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
E-mail id- adj-mundra@gov.in

A	**FILE NO.** फ़ाइल संख्या	GEN/ADJ/ADC/ 536/2025-Adjn-O/o Pr. Commr- Cus-Mundra
B	**OIO NO.** आदेश संख्या	MCH/ZDC/ADC/137/2026-27
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	27.05.2026
E	**DATE OF ISSUE** जारी करने की तिथि	27.05.2026
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	VIII/48-04/ADJ/ADC/MCH/2024-25-Adjn-O/o Pr Commr-Cus-Mundra dated 13.02.2025
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	**(i)** M/s. Shree Ram Trading(IEC-ASKPP1389F) **(ii)** M/s Airtrax Freight Logistics. **(iii)** Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics
H	**DIN/**दस्तावेज़ पहचान संख्या	**20260571MO0000777C66**

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 A 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 128A 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), MUNDRA
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

Intelligence was gathered by the Directorate of Revenue Intelligence (DRI), Noida Regional Unit suggested that M/s Shree Ram Trading IEC-ASKPP1389F) 1sT Floor, Office no. 111, Kutch Platinum Arcade, survey no. 234-1 235, Mithi Rohar Branch Post Office, Mithirohar, Kachchh, Gujarat, 370240(hereinafter referred to as the *"importer"* or *"Shree Ram Trading"*) were importing restricted products falling under Customs Tariff Heading (CTH) 2710 which as per the import policy can be imported by State Trading Enterprises (STEs) only. All goods, import of which is permitted only with an Authorisation/Permission/License or in accordance with the procedure prescribed in a notification/public notice are 'Restricted' goods. Restricted items are importable under certain conditions with the necessary approvals from the relevant Competent Authority. According to the intelligence, the said entities were resorting to the said illicit import by mis-declaring the consignments as "Mixed Hydrocarbon Oil (MHO)" and mis-classifying them under Customs Tariff Item (CTI) 27101990 wherein the import policy is "Free". Therefore, 04 containers covered under 01 Bill of Entry,

pertaining to the Importer were put on hold by DRI Noida Regional Unit (hereinafter referred to as "DRI") on 15.02.2024 for examination by officers of DRI. Further,30 containers covered under two Bills of Entry were again put on hold by DRI on 27.02.2024 The details of the containers are given as below:

TABLE-A

Sl. No.	BE Number	BE date	Name of the Importer	Container Number	CHA
1.	2014315	06/02/24	SHREE RAM TRADING	CAIU2772221	AIRTRAX FREIGHT LOGISTICS
2.	2014315	06/02/24	SHREE RAM TRADING	CAIU6733748	AIRTRAX FREIGHT LOGISTICS
3.	2014315	06/02/24	SHREE RAM TRADING	CAIU6860070	AIRTRAX FREIGHT LOGISTICS
4.	2014315	06/02/24	SHREE RAM TRADING	FBIU0378067	AIRTRAX FREIGHT LOGISTICS
5.	2239931	21/02/24	SHREE RAM TRADING	ASLU5009320	AIRTRAX FREIGHT LOGISTICS
6.	2239931	21/02/24	SHREE RAM TRADING	ASLU5000209	AIRTRAX FREIGHT LOGISTICS
7.	2239931	21/02/24	SHREE RAM TRADING	ASLU5002602	AIRTRAX FREIGHT LOGISTICS
8.	2239931	21/02/24	SHREE RAM TRADING	ASLU5008853	AIRTRAX FREIGHT LOGISTICS
9.	2239931	21/02/24	SHREE RAM TRADING	ASLU5009438	AIRTRAX FREIGHT LOGISTICS
10.	2239931	21/02/24	SHREE RAM TRADING	ASLU5010589	AIRTRAX FREIGHT LOGISTICS
11.	2239931	21/02/24	SHREE RAM TRADING	ASLU5011477	AIRTRAX FREIGHT LOGISTICS
12.	2239931	21/02/24	SHREE RAM TRADING	ASLU5013079	AIRTRAX FREIGHT LOGISTICS
13.	2239931	21/02/24	SHREE RAM TRADING	ASLU5019821	AIRTRAX FREIGHT LOGISTICS
14.	2239931	21/02/24	SHREE RAM TRADING	ASLU5024685	AIRTRAX FREIGHT LOGISTICS
15.	2239931	21/02/24	SHREE RAM TRADING	ASLU5024767	AIRTRAX FREIGHT LOGISTICS

16.	2239931	21/02/24	SHREE RAM TRADING	ASLU5025911	AIRTRAX FREIGHT LOGISTICS
17.	2239931	21/02/24	SHREE RAM TRADING	ASLU5036665	AIRTRAX FREIGHT LOGISTICS
18.	2239931	21/02/24	SHREE RAM TRADING	ASLU5041358	AIRTRAX FREIGHT LOGISTICS
19.	2239931	21/02/24	SHREE RAM TRADING	ASLU5042689	AIRTRAX FREIGHT LOGISTICS
20.	2239931	21/02/24	SHREE RAM TRADING	ASLU5057591	AIRTRAX FREIGHT LOGISTICS
21.	2239931	21/02/24	SHREE RAM TRADING	FORU1507427	AIRTRAX FREIGHT LOGISTICS
22.	2239931	21/02/24	SHREE RAM TRADING	IPXU2114234	AIRTRAX FREIGHT LOGISTICS
23.	2239931	21/02/24	SHREE RAM TRADING	TRDU7719731	AIRTRAX FREIGHT LOGISTICS
24.	2239931	21/02/24	SHREE RAM TRADING	TRDU8649428	AIRTRAX FREIGHT LOGISTICS
25.	2240118	21/02/24	SHREE RAM TRADING	CAXU6457169	AIRTRAX FREIGHT LOGISTICS
26.	2240118	21/02/24	SHREE RAM TRADING	FTAU1252922	AIRTRAX FREIGHT LOGISTICS
27.	2240118	21/02/24	SHREE RAM TRADING	GLDU9934581	AIRTRAX FREIGHT LOGISTICS
28.	2240118	21/02/24	SHREE RAM TRADING	MEDU1976725	AIRTRAX FREIGHT LOGISTICS
29.	2240118	21/02/24	SHREE RAM TRADING	MSCU3485350	AIRTRAX FREIGHT LOGISTICS
30.	2240118	21/02/24	SHREE RAM TRADING	MSDU1369190	AIRTRAX FREIGHT LOGISTICS
31.	2240118	21/02/24	SHREE RAM TRADING	MSMU1856575	AIRTRAX FREIGHT LOGISTICS
32.	2240118	21/02/24	SHREE RAM TRADING	MSMU2953965	AIRTRAX FREIGHT LOGISTICS
33.	2240118	21/02/24	SHREE RAM TRADING	SEGU2956859	AIRTRAX FREIGHT LOGISTICS
34.	2240118	21/02/24	SHREE RAM TRADING	TGBU2597375	AIRTRAX FREIGHT LOGISTICS

