Cetane Number	Min. 51	55.2	54.5	Within range
9	Cetane Index	Min. 46	60.2	61	Within range
10	Pour Point (°C)	Max. +3°C (Winter)	-9°C	-12°C	Within range
11	Copper Strip Corrosion (3h at 50°C)	Max. Class 1	Class 1a	Class 1a	Within range
12	Distillation, 95% v/v Recovery (°C)	Max. 360°C	352.8°C	354.5°C	Within range
13	Kinematic Viscosity @40°C (mm^2/s)	2.0 – 4.5	3.293 cSt	2.913	Within range
14	Total Contamination (mg/kg)	Max. 24	12	10	Within range

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4890699 (Result / Match) with IS 1460:2025	B.E. No. 4895800 (Result / Match) with IS 1460:2025	Remarks
15	Density @15°C (kg/m³)	810 – 845	829.8	824.7	Within range
16	Water Content (mg/kg)	Max. 200	140	150	Within range
17	Cold Filter Plugging Point (CFPP) (°C)	Max. +6°C (Winter)	-3°C	-4°C	Within range
18	Oxidation Stability (min)	Min. 60 min	>60 min	>60 min	Within range
19	Polycyclic Aromatic Hydrocarbon (PAH) (% by mass)	Max. 8.0	1.2	1.2	Within range
20	FAME Content (% v/v)	Max. 7	Absent	Absent	Within range
21	Oxidation Stability (with FAME above/below 2%)	Required only if blended with biodiesel	Not applicable – FAME absent / Within range	Not applicable – FAME absent / Within range	Within range
TOTAL	**21 Parameters tested**	**—**	**21/21 Matching;**		**20/21 parameters found meeting**

11.5 The Flash Point of the imported goods was found to be less than 20°C (MRPL) / 15°C (CRCL) against the mandatory minimum of 35°C under IS 1460 for B.E. No. 4895800 dated 04.10.2025. The Custom House Laboratory, Visakhapatnam categorically concluded that the flash point was decreased by the adulteration of lighter hydrocarbons. This finding was explicitly upheld by the Hon'ble Gujarat High Court in its judgment dated 09.03.2026 on the Special Civil Application No. 16799 of 2025 filed by the Importer. The Hon'ble High court categorically recorded the following finding:

"*Thus, out of 21 parameters, the 18 parameters tested by CRCL, Visakhapatnam and MRPL, there is a clear opinion by the laboratory that the sample meets all characteristics of ADF, except the flash point, which is lowered by mixing lighter hydrocarbons*."

The intentional lowering of the flash point is a clear indicator of adulteration, undertaken to pass off Automotive Diesel Fuel. The combined reports from CRCL and MRPL conclusively established that the imported goods were in fact Automotive Diesel Fuel conforming to IS 1460:2025 and not Industrial Oil as declared.

11.5.1 In this regard, it is pertinent to refer to the definition of "adulteration" as contained in Section 2(a) of the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005 (hereinafter referred to as the "Malpractices Order, 2005"), issued by the Government of India in exercise of powers conferred by Section 3 of the Essential Commodities Act, 1955. The said provision defines "adulteration" as follows:

> *"2(a) 'adulteration' means [presence of marker in motor spirit and high speed diesel and/or] the introduction of any foreign substance into motor spirit or high speed diesel illegally or unauthorizedly with the result that the product does not conform to the requirements of the Bureau of Indian Standards specifications number IS 2796 and IS 1460 for motor spirit and high speed diesel respectively or any other requirement notified by the Central Government from time to time;*
> "

Thus, in terms of the aforesaid statutory definition, any introduction of a foreign substance into high speed diesel, illegally or without authorisation, which results in the product failing to conform to the BIS specification IS 1460, constitutes adulteration. The Hon'ble Gujarat High Court in its judgment dated 09.03.2026 expressly applied this definition and held that the lowering of the flash point through mixing of lighter hydrocarbons constituted adulteration of HFHSD within the meaning of Section 2(a) of the Malpractices Order, 2005.

11.5.2 In sum, viewed collectively, the deviations in flash point are not independent anomalies but form a coherent pattern consistent with deliberate adulteration of Automotive Diesel Fuel. The selective parameter deviations serve only to confirm that an otherwise conforming diesel product was manipulated with lighter hydrocarbons and other substances, with the deliberate design to render it non-compliant with IS 1460 specifications, so as to facilitate its illegal import as "Industrial Oil."

11.6 From the above, it is evident that the importation made by the importer is in violation of the Import Policy pertaining to CTH 27101944 and thereby it is in violation of Para 2.01 and 2.21 of the Foreign Trade Policy 2023 as extended. As per Para 2.01 of the FTP, the imports shall be free, except when regulated by way of prohibition, restriction or exclusive trading through State Trading Enterprises (STEs) as laid down in the Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports. Looking to the aforesaid facts, since the goods falling under HS Code 27101944 not being freely importable, the same would fall in the exceptional character with importation through the STEs only. As per Para 2.21 of the FTP, any goods, import of which is governed through exclusive or special privilege granted to the STEs, may be imported by the concerned STEs as per the condition specified in the ITC (HS). DGFT has however been given authority to grant an authorization to any other person to import the goods notified for exclusive trading through the STEs.

11.6.1 As per Para 11.41 of the FTP,2023, "Prohibited" indicates the import/export policy of an item, as appearing in ITC (HS) or elsewhere, whose import or export is not permitted. In the instant case, since the import of ADF classifiable under CTH 27101944 is not permitted by the entities other than STEs, the import of said goods by the private entities is prohibited.

11.6.2 As per Section 3 (2) of the FTDR Act, 1992 empowers the Central Government to issue order, making provisions for prohibiting, restricting or otherwise regulating, the import of goods. As per Section 3(3) of the FTDR Act, 1992, all goods to which the order under Section 3(2) applies shall be deemed to

be goods the imports of which has been prohibited under Section 11 of the Customs Act, 1962 and all the provisions of that Act shall have effect accordingly.

11.7 And whereas the provisions of Section 17(1) of the Customs Act, 1962 read with Section 2(2) of the Customs Act lay down onus on the importer 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 the importer has violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act, 1962.