2. Thereafter, the said containers covered under the above-mentioned 3 Bills of Entry were subjected to examination on 12.03.2024 and 13.03.2024 in the presence of the following persons/representatives detailed below:

TABLE-B

S.No	Bill Of Entry No	No Of container	Examination date	CHA/ Authorised Representative	Container Freight Station	Representative of CFS
1	2239931 Dt. 21/02/2024	20	12.03.2024	Shri Uttam Kumar Shahi - Authorised Representative of M/s Airtrax Freight Logistics,	Mundra, CFS	Shri Gurpreet Singh, Sr Manager (Operations) of Mundra, CFS
2	2240118 Dt. 21/02/2024	10	13.03.2024		Hind Terminal Pvt Ltd (HTPL) CFS	Shri UreshDawada, Sr Executive of Hind Terminal Pvt Ltd (HTPL) CFS
3	2014315 Dt. 06.02.2024	04	13.03.2024		Saurashtra, CFS	Shri Radheshyam Gupta,Sr Executive of Saurashtra, CFS

2.(i) Whereas, during the examination, Shri Uttam Kumar Shahi - Authorised Representative of M/s Airtrax Freight Logistics provided the relevant documents viz Bills of Entry along with the corresponding Invoice and packing list chemical analysis reports. The details of the consignments as per the documents provided are detailed as under:

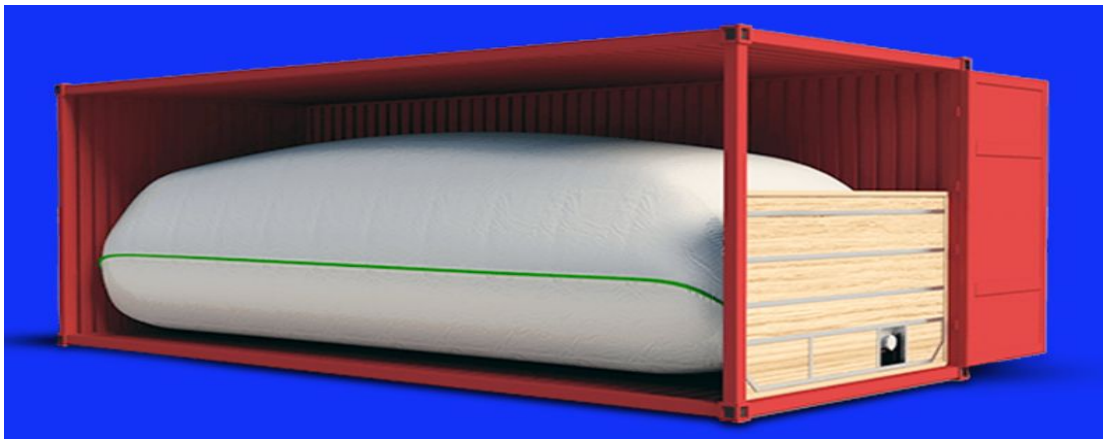
S.No	Bill Of Entry No	Goods Description (as per Bill of Entry)	Name of the Supplier (as per Bill of Entry)	Chapter Heading (as per BOE)	Ass. Value (In Rupees)	Gross Weight (KGs)
1	2239931 Dt. 21/02/2024	Mixed Hydrocarbon Oil	M/s Arman International FZE	27101990	1,59,33,340	374370
2	2240118 Dt. 21/02/2024		M/s Al Madina Dualiun Fz-llc		80,46,258	188845
3	2014315 Dt. 06.02.2024				29,63,857	69585
TOTAL					**0**	**0**

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





(Pictures of the flexibag containers in the consignment)



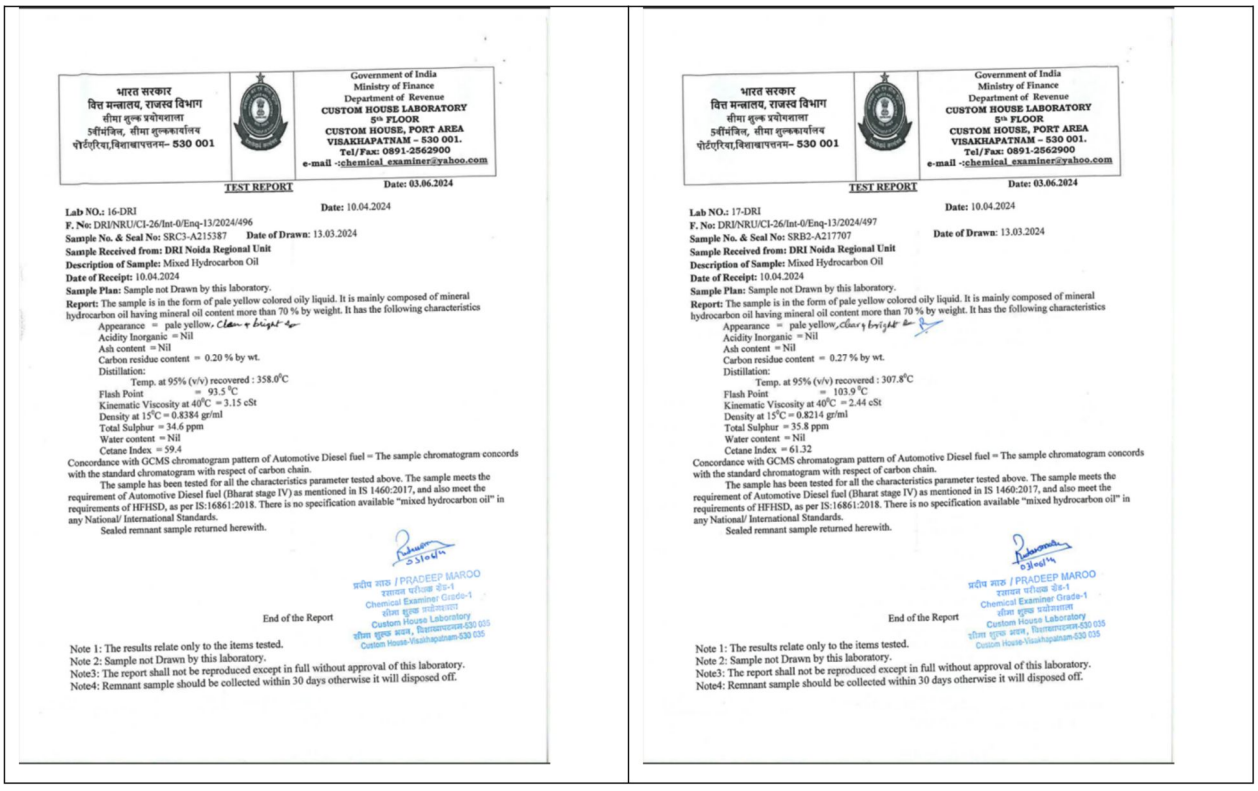
(Graphical representation of a Flexi bag container- picture taken from open source)

2(iii). Representative samples were drawn from one randomly selected container per Bill of Entry. After collecting the samples, the DRI Officer resealed the container with the bottle seal provided by the custodian. The proceedings were documented in panchnamas dated12.03.2024 and 13.03.2024.

3. Samples were then sent to the lab of CRCL, Vizag for the testing purpose and identification of the goods comprising the consignment. The details of the samples sent to the CRCL Lab are as detailed below:

S.No	Bill of Entry No and date	Sample No
1	2239931 Dt. 21/02/2024	SRA1- A217681
2	2240118 Dt. 21/02/2024	SRC3- A215387
3	2014315 Dt. 06.02.2024	SRB2-A217707

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



भारत सरकार
वित्त मन्त्रालय, राजस्व विभाग
सीमा शुल्क प्रयोगशाला
ईवीभिवि, सीमा शुल्ककार्यालय
पोर्टएरिया,विशाखापत्तनम- 530 001

Government of India
Ministry of Finance
Department of Revenue
CUSTOM HOUSE LABORATORY
5th FLOOR
CUSTOM HOUSE, PORT AREA
VISAKHAPATNAM – 530 001.
Tel/Fax: 0891-2562900
e-mail -chemical_examiner@yahoo.com

TEST REPORT Date: 03.06.2024

Lab NO.: 16-DRI Date: 10.04.2024
F. No: DRI/NRU/CI-26/Int-0/Enq-13/2024/496
Sample No. & Seal No: SRC3-A215387 Date of Drawn: 13.03.2024
Sample Received from: DRI Noida Regional Unit
Description of Sample: Mixed Hydrocarbon Oil
Date of Receipt: 10.04.2024
Sample Plan: Sample not Drawn by this laboratory.
Report: The sample is in the form of pale yellow colored oily liquid. It is mainly composed of mineral hydrocarbon oil having mineral oil content more than 70 % by weight. It has the following characteristics

Appearance = pale yellow, Clear & bright
Acidity Inorganic = Nil
Ash content = Nil
Carbon residue content = 0.20 % by wt.
Distillation:
Temp. at 95% (v/v) recovered : 358.0°C
= 93.5 °C
Flash Point
Kinematic Viscosity at 40°C = 3.15 cSt
Density at 15°C = 0.8384 gr/ml
Total Sulphur = 34.6 ppm
Water content = Nil
Cetane Index = 59.4

Concordance with GCMS chromatogram pattern of Automotive Diesel fuel = The sample chromatogram concords with the standard chromatogram with respect of carbon chain.
The sample has been tested for all the characteristics parameter tested above. The sample meets the requirement of Automotive Diesel fuel (Bharat stage IV) as mentioned in IS 1460:2017, and also meet the requirements of HFHSD, as per IS:16861:2018. There is no specification available "mixed hydrocarbon oil" in any National/ International Standards.
Sealed remnant sample returned herewith.

End of the Report

प्रदीप मारु / PRADEEP MAROO
रसायन परीक्षक ग्रेड-1
Chemical Examiner Grade-1
सीमा शुल्क प्रयोगशाला
Custom House Laboratory
सीमा शुल्क भवन, विशाखापत्तनम-530 035
Custom House-Visakhapatnam-530 035

Note 1: The results relate only to the items tested.
Note 2: Sample not Drawn by this laboratory.
Note3: The report shall not be reproduced except in full without approval of this laboratory.
Note4: Remnant sample should be collected within 30 days otherwise it will disposed off.

भारत सरकार
वित्त मन्त्रालय, राजस्व विभाग
सीमा शुल्क प्रयोगशाला
ईवीभिवि, सीमा शुल्ककार्यालय
पोर्टएरिया,विशाखापत्तनम- 530 001

Government of India
Ministry of Finance
Department of Revenue
CUSTOM HOUSE LABORATORY
5th FLOOR
CUSTOM HOUSE, PORT AREA
VISAKHAPATNAM – 530 001.
Tel/Fax: 0891-2562900
e-mail -chemical_examiner@yahoo.com

TEST REPORT Date: 03.06.2024

Lab NO.: 17-DRI Date: 10.04.2024
F. No: DRI/NRU/CI-26/Int-0/Enq-13/2024/497
Sample No. & Seal No: SRB2-A217707 Date of Drawn: 13.03.2024
Sample Received from: DRI Noida Regional Unit
Description of Sample: Mixed Hydrocarbon Oil
Date of Receipt: 10.04.2024
Sample Plan: Sample not Drawn by this laboratory.
Report: The sample is in the form of pale yellow colored oily liquid. It is mainly composed of mineral hydrocarbon oil having mineral oil content more than 70 % by weight. It has the following characteristics

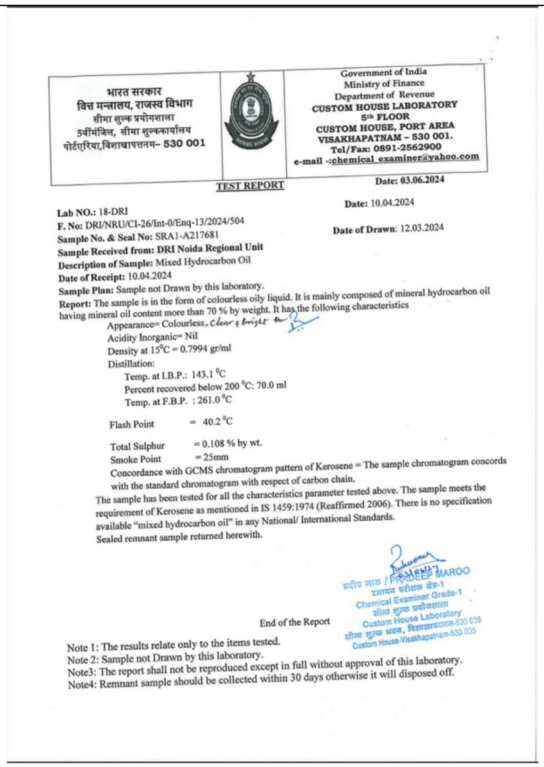
Appearance = pale yellow, Clear & bright
Acidity Inorganic = Nil
Ash content = Nil
Carbon residue content = 0.27 % by wt.
Distillation:
Temp. at 95% (v/v) recovered : 307.8°C
= 103.9 °C
Flash Point
Kinematic Viscosity at 40°C = 2.44 cSt
Density at 15°C = 0.8214 gr/ml
Total Sulphur = 35.8 ppm
Water content = Nil
Cetane Index = 61.32

Concordance with GCMS chromatogram pattern of Automotive Diesel fuel = The sample chromatogram concords with the standard chromatogram with respect of carbon chain.
The sample has been tested for all the characteristics parameter tested above. The sample meets the requirement of Automotive Diesel fuel (Bharat stage IV) as mentioned in IS 1460:2017, and also meet the requirements of HFHSD, as per IS:16861:2018. There is no specification available "mixed hydrocarbon oil" in any National/ International Standards.
Sealed remnant sample returned herewith.