11.8 And whereas in terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bill 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. Thus, in view of the facts discussed in the foregoing paras and material evidences available on records, it appears that M/s PAVAN INTERNATIONAL 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 restricted goods under the garb and guise of freely importable goods.

12 Role and Culpability:

12.1 Role played by M/s PAVAN INTERNATIONAL (IEC: ATBPP7155R), located at 1/34/70, T23 Shupth Aarked, Highway Road, Unjha-384170:

From the facts narrated in foregoing paras and evidences gathered during investigation, it appears that M/s PAVAN INTERNATIONAL, Unjha imported consignment covered under 4890699 dated 03.10.2025 and 4895800 dated 04.10.2025 filed at Mundra, by mis-declaring the import goods as "Industrial Oil" classified under CTH 27101990. The investigation conducted by DRI revealed that the actual goods were "***Automotive Diesel Fuel (ADF) as per IS 1460***", which is a '***Restricted***' commodity permitted for import only into India under Policy Condition No. 5 of the Customs Tariff. The inquiry further established that the importer deliberately adulterated the goods by mixing lighter hydrocarbons in order to manipulate certain parameters, thereby attempting to disguise the restricted product as Industrial Oil. This act of mis-declaration and adulteration was intended to circumvent import restrictions and facilitate the clearance of restricted goods for sale in the domestic market. Therefore, it appears that M/s PAVAN INTERNATIONAL, by filing incorrect declarations and failing to ensure proper classification of the goods, knowingly violated the provisions of Section 17(1), Section 46(4) and 46(4A) of the Customs Act, 1962 by deliberately mis-declaring and mis-classifying the imported goods with intent to import restricted goods under the garb of freely importable goods, thereby contravening the import restrictions prescribed under the Foreign Trade Policy and rendering the goods liable to confiscation under Section 111(d) and 111(m) of the Customs Act, 1962. Therefore, M/s PAVAN INTERNATIONAL have made themselves liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962. Furthermore, M/s PAVAN INTERNATIONAL have deliberately filed false and incorrect documents with the Customs Authorities, suppressing the actual nature of the goods, in order to import restricted goods, M/s PAVAN INTERNATIONAL are also liable for penalty under Section 114AA of the Customs Act, 1962.

13. Accordingly, M/s PAVAN INTERNATIONAL (IEC: ATBPP7155R), located at 1/34/70, T23 Shupth Aarked, Highway Road, Unjha-384170' were called upon to show cause in writing to **the Additional Commissioner of Customs, Custom House, Mundra**, having office situated at office of the Pr. Commissioner of Customs, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421 within 30 (thirty) days from the date of receipt of this notice, as to why:-

(i) The classification of goods covered under Bill of Entry No. 4890699 dated 03.10.2025 and 4895800 dated 04.10.2025 filed at Mundra Port, declared as 'Industrial Oil', under CTH 27101990, should not be rejected and the same should not be re-classified as 'Automotive Diesel Fuel (ADF) as per IS 1460:2025' under CTH 27101944;

(ii) The declared value of the said goods declared as 'Industrial Oil', as **Rs. 1,84,61,388/- (One Crore Eighty-Four Lakh Sixty-One Thousand Three Hundred Eighty-Eight Only**) should not be rejected in terms of Rule 12 of the CVR, 2007 and the same should not be re-determined as **Rs 2,55,54,751/- (Rupees Two Crore Fifty-Five Lakh Fifty-Four Thousand Seven Hundred Fifty-One Only),** as discussed in foregoing para;

(iii) The goods declared as 'Industrial Oil', under the Bill of Entry No. 4890699 dated 03.10.2025 and 4895800 dated 04.10.2025 filed at Mundra Port having re-determined value of Rs **2,55,54,751/- (Rupees Two Crore Fifty-Five Lakh Fifty-Four Thousand Seven Hundred Fifty-One Only)** as discussed in Table-IV, should not be held liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.

(iv) Penalty should not be imposed upon the importer under Sections 112(a), 112(b), and114AA of the Customs Act, 1962, separately.

WRITTEN SUBMISSION

14. M/s. Pavan International (IEC: ATBPP7155R) vide their letter dated 03.07.2026, submitted their written reply to the Show Cause Notice No. 79/2026-27/ADC/ZDC/MCH dated 04.06.2026. The substance of the submissions made by the Noticee, ground-wise, is as follows:

A. The Noticee submitted that the re-determination of value at Rs. 2,55,54,751/- under Rule 9 of the CVR, 2007 is a patent and incurable violation of statutory law, since the Department has relied upon the domestic invoices/pricing data of M/s. Nayara Energy Limited, an Indian refinery, dated 01.10.2025. The Noticee contended that Rule 9(2)(i) of the CVR, 2007 explicitly bars determination of value on the basis of "the selling price in India of the goods produced in India", and since Nayara Energy Limited is an Indian producer selling goods within

India, its domestic invoices are strictly inadmissible for determining the customs value of imported cargo, rendering the entire valuation structure of the SCN illegal, unauthorized and void ab initio.

B. The Noticee submitted that the SCN is built on conflicting scientific data generated by the Department's own laboratories. For Bill of Entry No. 4890699, the Noticee pointed out that Para 3.3 of the SCN reproduces the CRCL report recording a Flash Point of 30°C, whereas Table-V of the SCN lists the Flash Point for the same Bill of Entry as 43°C. Similarly, for Bill of Entry No. 4895800, Para 11.2 reproduces a CRCL Flash Point of 22.0°C, whereas Table-V lists it as ~ -20°C. The Noticee submitted that such a variance represents an entirely different class of petroleum hydrocarbon and that the Department cannot rely on self-contradictory data to sustain a charge of misdeclaration.

C. The Noticee submitted that CTH 27101944 explicitly covers "Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460," and that since the goods admittedly fail the mandatory Flash Point parameter prescribed under IS 1460:2025 (BE No. 4895800 having a Flash Point of 22°C per CRCL and ~ -20°C per Table-V, as against the department's own narrative), the goods cannot be legally classified under a tariff entry which is text-specific and requires strict conformance to a BIS standard. The Noticee submitted that the Department's own findings — by characterising the goods as "adulterated diesel" — implicitly acknowledge that the goods are not standard diesel, and that a commodity cannot be squeezed into a standard-specific entry when it fails the essential parameters of that very standard. The Noticee accordingly submitted that off-spec or non-conforming petroleum mixtures must be categorised under the residuary heading CTH 27101990, which is precisely what the Noticee had declared.

D. The Noticee submitted that the SCN proposes reclassification and a substantial enhancement of value, yet Para 13 (the operative show cause portion) fails to raise any demand for recovery of differential customs duty under Section 28 of the Customs Act, 1962, and that reclassification/revaluation cannot exist in a vacuum without a corresponding duty demand for live consignments.

E. The Noticee submitted that the CRCL Visakhapatnam test reports for both consignments explicitly record that there is no specification available for Industrial Oil in National or International standards, and that where the State itself admits the absence of an objective regulatory standard for the declared product, the Noticee cannot be accused of mis-declaring or adulterating a product having no legally defined BIS parameters.

F. The Noticee submitted that the statement of the Proprietor, Sh. Nikunj Kumar Kantilal Patel, recorded under Section 108 of the Customs Act, 1962 on 11.05.2026, is entirely exculpatory. The Proprietor stated that he had only ordered "Industrial Oil" under CTH 27101990, had no knowledge of any technical specifications involving lighter hydrocarbons, had not directed any adulteration, and that the overseas supplier, M/s. SLS Global FZE, UAE, had shipped the wrong cargo without his knowledge or consent. The Noticee submitted that the goods arrived in sealed containers from the UAE and the Noticee had no physical opportunity to adulterate them, and that a wrong shipment by an exporter does not render the importer a smuggler or attract mens rea for penalty under Sections 112 or 114AA.

G. The Noticee submitted that the Department's reliance on the judgment dated 09.03.2026 of the Hon'ble Gujarat High Court in R/Special Civil Application No. 16799 of 2025 and allied matters (including the Noticee's own SCA No. 1239 of 2026) as a final adjudication on classification is legally untenable, since the said proceedings arose under Article 226 challenging the seizure memo and seeking provisional release, and observations made by a Writ Court at the interlocutory stage do not bind the Adjudicating Authority, who must independently weigh the evidence during final statutory adjudication.

H. The Noticee submitted that the test reports are scientifically compromised on account of an inordinate and unexplained delay in testing. Samples drawn on 13/14.10.2025 were sent to CRCL Visakhapatnam and only much later forwarded to MRPL, Mangalore. The Noticee submitted that lighter hydrocarbons — which form the very basis of the adulteration allegation — are highly volatile and prone to rapid evaporation, and that the multi-month delay between sample

drawl and MRPL testing destroyed the chemical integrity of the samples, explaining the fluctuating flash point values across the reports.

I. On Confiscation and Penalty:

I.1 The Noticee submitted that Section 111(m) is attracted only where compliance details are wilfully mis-stated, and since the goods were declared strictly as per the commercial documents received from the supplier, with no concealment or manipulation in India, the goods cannot be treated as smuggled under Section 2(39).

I.2 As regards penalty, the Noticee submitted that Sections 112(a) and 112(b) require mens rea, which is wholly absent, as the Noticee acted on a bona fide belief that the supplier had shipped the ordered Industrial Oil, with no proof of any parallel instruction to the supplier to alter the product mix.

I.3 As regards Section 114AA, the Noticee submitted that the commercial invoices, bill of lading and packing list filed were genuine documents issued by the supplier and the shipping line, that the Noticee did not fabricate any document, and that a deviation in the physical state of the cargo from the documentation, attributable to an error at the loading port, cannot attract Section 114AA.

I.4 The Noticee placed reliance on *Gastrade International v. Commissioner of Customs, Kandla* (Hon'ble Supreme Court); *Union of India v. Garware Nylons Ltd.* [1992 (62) E.L.T. 11 (S.C.)]; *Century Textiles & Industries Ltd. v. Union of India*; *Commissioner of Customs v. Phoenix Plasto Chem*; *Paper Products Ltd. v. Commissioner of Central Excise* [1999 (8) TMI 701 (S.C.)]; *Venkatesan @ Venkatesh v. State* [Crl.O.P. Nos. 17889 of 2021]; *Commissioner of C. Ex., Rajkot v. Jai Bharat Steel Industry* [2005 (192) ELT 792]; *Eicher Tractors Limited v. Commissioner* [2000 (122) ELT 321]; *Akbar Badruddin Jiwani v. Collector of Customs* [1990 (47) ELT 161 (SC)]; *Sameer Santhosh Kumar Jaiswal v. Commissioner of Customs (Import-II)* [2018 (362) ELT 348 (Tri. Mumbai)]; and *Luxor Pen Company v. Collector of Customs* [1992 (57) ELT 323], in support of the above submissions.

J. The Noticee submitted that, without prejudice to its categorical submissions that the goods are rightly classifiable under CTH 27101990, the goods remain intact and under continuous Customs custody with no allegation of clandestine diversion; that the restriction under Policy Condition No. 5 of Chapter 27 is a regulatory restriction and not an absolute prohibition; that the Hon'ble Gujarat High Court vide its order dated 09.03.2026 in R/SCA No. 16799 of 2025 and allied matters directed that Customs authorities consider requests for re-export in accordance with law; and that the Noticee is facing acute financial distress on account of continuing detention, warehousing and demurrage charges since October 2025. The Noticee accordingly prayed, in the alternative, for permission to re-export the goods back to the overseas supplier or an alternate foreign buyer.

K. Prayer:

K.1 The Noticee prayed that the Show Cause Notice be dropped in its entirety, that the proposals for confiscation under Sections 111(d) and 111(m) and penalties under Sections 112(a), 112(b) and 114AA be dropped, and that, without prejudice, re-export of the goods be permitted. The Noticee also reserved the right to add, amend or alter the submissions and to file further evidence during adjudication.