End of the Report

प्रदीप मारु / PRADEEP MAROO
रसायन परीक्षक ग्रेड-1
Chemical Examiner Grade-1
सीमा शुल्क प्रयोगशाला
Custom House Laboratory
सीमा शुल्क भवन, विशाखापत्तनम-530 035
Custom House-Visakhapatnam-530 035

Note 1: The results relate only to the items tested.
Note 2: Sample not Drawn by this laboratory.
Note3: The report shall not be reproduced except in full without approval of this laboratory.
Note4: Remnant sample should be collected within 30 days otherwise it will disposed off.



भारत सरकार
वित्त मन्त्रालय, राजस्व विभाग
सीमा शुल्क प्रयोगशाला
ऽबींमंजिल, सीमा शुल्ककार्यालय
पोर्टएरिया,विशाखापत्तनम- 530 001

Government of India
Ministry of Finance
Department of Revenue
CUSTOM HOUSE LABORATORY
5th FLOOR
CUSTOM HOUSE, PORT AREA
VISAKHAPATNAM – 530 001.
Tel/Fax: 0891-2562900
e-mail -chemical_examiner@yahoo.com

TEST REPORT

Date: 03.06.2024

Lab NO.: 18-DRI
F. No: DRI/NRU/CI-26/Int-0/Enq-13/2024/504
Sample No. & Seal No: SRA1-A217681
Sample Received from: DRI Noida Regional Unit
Description of Sample: Mixed Hydrocarbon Oil
Date of Receipt: 10.04.2024

Date: 10.04.2024

Date of Drawn: 12.03.2024

Sample Plan: Sample not Drawn by this laboratory.
Report: The sample is in the form of colourless oily liquid. It is mainly composed of mineral hydrocarbon oil having mineral oil content more than 70 % by weight. It has the following characteristics

Appearance= Colourless, Clear & bright
Acidity Inorganic= Nil
Density at 15°C = 0.7994 gr/ml
Distillation:
Temp. at I.B.P.: 143.1 °C
Percent recovered below 200 °C: 70.0 ml
Temp. at F.B.P. : 261.0 °C

Flash Point = 40.2 °C

Total Sulphur = 0.108 % by wt.
Smoke Point = 25mm
Concordance with GCMS chromatogram pattern of Kerosene = The sample chromatogram concords with the standard chromatogram with respect of carbon chain.

The sample has been tested for all the characteristics parameter tested above. The sample meets the requirement of Kerosene as mentioned in IS 1459:1974 (Reaffirmed 2006). There is no specification available "mixed hydrocarbon oil" in any National/ International Standards.
Sealed remnant sample returned herewith.

Chemical Examiner Grade-1
Custom House Laboratory
Custom House-Visakhapatnam-530 035

End of the Report

Note 1: The results relate only to the items tested.
Note 2: Sample not Drawn by this laboratory.
Note3: The report shall not be reproduced except in full without approval of this laboratory.
Note4: Remnant sample should be collected within 30 days otherwise it will disposed off.

5(a) And whereas the parameters of the Test Reports suggested that the goods being imported in the said containers of Bills of Entry 2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024 meets the requirements of both Automotive Diesel Fuel conforming to standard IS 1460 and High Flash High Speed Diesel conforming to IS 16861. The containers under Bill of Entry 2239931 dated 21.02.2024 meets the requirement of Kerosene conforming to standard IS 1459.

5.(b) As per Customs Tariff Act it appears that the goods imported Bills of Entry 2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024 are classifiable under two different CTIs- i.e. 27101944 [which pertains to “Automotive Diesel Fuel] and 27101949 [which pertains to High Flash High Speed Diesel]. As per General Rules for the Interpretation of the Harmonized System (hereinafter referred to as "GIR") there are certain rules which shall govern the classification of goods in the Nomenclature. The rules are to be followed sequentially to classify goods. In the instant case, the goods cannot be classified under any rule up to Rule 3(c) of GIR. As per Rule 3(c) of the GIR, in such cases where goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. Thus, in view of above it appears that in the instant case the goods covered under Bill of Entry No 2240118 Dt. 21/02/2024 and

2014315 Dt. 06.02.2024 are appropriately classifiable under CTI 27101949 which pertains to High Flash High Speed Diesel conforming to IS 16861 .

Further, the specifications of Kerosene as per IS 1459 of the Bureau of Indian Standards (BIS) are reproduced below:

IS 1459 : 2018

Table 1 Specification for Kerosene

(*Clause* 4.2)

Sl. No.	Charecteristic	Requirement		Test Method Refer to [P:] of IS 1448/ISO/ASTM/IP/ Annex IS 1459
		Grade A	Grade B	
(1)	(2)	(3)	(4)	(5)
i)	Appearance	Clear and bright. Free from un-dissolved water, foreign matter and other visible impurities	Clear and bright. Free from un-dissolved water, foreign matter and other visible impurities	Visual
ii)	Acidity, inorganic	Nil	Nil	ISO 6618/ASTM D974[1)]/ IP 139
iii)	Burning quality[2)]			[P : 5][1)]/IP 10
	a) Char Value, mg/kg of oil consumed, *Max*	20	20	
	b) Bloom on glass Chimney	Not darker than grey	Not darker than grey	
iv)	Colour			
	a) Saybolt (in case of undyed Kerosene)[3)], *Min*	10	10	[P : 14][1)]/ASTM D 156
	b) Visual (in case of dyed Kerosene)	Blue	Blue	Visual/Annex A[1)]
v)	Copper strip corrosion for 3 h at 50°C	Not worse than No. 1	Not worse than No. 1	[P : 15][1)]/ ASTM D 130 / IP 154
vi)	Density at 15°C, kg/m3	Not limited, but to be reported	Not limited, but to be reported	[P : 16][1)]/ISO 12185/ ASTM D 1298/ ASTM D 4052
vii)	Distillation			[P : 18][1)]/ISO 3405/ASTM D 86
	a) Percent recovered below 200°C, percent (v/v), *Min*	20	20	
	b) Final boiling point, °C, *Max*	300	300	
viii)	Flash point (Abel), °C, *Min*	35	35	[P : 20][1)]/ISO 13736/ IP 170
ix)	Smoke Point[4)], mm, *Min*	18	18	P : 31/ISO 3014[1)]/ ASTM D1322/ IP 598
x)	Total Sulphur Content, percent, m/m, *Max*	0.10	0.20	[P : 34]/ISO 8754[1)] /ASTM D4294/ D 2622/ D 5453