PERSONAL HEARING

15. The Noticee vide their letter dated NIL enclosed in e-mail dated 09.07.2026, has submitted that they do not wish to avail the opportunity of Personal Hearing in the present matter and have further requested that the goods be permitted to be re-exported and that the matter be decided on merit on the basis of their written submissions already on record.

DISCUSSION AND FINDINGS

16. I have carefully gone through the Show Cause Notice No. 79/2026-27/ADC/ZDC/MCH dated 04.06.2026, the relied upon documents, the written submissions made by the Noticee vide letter dated 03.07.2026, and all documentary evidence available on record. The Noticee vide their letter e-mail

dated 10.07.2026, has waived their right to Personal Hearing and has requested that the matter be decided on merit on the basis of written submissions already on record. Thus, the principles of natural justice as provided in Section 122A of the Customs Act, 1962 have been duly complied with. I accordingly proceed to decide the case on the basis of facts, evidence on record and the written submissions made by the Noticee. On a careful perusal of the Show Cause Notice and case records, I find that the following main issues are involved in this case, which are required to be decided at the stage of adjudication:

(i) Whether the classification of goods covered under Bill of Entry No. 4890699 dated 03.10.2025 and 4895800 dated 04.10.2025 filed at Mundra Port, declared as 'Industrial Oil', under CTH 27101990, should not be rejected and the same should not be re-classified as 'Automotive Diesel Fuel (ADF) as per IS 1460:2025' under CTH 27101944;

(ii) Whether the declared value of the said goods declared as 'Industrial Oil', as **Rs. 1,84,61,388/-** (One Crore Eighty-Four Lakh Sixty-One Thousand Three Hundred Eighty-Eight Only) should not be rejected in terms of Rule 12 of the CVR, 2007 and the same should not be re-determined as **Rs. 2,55,54,751/-** (Rupees Two Crore Fifty-Five Lakh Fifty-Four Thousand Seven Hundred Fifty-One Only), as discussed in foregoing para;

(iii) Whether the goods declared as 'Industrial Oil', under the Bill of Entry No. 4890699 dated 03.10.2025 and 4895800 dated 04.10.2025 filed at Mundra Port having re-determined value of **Rs. 2,55,54,751/-** (Rupees Two Crore Fifty-Five Lakh Fifty-Four Thousand Seven Hundred Fifty-One Only) as discussed in Table-IV, should not be held liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962;

(iv) Whether penalty should not be imposed upon the importer under Sections 112(a), 112(b), and 114AA of the Customs Act, 1962, separately.

17. CLASSIFICATION

17.1 Regarding the first issue, I find that M/s. Pavan International filed Bill of Entry No. 4890699 dated 03.10.2025 and Bill of Entry No. 4895800 dated

04.10.2025 at Mundra Port declaring the goods as 'Industrial Oil' and classifying the same under Customs Tariff Item 27101990 ('Others' — import policy: Free). The said Bills of Entry covered a total consignment of 4,03,370 KGs (2,03,120 KGs + 2,00,250 KGs) with declared assessable value of **Rs. 1,84,61,388/-** (Rs. 92,96,384/- + Rs. 91,65,004/-), imported from M/s. SLS Global FZE, UAE, through Customs Broker M/s. Gaurav M. Jhaveri.

17.2 I find it pertinent to note that the classification of goods is governed by the General Rules for the Interpretation of the Harmonized System (GIR). The relevant rules are reproduced below:

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.

4. Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.

In terms of GIR Rule 1, Supplementary Note (e) to Chapter 27 of the Customs Tariff Act, 1975 defines "Automotive Diesel Fuel (ADF)" as any hydrocarbon oil conforming to the Indian Standards Specification IS 1460. CTH

27101944 specifically covers "Gas oil and oils obtained from bituminous minerals — Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460." Since the imported goods have been found, upon comprehensive testing by CRCL, Visakhapatnam and MRPL, to conform to the parameters of IS 1460:2025 — 21 out of 21 parameters in respect of Bill of Entry No. 4890699 and 20 out of 21 parameters in respect of Bill of Entry No. 4895800, with the sole non-conforming parameter (Flash Point) being directly attributable to deliberate adulteration with lighter hydrocarbons — the goods are correctly classifiable under CTH 27101944 in terms of GIR Rule 1 read with the Supplementary Note to Chapter 27. Further, even applying GIR Rule 4, the goods are most akin to Automotive Diesel Fuel under CTH 27101944, as has been specifically held by the Hon'ble Gujarat High Court in R/SCA No. 16799 of 2025 (order dated 09.03.2026) — which also disposed of the Noticee's own R/SCA No. 1239 of 2026 — applying the "most akin test" laid down by the Hon'ble Supreme Court in *Gastrade International v. Commissioner of Customs, Kandla*.

17.3 I find that DRI, Gandhidham put the consignment on hold vide e-mail dated 08.10.2025 and drew a panchnama dated 13/14.10.2025 at Mundra Port. Representative samples were drawn in duplicate under proper panchnama procedure from each of the 20 containers and sent to Custom House Laboratory, Visakhapatnam for testing vide Test Memo Nos. 510/2025 to 519/2025 and 556/2025 to 565/2025 dated 24.10.2025. CRCL, Visakhapatnam issued test reports vide Lab Nos. 380-DRI to 389-DRI dated 07.01.2026 (in respect of Bill of Entry No. 4890699) and Lab Nos. 426-DRI to 435-DRI dated 07.01.2026 (in respect of Bill of Entry No. 4895800). Additional samples were sent to MRPL, Mangalore vide Test Memo No. 946/2025 dated 06.03.2026 (in respect of Bill of Entry No. 4890699) and Test Memo No. 947/2025 dated 06.03.2026 (in respect of Bill of Entry No. 4895800), for testing of remaining parameters, to ensure comprehensive testing of all 21 parameters as mandated by the Hon'ble Supreme Court in *Gastrade International v. Commissioner of Customs, Kandla*. MRPL submitted its test reports vide Test Report Nos. MRPL/DRI/2026/26 and MRPL/DRI/2026/27 dated 16.04.2026.

17.4 I find that the CRCL, Visakhapatnam and MRPL, Mangalore test reports, read conjunctively as set out in Table-V of the Show Cause Notice, establish that the impugned goods conform to the specifications of Automotive Diesel Fuel (ADF) as per IS 1460:2025 in 21 out of 21 parameters tested in respect of Bill of Entry No. 4890699, and in 20 out of 21 parameters tested in respect of Bill of Entry No. 4895800. The Flash Point in respect of Bill of Entry No. 4895800 was found to be approximately 20°C against the mandatory minimum of 35°C under IS 1460:2025. Both CRCL, Visakhapatnam and MRPL have specifically noted that there is no specification available for 'Industrial Oil' in any National or International Standard. CRCL, Visakhapatnam has categorically recorded that the sample is adulterated diesel with the flash point lowered by the use of lighter hydrocarbons. The goods are therefore correctly classifiable under CTH 27101944.

17.5 I have carefully considered the submissions of the Noticee and find the same not tenable, for the following reasons:

(a) On the alleged internal contradiction between the CRCL raw test report figures and Table-V of the SCN: The Noticee has submitted that the Flash Point figures reproduced at Para 3.3/11.2 of the SCN (30°C and 22°C respectively for the two Bills of Entry, per the CRCL raw test reports) are inconsistent with the figures shown in Table-V (43°C and ~ -20°C respectively), and that this discrepancy renders the allegation of ADF speculative. I find this submission is founded on a misreading of Table-V, which sets out the combined parameter-wise comparison after considering both the CRCL, Visakhapatnam findings and the corroborative MRPL findings together, whereas Paras 3.3 and 11.2 reproduce only the illustrative CRCL report drawn from a single representative container. This does not detract from the central and undisputed finding — recorded in both the CRCL and MRPL reports and admitted by the Proprietor himself in his statement dated 11.05.2026 — that the Flash Point of the goods covered under Bill of Entry No. 4895800 is substantially below the mandatory minimum of 35°C prescribed under IS 1460:2025, attributable to deliberate adulteration by addition of lighter hydrocarbons. As regards Bill of Entry No. 4890699, the container-wise variance in Flash Point reflected in the individual CRCL reports is

consistent with non-uniform adulteration across containers, and the MRPL report — being the comprehensive analysis undertaken to test all parameters mandated by *Gastrade International* — is relied upon as the composite finding for this Bill of Entry, as reflected in Table-V of the Show Cause Notice. The submission is accordingly rejected.

(b) On the absence of a specification for 'Industrial Oil': The Noticee has relied upon the CRCL observation that no specification exists for Industrial Oil in National or International Standards to contend that no case of mis-declaration or adulteration can be made out. I find this submission not tenable. The very absence of a defined standard for 'Industrial Oil' is what necessitated the "most akin test" applied by the Hon'ble Gujarat High Court in its judgment dated 09.03.2026 — a test squarely designed for goods that do not fall within a defined standard but are, upon examination, found to correspond to the essential character of a specified, standardised product. The absence of a standard for the declared description does not immunise the Noticee from classification of the goods as per their actual, tested composition; if anything, it reinforces the correctness of the Department's reliance on the "most akin test" rather than any residual classification sought by the Noticee.

(c) On the absence of a demand under Section 28: The Noticee has submitted that the absence of a differential duty demand under Section 28 of the Customs Act, 1962 renders the reclassification and revaluation proposals unsustainable. I find this submission not tenable. The subject goods remain uncleared and under seizure; they have not been cleared for home consumption on payment of duty assessed on a mis-declared basis, and therefore no occasion for recovery of "differential" duty under Section 28 — which applies to short-levy or non-levy of duty on goods already cleared — arises in the present case. The proceedings herein concern live, un-cleared consignments, in respect of which reclassification, revaluation, confiscation and penalty are proposed and adjudicated independently of Section 28, which has no application to the facts of this case.

(d) On the reliance on the Gujarat High Court judgment being restricted to seizure proceedings: The Noticee has submitted that the judgment dated

09.03.2026 was rendered in the context of a challenge to seizure action under Article 226 and cannot be treated as a conclusive determination for the purposes of these adjudication proceedings. I find this submission not tenable. While it is correct that the Hon'ble Court was not conducting a final adjudication on classification or penalty under the Customs Act, 1962, the factual findings recorded by the Hon'ble Court regarding the nature of the goods, the categorical opinion of the laboratories, the admissibility and reliability of the CRCL, Visakhapatnam and MRPL test reports read conjunctively, the applicability of the "most akin test", and the treatment of *Gastrade International* are all findings rendered on the very same evidence that is before me in these proceedings. These findings carry significant evidential weight and I see no reason to depart from them. More importantly, the Hon'ble Court dismissed the Noticee's own Special Civil Application No. 1239 of 2026, which had challenged the seizure of this very consignment. The submission is accordingly rejected.

(e) On scientific invalidity of the test reports due to delay and sample staleness: The Noticee has submitted that the delay between the drawl of samples on 13/14.10.2025 and their subsequent testing at MRPL vitiates the reliability of the test reports on account of degradation of volatile lighter hydrocarbons. I find this submission not tenable. The CRCL, Visakhapatnam report — issued on 07.01.2026, well prior to the MRPL testing — has itself independently and categorically recorded the presence of lighter hydrocarbons and the resultant lowering of the flash point. The MRPL report merely corroborates and supplements the CRCL findings for the remaining parameters and does not form the sole basis for the adulteration finding. Any alleged evaporative loss over time would, if anything, be expected to further diminish rather than manufacture a positive finding of lighter hydrocarbon contamination; the Noticee has adduced no material to show that the delay artificially created the adulteration finding rather than merely corroborating what was already independently established by CRCL. The submission is accordingly rejected.

(f) On the absence of mens rea and the 'wrong supply' doctrine: The Noticee has relied upon the statement of the Proprietor dated 11.05.2026 to submit that the Noticee had no knowledge of the actual nature of the goods and that any

deviation is attributable solely to the overseas supplier. I find this submission not tenable for the purposes of classification, though it is separately considered below in the context of penalty. The classification of goods under the Customs Tariff is determined by the objective, tested composition of the goods actually imported, and is not contingent upon the importer's subjective belief or intention regarding what was ordered. Regardless of what the Noticee claims to have ordered, the goods that arrived and were tested are Automotive Diesel Fuel conforming to IS 1460:2025, and must be classified accordingly under CTH 27101944.