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

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

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

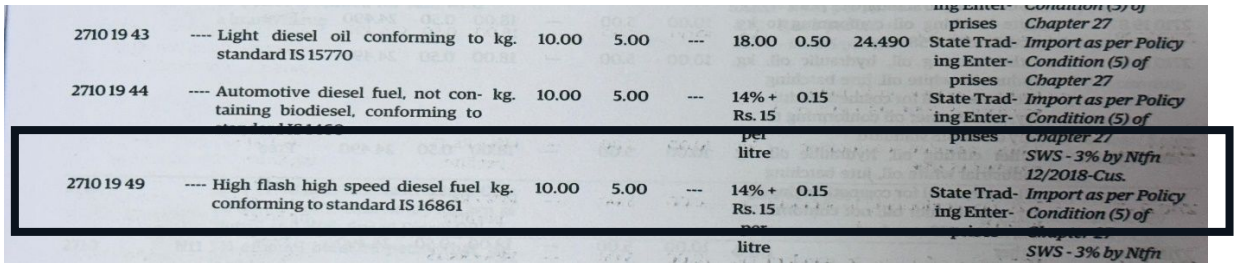
6. And whereas on analysis of the parameters detailed in the Test Reports vis-à-vis the parameters stipulated in the BIS standards of Kerosene (IS:1459), High Flash High Speed Diesel fuel conforming to standard IS:16861, it appeared in accordance with the intelligence, that goods being imported appeared to be mis-declared and following conclusion appeared to flow from the analysis:

Sl. No.	Bill of Entry No.	Date of Bill of Entry	No. of containers	Product description as per the analysis of the Test report
1.	2239931	21/02/2024	20	Kerosene conforming to standard IS: 1459
2.	2240118	21/02/2024	10	High Flash High Speed Diesel fuel conforming to standard IS: 16861
3.	2014315	06.02.2024	4	High Flash High Speed Diesel fuel conforming to standard IS: 16861

Thus, it appeared that the samples drawn from consignments pertaining to two BEs viz–2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024, appear to conform to specification of IS:16861 which pertains to High Flash High Speed Diesel fuel, while consignment pertaining to the BE 2239931 Dt. 21/02/2024 appears to conform to specification of IS:1459, which pertains to Kerosene. The items High Flash High Speed

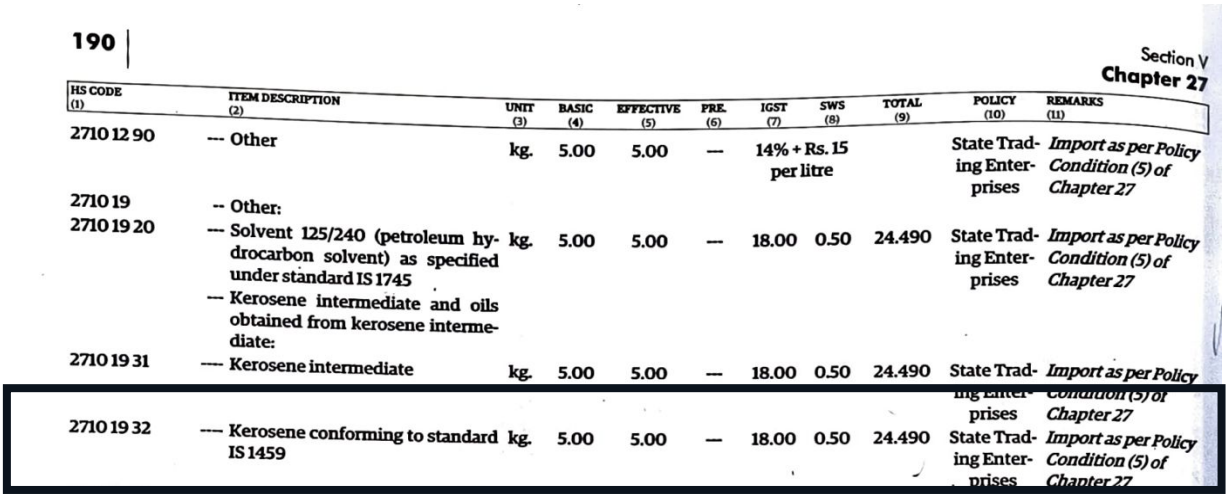
Diesel fuel and Kerosene are restricted and can be imported by the State Trading Enterprises (STEs) only.

7. In the light of the parameters of the Test Reports of the CRCL, the goods imported under 2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024,appear to be liable to be classified under CTH 27101949under the description High Flash High Speed Diesel while the goods imported under BE 2239931 Dt. 21/02/2024 appeared to be liable to be classified under CTH 27101932 under the description of Kerosene conforming to IS 1459.The relevant description of CTH 27101949 and 27101932 as per Customs Tariff Act'1985 are as below:



2710 19 43	---- Light diesel oil conforming to standard IS 15770	kg.	10.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	*Chapter 27 Import as per Policy Condition (5) of Chapter 27*
2710 19 44	---- Automotive diesel fuel, not containing biodiesel, conforming to	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn 12/2018-Cus.*
2710 19 49	---- High flash high speed diesel fuel conforming to standard IS 16861	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	*Import as per Policy Condition (5) of SWS - 3% by Ntfn*

Chapter Heading 27101949



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Section V
Chapter 27

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 12 90	--- Other	kg.	5.00	5.00	—	14% + Rs. 15 per litre			State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27*
2710 19	-- Other:									
2710 19 20	--- Solvent 125/240 (petroleum hydrocarbon solvent) as specified under standard IS 1745	kg.	5.00	5.00	—	18.00	0.50	24.490	State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27*
	--- Kerosene intermediate and oils obtained from kerosene intermediate:									
2710 19 31	---- Kerosene intermediate	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 32	---- Kerosene conforming to standard IS 1459	kg.	5.00	5.00	—	18.00	0.50	24.490	State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27*

Chapter Heading 27101932

8. Further, as per ITC(HS), 2022, Schedule 1: Import Policy, Section V: Mineral Products, Chapter 27: Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes: Goods falling under the description of *"Kerosene intermediate and oils obtained from kerosene intermediate: -- Kerosene conforming to standard IS 1459"and "Gas oil and oils obtained from gas oil:---- High*

Flash High-Speed Diesel fuel conforming to standard 16861" the import policy makes the goods restricted by way of importation by State Trading Enterprises only by virtue of Policy Condition No. 5 which prescribes "Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date". The screenshots of the relevant extracts are as below:

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

27101932	---	"Kerosene intermediate and oils obtained from kerosene intermediate: ---- Kerosene conforming to standard IS 1459"	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.