(g) On the submission that a non-conforming product cannot be classified under a conforming tariff heading: The Noticee has submitted that since the goods fail the mandatory Flash Point parameter of IS 1460:2025, they cannot be classified under CTH 27101944 and must instead fall under the residuary heading CTH 27101990. I find this submission not tenable. This very contention stands addressed and rejected by the Hon'ble Gujarat High Court in its judgment dated 09.03.2026, reproduced at Para 7.2 and 7.3 of the Show Cause Notice, wherein it has been held that the introduction of a foreign substance into diesel, resulting in failure of BIS specification IS 1460, is itself the statutory definition of "adulteration" under Section 2(a) of the Malpractices Order, 2005, and that upon application of the "most akin test", the goods declared as Industrial Oil are found to be Automotive Diesel Fuel/HFHSD. The Hon'ble Court has thus already considered and rejected the very premise of the Noticee's submission — namely, that non-conformity with one parameter precludes classification as ADF — and has held to the contrary. The submission is accordingly rejected.

17.6 In view of the above discussion and the findings of CRCL, Visakhapatnam and MRPL read conjunctively as set out in **Table-V** of the Show Cause Notice, I find that the goods imported by M/s. Pavan International under Bill of Entry No. 4890699 dated 03.10.2025 and Bill of Entry No. 4895800 dated 04.10.2025 are **Automotive Diesel Fuel (ADF) conforming to IS 1460:2025**, correctly classifiable under **CTH 27101944**. The declared classification under CTH 27101990 as 'Industrial Oil' is rejected. The submissions of the Noticee

challenging the test reports and classification are rejected for the reasons detailed above.

18. <u>VALUATION</u>

18.1 Regarding the second issue, I find that as the goods have been found to be mis-declared in respect of their description and classification, the value declared by the Noticee in Bill of Entry No. 4890699 dated 03.10.2025 and Bill of Entry No. 4895800 dated 04.10.2025 and the accompanying invoices of the overseas supplier M/s. SLS Global FZE, UAE cannot be accepted as the true transaction value under Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Since the declared description of the goods is itself false, the invoice price premised on such false description cannot represent the authentic transaction value of the goods. Accordingly, I find that the declared value of **Rs. 1,84,61,388/-** is liable to be rejected under Rule 12 of the CVR, 2007.

18.2 I have carefully considered the Noticee's submission that Rule 9(2)(i) of the CVR, 2007 bars reliance on the Nayara Energy price, being the domestic selling price in India of goods produced in India. Since the invoice itself is based on a false description of the goods as 'Industrial Oil', the invoice price cannot represent the authentic transaction value of ADF (CTH 27101944), and is accordingly not a valid transaction value under Rule 3. As ADF is a restricted, canalized commodity importable only through State Trading Enterprises under Policy Condition No. 5 of Chapter 27, no comparable import transaction data of identical or similar goods exists in India, rendering Rules 4 to 8 of the CVR, 2007 inapplicable. In the absence of any other quantifiable data on record, and in the peculiar facts of a canalized commodity with no freely traded import price, resort to the nearest available and most proximate domestic commercial indicator — namely, the prevailing ex-refinery price of ADF published by Nayara Energy Limited for the relevant period, with appropriate density conversion — is the only reasonable means available consistent with the mandate of Rule 9(1) of the CVR, 2007 to arrive at an objective and quantifiable value, and does not offend the object of Rule 9(2)(i), which is to prevent resort to arbitrary domestic retail comparisons in the ordinary course of trade rather than to preclude any

workable method of valuation for a restricted commodity that would otherwise remain unvalued. The Noticee's valuation submissions are accordingly rejected.

For re-determination of assessable value under Rule 9 of CVR, 2007, the methodology adopted is as follows:

Particulars	**BE 4890699 dated 03.10.2025**	**BE 4895800 dated 04.10.2025**
ADF Market Price (Nayara Energy, 01.10.2025)	Rs. 52,541.75 per KL	Rs. 52,541.75 per KL
Imported Quantity (KGs)	2,03,120	2,00,250
Average Density (as per CRCL Visakhapatnam)	0.829 g/ml	0.8297 g/ml
Volume equivalent (KL)	486.37	
Re-determined Value	Rs. 1,28,73,679/-	Rs. 1,26,81,072/-
Total Re-determined Value	**Rs. 2,55,54,751/-**	

The prevailing market price of ADF as per invoice of M/s. Nayara Energy Limited for the 1st week of October 2025 has been taken as the benchmark at Rs. 52,541.75 per KL. The imported quantity of 4,03,370 KGs (2,03,120 KGs + 2,00,250 KGs), using the average densities of 0.829 g/ml and 0.8297 g/ml respectively as reported by CRCL, Visakhapatnam, works out to 486.37 KL in aggregate volume terms, as recorded at Para 10.4 of the Show Cause Notice. The re-determined assessable value accordingly works out to Rs. 1,28,73,679/- and Rs. 1,26,81,072/- respectively, aggregating to **Rs. 2,55,54,751/-**, as set out in Table-IV of the Show Cause Notice.

18.3 I accordingly hold that the declared value of **Rs. 1,84,61,388/-** (Rupees One Crore Eighty-Four Lakh Sixty-One Thousand Three Hundred Eighty-Eight Only) is rejected under Rule 12 of CVR, 2007, and the assessable value is re-determined at **Rs. 2,55,54,751/-** (Rupees Two Crore Fifty-Five Lakh Fifty-Four Thousand Seven Hundred Fifty-One Only) under Rule 9 of CVR, 2007, as discussed in the foregoing paras.

19. <u>CONFISCATION</u>

19.1 Regarding the third issue, I find that the Show Cause Notice has proposed confiscation of the impugned goods under Sections 111(d) and 111(m) of the Customs Act, 1962. The relevant provisions read as under:

> *"(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;"*
>
> *"(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77."*

19.2 I find that M/s. Pavan International declared the goods as 'Industrial Oil' under CTH 27101990 in Bill of Entry No. 4890699 dated 03.10.2025 and Bill of Entry No. 4895800 dated 04.10.2025. Upon testing by CRCL, Visakhapatnam and MRPL, Mangalore, the goods were found to be Automotive Diesel Fuel (ADF) conforming to IS 1460:2025, classifiable under CTH 27101944, a restricted commodity importable only by State Trading Enterprises under Policy Condition No. 5 of Chapter 27 of ITC(HS) 2022. The said Policy Condition No. 5 reads as under:

> *"Import allowed through IOC subject to Para 2.21 of the Foreign Trade Policy, except for 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."*
>
> From above, it is seen that import of restricted goods is allowed subject to Para 2.21 of Foreign Trade Policy and the same is reproduced below:
>
> *"2.21 State Trading Enterprises (STEs)*
>
> *(a) State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and/or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading*

Enterprise (STE), may be imported or exported by the concerned STE as per conditions specified in ITC (HS). The list of STEs notified by DGFT is in Appendix-2J.

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

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

19.3 M/s. Pavan International (IEC: ATBPP7155R), Unjha, Gujarat, is neither a State Trading Enterprise nor does it possess any authorisation from DGFT for import of ADF. The import of ADF by a non-STE entity in violation of Policy Condition No. 5 of Chapter 27 of ITC(HS) 2022 renders the goods liable for confiscation under Section 111(d) of the Customs Act, 1962.

19.4 Further, the goods declared as 'Industrial Oil' under CTH 27101990 in the Bills of Entry do not correspond with the actual goods found on testing i.e. ADF conforming to IS 1460:2025 (CTH 27101944). The description, classification, import policy status and value in the Bills of Entry are completely at variance with the actual nature of the goods. The goods are therefore also liable for confiscation under Section 111(m) of the Customs Act, 1962.

19.5 Accordingly, I find that the imported goods covered under Bill of Entry No. 4890699 dated 03.10.2025 and Bill of Entry No. 4895800 dated 04.10.2025, namely 4,03,370 KGs of Automotive Diesel Fuel (ADF) conforming to IS 1460:2025, having re-determined assessable value of **Rs. 2,55,54,751/-** (Rupees Two Crore Fifty-Five Lakh Fifty-Four Thousand Seven Hundred Fifty-One Only),

seized vide Seizure Memorandum dated 13.01.2026, are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962.

19.6 As I have already held the goods liable for confiscation under Section 111 of the Customs Act, 1962, I find it necessary to consider as to whether redemption fine under Section 125 of the Customs Act, 1962 should be imposed in lieu of confiscation. Section 125 ibid reads as under:

> *"Section 125. Option to pay fine in lieu of confiscation. — (1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

19.7 A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. In the present case, M/s. Pavan International vide their written submissions dated 03.07.2026, reiterated vide e-mail dated 10.07.2026, have specifically prayed for permission to re-export the goods to the overseas supplier. The goods have remained under Customs control at Mundra Port and have not been cleared for home consumption.

19.8 I find that import of Automotive Diesel Fuel (CTH 27101944) is canalized through State Trading Enterprises and requires authorisation under Policy Condition No. 5 of Chapter 27 of the ITC(HS), which the Noticee admittedly does not possess. The infirmity in the present case lies in the Noticee's failure to comply with the prescribed statutory conditions. In the absence of fulfilment of these conditions, the goods cannot be permitted to be cleared into the domestic market.

19.9 I further observe that ordering confiscation without allowance for re-export would not serve any meaningful revenue purpose. Such a course would only result in unnecessary litigation and prolonged detention of containers at the port without yielding any revenue to the Government. The goods in question are not

per se banned items; rather, their import is regulated and conditional. The confiscation ordered herein is a legal consequence of non-fulfilment of statutory conditions and absence of requisite authorisation. I also note that the Hon'ble Gujarat High Court in its order dated 09.03.2026 in R/SCA No. 16799 of 2025 and connected matters (para 56) clarified that *"in case the petitioners file an application for re-export of goods, the DRI shall consider the same, and pass appropriate orders on such application"*, thus recognising the option of re-export as a legitimate course of action.

19.10 In view of the above, I am of the considered view that the ends of justice would be met by allowing redemption of the subject goods for the limited purpose of re-export. Imposition of redemption fine along with penalty is sufficient to address the violation and convey a clear deterrent message to similarly placed importers. Therefore, exercising powers under Section 125 of the Customs Act, 1962, I deem it appropriate to allow the Noticee an option to redeem the goods for the limited purpose of re-export on payment of redemption fine under Section 125 of the Customs Act, 1962.

20. <u>PENALTY ON M/s. PAVAN INTERNATIONAL</u>:

20.1 Regarding the fourth issue, I find that Section 112(a) of the Customs Act, 1962 provides for imposition of penalty upon any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, in the case of goods in respect of which any prohibition is in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is greater. I have held above that the goods are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. M/s. Pavan International, by filing Bills of Entry with incorrect description and classification of restricted goods as freely importable 'Industrial Oil', has clearly rendered the goods liable to confiscation under Section 111 and has thereby rendered itself liable to penalty under **Section 112(a)(i)** of the Customs Act, 1962.

I further find that imposition of penalty simultaneously under both Section 112(a) and Section 112(b) of the Act would amount to double penalty for the

same act, which is not warranted. I therefore refrain from imposing penalty under Section 112(b) of the Act.

20.2 The Noticee has submitted that no mens rea has been established and that the goods were bonafidely imported on the basis of supplier documents, attributing the entire deviation to a "wrong supply" by the overseas supplier. I find these submissions not tenable in the facts of the present case, for the following reasons:

(i) 'Industrial Oil' is not a recognised product under any Indian or International Standard, as categorically noted by both CRCL, Visakhapatnam and MRPL. There is no IS/ASTM/ISO/EN specification for 'Industrial Oil'. An importer dealing in a residual, undefined description over two separate consignments, sourced from the same overseas supplier, cannot credibly claim ignorance of the basic classification requirements and import policy restrictions applicable to diesel fuel.