Product Description and Import Policy

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

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

9. Further, during the course of the investigation, it appeared that the CHA was actively involved in assisting and facilitating the improper import and clearance of the restricted goods namely "Kerosene conforming to standard IS:1459", "High Flash High-Speed Diesel fuel conforming to standard IS: 16861" as mentioned above, therefore a search was attempted at the premises of CHA M/s Airtrax Freight Logistics, however

the address of the firm M/s Airtrax Freight Logistics was found non-existent. Outcome of the visit was submitted by the Intelligence Officer, DRI in his visit note dated 30/04/2024.

10. And whereas, summons were issued to the importer M/s. Shree Ram Trading on 21.06.2024 for appearance on 05.07.2024. No one appeared on the said date so further summons were again issued to M/s Shree Ram Trading on 05.07.2024 for appearance on 11.07.2024. Shri Popat Nishit Bharatbhai, 56/b, Shree Ram Soc Street-3, b/h RTO, Marketing Yard, Rajkot, Bedipara, Gujarat, 360003,Authorised representative, and son of Shri Bharatbhai Popat, proprietor of M/s Shree Ram Trading appeared voluntarily on 11.07.2024 and tendered his voluntary statement on 06.08.2024 under Section 108 of the Customs Act 1962 wherein he inter-alia stated:

- *I hereby state that I am the Authorized Representative of the firm M/s Shree Ram Trading. In this regard I am submitting an authorization dated 09.07.2024, issued by the proprietor of M/s Shree Ram Trading, authorizing me to appear before the SIO DRI Noida Regional Unit. I look after the operation of the business of M/s Shree Ram Trading. The firm was established in March 2023. The firm is engaged in the import of Mineral Hydrocarbon Oil/ Mix Hydrocarbon Oil. The registered office of the company is 111, Kutch Platinum Arcade, survey no 234-1, 235, Mithirohar, Kachchh, Gujarat, Gandhidham, Kachchh, Gujarat, 370240.*
  As far as my personal details are concerned, I am an M.Com Graduate from Saurashtra University, Rajkot, which I completed in 2015. After completing my post-graduation I started working as an accounts executive in Rajkot. In the year 2023 my father ventured into this Oil Business and registered his company M/s Shree Ram Trading and started importing Mineral/Mix Hydrocarbon Oil. In my family, I am married to Ms Siddhi Popat. I have 1 elder sister, who is unmarried, I live with my mother, father, sister and wife on the above-mentioned address.

- *Question 1: Please state the background and business of ShBharatbhaiPopat.*
  Answer: Before venturing into this oil import business, my father Sh Bharat bhai Popat, was involved in various seasonal businesses like spices business in summertime and the grains business in winter.

- *Question 2: Please state since when are you working with Sh Bharat bhai Popat in this business and also state whether you have knowledge of petroleum products.*
  Answer: I have been working in the firm since April 2023. I only have some basic and general knowledge about petroleum products.

- *Question 3: How much salary do you get for working in M/s Shree Ram Trading.*
  Answer: As the firm is owned by my father I do not get any salary for working in the firm.

- *Question 4: How did Sh Bharat bhai Popat started this business of import of Oil? Does he possess any knowledge of petroleum products?*
  Answer: My father has been involved in various businesses in his life, due to which we used to go to different business fares and from one such business fare we saw a business opportunity in this trade and started importing oil. Further, just like me my father also has basic general knowledge about petroleum products.

- *Question 5: How many consignments have you imported till now.*
  Answer: We have imported approx. 17-18 consignments of oil till now.

- *Question 6: Please provide a certified copy of the Buyer-seller agreement for the consignments imported by you.*
  Answer: There is no written buyer-seller agreement between us and the overseas supplier.

- *Question 7: if there is no written buyer-seller agreement, then how, and what are the terms that have been decided for conducting the business?*
  Answer: The terms and conditions of the trade have been agreed upon verbally and on the basis of that our business is running.

- *Question 8: Please state who places orders with the overseas supplier, You or your father Sh. Bharat bhai Popat?*
  Answer: The orders are being placed with overseas suppliers by me only.

- *Question 9: Please state with whom and how do you place an order with the overseas supplier.*
  Answer: The order is generally placed by me with the overseas suppliers over the Mobile phone.

- *Question 10: What are your payment terms with the overseas supplier?*
  Answer: Once an order is finalized over the mobile phone, the overseas suppliers send the consignment to the designated port in India and once the consignment is cleared from the customs side full payment is made to the supplier via SWIFT.

- *Question 11: Please submit the details of the overseas suppliers of MHO (Mineral Hydrocarbon Oil) imported by you which have been put on hold by DRI at Mundra.*
  Answer: We generally import through 6-7 suppliers based in UAE. The details of the suppliers of the consignments that are put on hold by your office are mentioned below;

S.No	Bill of Entry No and date	Supplier name	Contact person details
1	2239931 dt 21.02.2024	M/s Armaan International FZE	Rushi- +971549912022
2	2014315 dt. 06.02.2024	M/s Al madina Dualiun FZ-LLC	Rasul- +971553124069
3	2240118 dt. 21.02.2024	M/s Armaan International FZE	Rushi- +971549912022

We also import from M/s Prime petroleum and Gemini International.

- *Question 12: What is the status of the overseas supplier of the import of MHO(Mineral Hydrocarbon Oil)?*
  Answer: To my knowledge all the overseas suppliers, are traders only.

- *Question 13: Please describe your product viz MHO (Mineral Hydrocarbon Oil) and state the characteristic parameters/specifications based on which the declaration has been made.*

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

- *Question 14: If you are not aware of the parameters/specifications of the MHO (Mineral Hydrocarbon Oil) then on what basis it is being imported by you?*
  Answer: The requirement of oil (MHO) is communicated to us by our clients and based on the requirement we place orders with the overseas suppliers. After that, we communicate the same requirement to the overseas supplier from Dubai. We are just traders of the product and work on the market demand.

- *Question 15: Please provide certified copies of the Chemical Analysis report or Test report of all the consignments of MHO (Mineral Hydrocarbon Oil) imported by you.*
  Answer: I am submitting copy of chemical analysis report dated 09.02.2024 provided by the M/s Armaan International FZE in respect of the consignment bearing BOE no 2239931 dated 21.02.2024 that are put on hold by your office.

- *Question 16: Your kind attention is invited to the said Chemical Analysis report which has been issued by the M/s Armaan International FZE the supplier of the consignment and not any Technically qualified laboratory. In such a case how can this be termed as chemical analysis report?*
  Answer: This is the only report that has been provided by the supplier and therefore are submitted for information.

- *Question 17: In the said report it has been mentioned that the test report is as per ASTM testing standards. In the light of your reply to question no.12 wherein you had mentioned that all your suppliers are traders, is the report of the supplier without any technical qualification mentioned therein, is valid and proper?*
  Answer: I am not aware about his technical qualification and competency to issue the lab report but since it was provided by the supplier, I have submitted the same.