(ii) Sh. Nikunj Kumar Kantilal Patel, Proprietor of M/s. Pavan International, in his statement dated 11.05.2026, when shown the CRCL, Visakhapatnam and MRPL test reports, admitted having seen and signed the same, admitted that the goods meet the parameters of Automotive Diesel Fuel, and further stated, when asked with reference to the judgment dated 09.03.2026 of the Hon'ble Gujarat High Court, that he respects the verdict and acknowledges that the goods are ADF as per the test reports. A person who admits, upon confrontation with the test reports and the binding judicial precedent, that the goods are ADF — a restricted commodity — cannot simultaneously claim to have bonafidely imported the same goods under the guise of freely importable 'Industrial Oil'.

(iii) I further find that the provisions of Section 17(1) of the Customs Act, 1962 read with Section 2(2) lay down the onus on the importer to determine classification correctly by way of self-assessment, and Section 46(4)/46(4A) require the importer to certify the truth of the Bill of Entry and ensure compliance with restrictions. The admissions of the Proprietor recorded above, at (ii), having been made during the course of investigation itself — well before adjudication — confirm that the Noticee was aware of the true nature of the

goods and nonetheless persisted in seeking clearance/re-export on the premise of the original mis-declaration, reinforcing the contravention of Sections 46(4) and 46(4A) and the absence of bona fides claimed by the Noticee.

(iv) The Noticee's own statement that he is not aware of any technical specifications of Industrial Oil and merely instructed the supplier to provide "Industrial Oil classifiable under CTH 27101990" without ascertaining any defined parameters is precisely the modus operandi of importing restricted petroleum products under a residual category that has no defined specification, so as to evade the import restrictions applicable to the actual goods. The recurrence of the identical description across two separate Bills of Entry, both testing positive for ADF with the identical adulteration pattern (lowered flash point through lighter hydrocarbons), is inconsistent with a one-off, unintended "wrong supply" and is indicative of a consistent and deliberate design. The Noticee cannot derive any benefit from his own stated ignorance about the specifications of goods he is importing and trading.

20.3 As regards penalty under Section 114AA of the Customs Act, 1962, I find that the said provision provides for penalty upon any person who 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. In the present case, the Bills of Entry filed under Section 46 of the Customs Act, 1962 declared the goods as 'Industrial Oil' under CTH 27101990, whereas the actual goods are Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 under CTH 27101944, as conclusively established by CRCL, Visakhapatnam and MRPL. The documents submitted by the Noticee — commercial invoice, packing list and bill of lading of the overseas supplier M/s. SLS Global FZE, UAE — all described the goods as 'Industrial Oil', whereas the actual goods were ADF, a restricted commodity. These declarations and documents are false and incorrect in material particulars. In view of the Noticee's admitted acknowledgment of the test results and the judicial findings, the recurrence of the identical mis-declaration across two Bills of Entry, and the categorical laboratory findings, I find that the false declarations were made knowingly and intentionally with the deliberate design to

import restricted ADF under the guise of freely importable Industrial Oil. I accordingly reject the Noticee's submissions on mens rea and find that M/s. Pavan International is liable for penalty under **Section 114AA** of the Customs Act, 1962.

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

ORDER

(i) I reject the classification of goods covered under Bill of Entry No. 4890699 dated 03.10.2025 and Bill of Entry No. 4895800 dated 04.10.2025, declared as 'Industrial Oil' under Customs Tariff Item 27101990, and re-classify the same as 'Automotive Diesel Fuel (ADF) conforming to IS 1460:2025' under Customs Tariff Item 27101944;

(ii) I reject the declared assessable value of **Rs. 1,84,61,388/-** (Rupees One Crore Eighty-Four Lakh Sixty-One Thousand Three Hundred Eighty-Eight Only) under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determine the same as **Rs. 2,55,54,751/-** (Rupees Two Crore Fifty-Five Lakh Fifty-Four Thousand Seven Hundred Fifty-One Only) under Rule 9 of CVR, 2007, read with Section 14 of the Customs Act, 1962;

(iii) I order to confiscate the impugned goods i.e. 4,03,370 KGs of Automotive Diesel Fuel (ADF) conforming to IS 1460:2025, imported by M/s. Pavan International under Bill of Entry No. 4890699 dated 03.10.2025 and Bill of Entry No. 4895800 dated 04.10.2025, having re-determined assessable value of **Rs. 2,55,54,751/-** (Rupees Two Crore Fifty-Five Lakh Fifty-Four Thousand Seven Hundred Fifty-One Only), under Sections 111(d) and 111(m) of the Customs Act, 1962. However, I give an option to M/s. Pavan International to redeem the said goods only for **re-export** under Section 125(1) of the Customs Act, 1962, on payment of Redemption Fine of **Rs. 25,00,000/- (Rupees Twenty Five Lakh Only)**;

(iv) I impose a penalty of **Rs. 12,50,000/- (Rupees Twelve Lakh Fifty Thousand Only)** on M/s. Pavan International under **Section 112(a)(i)** of the Customs Act, 1962;

(v) I impose a penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on M/s. Pavan International under **Section 114AA** of the Customs Act, 1962.

22. This order is issued without prejudice to any other action that may be taken against the Noticee or any other person under the provisions of the Customs Act, 1962 or rules made thereunder, or under the Foreign Trade (Development and Regulation) Act, 1992 or any other law for the time being in force.

23. Show Cause Notice No. 79/2026-27/ADC/ZDC/MCH dated 04.06.2026 stands disposed of on the above terms.

Digitally signed by Dipakbhai Zala
Date: 24-07-2026 18:21:10

(Dipak Zala)
Additional Commissioner of Customs,
Custom House, Mundra.

List of Noticees

To,

M/s. Pavan International (IEC: ATBPP7155R)
Prop. Sh. Nikunj Kumar Kantilal Patel
1/34/70, T-23 Shupth Aarked, Highway Road,
Unjha, Gujarat – 384170
(Email: pavaninternational2024@gmail.com)

Copy to:

1. The Deputy Director, DRI, Gandhidham Regional Unit, Gandhidham
2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra

3. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra
4. The Deputy/Assistant Commissioner of Customs, Group-I, Custom House, Mundra