- *Question 18: Please state whether the goods pertaining to the said consignment has been declared as MHO in the invoice, packing list on the basis of the parameters mentioned in the chemical analysis report?*

Answer: I am not sure about but I think the supplier has considered these parameters while declaring the goods declared so in the import documents.

- *Question 19: Do you have any literature or documents that can help you classify your product as MHO according to the chemical analysis report provided by the overseas supplier?*
  Answer: We do not have any documents or literature that helped us in the classification of the product as MHO according to the test report provided by the overseas supplier. Our CHA only guided us in the classification of the same as MHO.

- *Question 20: Please provide the Details of the refinery/oil firm from where each consignment has originated/been manufactured.*
  Answer: I am not aware of the source of purchase of MHO by my overseas supplier.

- *Question 21: Please provide Chemical Analysis Report issued by the Original manufacturer/refinery/oil firm for other consignment also, along with a Certified copy of the invoice generated by the firm to the overseas supplier and Details (contact details and correspondence addresses) of all traders between the overseas supplier and the Original manufacturer/ refinery for each consignment.*
  Answer: I am submitting copy of the Chemical Analysis Report provided by the overseas supplier for One BOE only. The suppliers of other consignment have not provided any chemical analysis or test report I have submitted the invoices pertaining to the consignments that are put on hold by your office . Further I am notaware of the address and details of the traders as sought by you.

- *Question 22: In the light of your reply to question no 19 above. Kindly detail the basis of the classification of the consignment under CTI 27101990 and declaration of the same as Mineral Hydrocarbon Oil.*
  Answer: We declared the product as MHO (Mineral Hydrocarbon Oil) and classified it under CTH 27101990 as per the discussions with the CHA and as per the general practice of the trade.

- *Question 23: Please provide a Certified copies of each :*
  Load Port report

surveyor report of the port

Compliance report.

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

- *Question 24: Please refer to the reply of Question 09 above and provide the certified copies of communication (emails/letters etc.) with the overseas suppliers w.r.t. the consignments.*
  Answer: As stated by me above all the communication with the supplier happens telephonically over mobile phone and hence no such copies of communication (emails/letters etc.) are available with me

- *Question 25: Please provide details of key officials (name and designation) of your company.*
  Answer: All the operations of the company are being handled by me and my father together. However due to his age, majorly the operations of the firm are being handled by me only.

- *Question 26: Please provide a Certified copy of the Invoice for each consignment, including itemized description, quantities, values, and any applicable discounts or rebates.*
  Answer: M/s Shree Ram Trading has imported about 17 Consignments of Mix/mixed Hydrocarbon oil in the past 1 year including the one that has been put on hold by DRI. I am submitting the documents such as Bill of Lading, Bill of Entry, invoice and packing list of the consignment that are put on hold by DRI Noida Regional Unit.

- *Question 27: Please provide a Certified copy of bank statement indicating payments made to suppliers for consignments.*
  Answer: I am submitting the SWIFT transaction copy acknowledgement for the payments made in favour of the instant consignments from the bank account of the firm maintained with Yes Bank having account no. 045363700002821.

- *Question 28. Please provide the details of the warehouse/storage place where the imported goods are stored after their import by your firm?*

Answer. M/s Shree Ram Trading does not have any warehouse/storage place where the imported goods are stored as the MHO imported by the firm after customs clearance is delivered directly to the buyers.

- *Question 29. Please peruse the test report submitted by CRCL Vizag dated 03.06 2024 with regard to the test memo dated 09.04.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 2240118 dated 21/02/2024. As per the test report the conclusion arrived at by the CRCL regarding the goods is "Automotive Diesel Fuel BSIV as mentioned in IS 1460:2017 and HFHSD as per IS 16861:2018". Please peruse the said report and offer your comments.*

  Answer. I have seen the copy of the test report dated 03.06.2024 of the CRCL in respect of the sample drawn from the consignment covered under BOE no 2240118 dated 21/02/2024 pertaining to M/s Shree Ram trading and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the conclusion of CRCL of the oil meets the specifications of "Automotive Diesel Fuel BSIV as mentioned in IS 1460:2017 and HFHSD as per IS 16861:2018".

- *Question 30. Please peruse the test report submitted by CRCL Vizag dated 03.06 2024 with regard to the test memo dated 09.04.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 2014315 dated 06.02.2024. As per the test report the conclusion arrived at by the CRCL regarding the goods is "Automotive Diesel Fuel BSIV as mentioned in IS 1460:2017 and HFHSD as per IS 16861:2018". Please peruse the said report and offer your comments.*

  Answer. I have seen the copy of the test report dated 03.06.2024 of the CRCL in respect of the sample drawn from the consignment covered under BOE no 2014315 dated 06.02.2024 pertaining to M/s Shree Ram trading and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the conclusion of CRCL of the oil meets the specifications of "Automotive Diesel Fuel BSIV as mentioned in IS 1460:2017 and HFHSD as per IS 16861:2018".

- *Question 31. Please peruse the test report submitted by CRCL Vizag dated 03.06 2024 with regard to the test memo dated 09.04.2024 pertaining to samples*

drawn from your consignment on hold at Mundra port covered under BOE no 2239931 dated 21.02.2024. As per the test report the conclusion arrived at by the CRCL regarding the goods is "Kerosene as mentioned in IS 1459:1974 (reaffirmed 2006)". Please peruse the said report and offer your comments.

Answer. I have seen the copy of the test report dated 03.06.2024 of the CRCL in respect of the sample drawn from the consignment covered under BOE no 2239931 dated 21.02.2024 pertaining to M/s Shree Ram trading and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the conclusion of CRCL of the oil meets the specifications of "Kerosene as mentioned in IS 1459:1974(reaffirmed 2006)".

- *Question 32. Your kind attention is invited to the conclusion of the test report wherein the oil has been found to be "Automotive Diesel Fuel BSIV as mentioned in IS 1460:2017 and HFHSD as per IS 16861:2018". whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 2240118 dated 21/02/2024, filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*

  Answer. I agree that the description given in BOE no 2240118 dated 21/02/2024, and the conclusions of the test reports of CRCL dated 03.06.2024 are different. The Bill of Entry was filed on the basis of the order placed by me with the overseas supplier and the import documents provided by me. I had specifically ordered for Mixed Hydrocarbon oil but as per the report I can see that the supplier has sent wrong item by mistake and not the one that I ordered. I regret for the mistake and having accept the findings of the CRCL, Vizag, I request that the same may be re-exported back to the supplier.

- *Question 33. Your kind attention is invited to the conclusion of the test report wherein the oil has been found to be "Automotive Diesel Fuel BSIV as mentioned in IS 1460:2017 and HFHSD as per IS 16861:2018". whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 2014315 dated 06.02.2024 filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*

  Answer. As stated above, reiterate that I agree that the description given in BOE no 2014315 dated 06.02.2024 and the conclusions of the test reports of CRCL dated 03.06.2024 are different. The Bill of Entry was filed on the basis of the

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

- *Question 35. Your kind attention is again invited to the conclusion of the test report wherein the oil has been found to be "HFHSD as per IS 16861:2018" .On the basis of the conclusion of CRCL that the goods are actually HFHSD as per IS 16861:2018 classifiable under CTH 27101949. In light of the test report and your reply to question No 28 above, do you agree that the HFHSD as per IS 16861:2018 imported by you in consignment covered under BOE no 2240118 dated 21/02/2024 is correctly classifiable under CTH 27101949 and not 27101990 as classified by you in the bill of entry filed by you?*
  Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2240118 dated 21/02/2024 is under CTH 27101949, however we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990

- *Question 36. Your kind attention is again invited to the conclusion of the test report wherein the oil has been found to be "HFHSD as per IS 16861:2018" .On the basis of the conclusion of CRCL that the goods are actually HFHSD as per IS 16861:2018 classifiable under CTH 27101949. In light of the test report and your reply to question No 29 above, do you agree that the HFHSD as per IS 16861:2018 imported by you in consignment covered under BOE no 2014315 dated 06.02.2024 is correctly classifiable under CTH 27101949 and not 27101990 as classified by you in the bill of entry filed by you?*
  Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2014315 dated 06.02.2024 is under CTH 27101949, however, I state that I had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990

- *Question 37. Your kind attention is again invited to the conclusion of the test report wherein the oil has been found to be Kerosene as per IS 1459:1974 (reaffirmed 2006). On the basis of the conclusion of CRCL that the goods are actually "Kerosene as mentioned in IS 1459:1974 (reaffirmed 2006)" classifiable*

under CTH 27101932. In light of the test report and your reply to question No 30 above, do you agree that the Kerosene as per IS 1459:1974 (reaffirmed 2006) imported by you in consignment covered under BOE no 2239931 dated 21.02.2024 is correctly classifiable under CTH 27101932 and not 27101990 as classified by you in the bill of entry filed by you?

Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2239931 dated 21.02.2024 is under CTH 27101932, however, I again state that we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990

- *Question 38. Please refer to your reply to question number 35, 36 and 37 above wherein you have agreed that the correct classification of the oil i.e. HFHSD as per IS 16861:2018 and Kerosene as per IS 1459:1974 (reaffirmed 2006) are restricted items and can only be imported by STE (State Trading Enterprise). Please offer your comments about this.*

  Answer. Yes, I have been shown the said provisions and I have come to know that HFHSD conforming to IS, 16861:2018 and Kerosene as per IS 1459:1974 (reaffirmed 2006) are restricted items and can only be imported by STE (State Trading Enterprise). In view of this fact and also as stated by me, since it is not as per my order and as requested by me in reply to questions no 35, 36 and 37 above, I once again request that the consignment may be reexported back to the overseas supplier.

11. And whereas, summons were also issued to CHA M/s Airtrax Freight Logistics on 05.07.2024 for appearance on 17.07.2024. On non-compliance of the summons, a further fresh summons was issued to CHA M/s Airtrax Freight Logistics on 24.07.2024 for appearance on 09.08.2024. Shri Shri Bhupathi Maddu S/o Late Shri M Kamaraju, Manager of M/s Airtrax Freight Logistics, appeared on 09.08.2024 and tendered his voluntary statement under Section 108 of the Customs Act'1962 wherein he inter-alia stated:

- *I submit that I completed my B. Com from Andhra University, Vishakhapatnam in the year 2009, after that I worked in Oil Field Warehouse, Mundra till 2017. Then I started working with M/s Mundra Oil Pvt Ltd from 2017 to 2022. After that, I switched my job and started working with M/s Airtrax Freight Logistics at Mundra Port. I am handling documentation work and providing customs*

clearance services to various importers on behalf of M/s Airtrax Freight Logistics at Mundra Port. I am living with my wife Ms Raveena Maddu along with my son on the above-mentioned local address in Mundra:

- *Question 1: Please explain the business of M/s Airtrax Freight Logistics.*
  Answer: M/s Airtrax Freight Logistics is Proprietorship Firm in which, Shri Ramakrishnan Murugan is the Proprietor of the firm. As per my knowledge the firm is engaged in the custom clearance of import and export consignments at Nhava Sheva Port, Chennai port, Mundra port and Delhi. I am the manager of M/s Airtrax Freight Logistics and handled all the customs clearance related work at Mundra Port.

- *Question 2: Please state the present location of M/s Airtrax Freight Logistics.*
  Answer: The local office of M/s Airtrax Freight Logistics was located at Rishabh Corner, 2nd floor, Office No. 93, Sector-8, Gandhidham, which was closed in March 2024. Right now, there is no office at Mundra port. The head office of M/s Airtrax Freight Logistics situated at Plot No. 59/60, Masilamani Nagar, Thirumazhisai, Chennai.

- *Question 3: How many people are working in M/s Airtrax Freight Logistics? Please provide their details, designation, responsibilities and Mobile no.*
  Answer: There are 7 employees including me working in M/s Airtrax Freight Logistics at Mundra Port. Their details are as under:

Name	*Designation/ Work Assigned*	*Mobile No.*
Shri Uttam Kumar	*Executive, Field Work at Mundra Port*	*630635873*
Shri Gopal Krishna	*Executive, Field Work at Mundra Port*	*896260239*
Shri Bharat Malam	*Executive, Field Work at Mundra Port*	*816028865*
Shri Satyanarayan	*Documentation Executive*	*997988946*
Shri Avinash	*Field Work at Mundra Port*	*863873729*
Ms. Preeti Joshi	*G-Card Hold, Customs related*	*972765542*

- *Question No 4: Please elaborate the nature of filed work of the staff detailed above?*
  Answer. These employees mainly handle logistic work like loading and unloading of cargo, grounding of container for examination and, dispatch of the consignment after examination and out of charge is given by the Customs.

- *Question 5: Please name the companies/firms for whom M/s Airtrax Freight Logistics are providing customs clearance services?*

Answer: Our major clients include:

M/s Venkateshwara Chemical Industries pvt Ltd
M/s Shree Ram Trading.
M/s Sardar Trading.
M/s Venkateshwara Mint.
M/s Penta Tradelink

M/s Airtrax Freight Logistics provides customs clearance services at Mundra Port. But I have no knowledge regarding the head office client's details. Only Shri Ramakrishnan Murugan Proprietor of the firm can provide this information.

- *Question 6: What are the other ports where you are providing customs clearance services?*
  Answer: Our major business is at Nhava Sheva, Mundra, Chennai and Delhi.

- *Question 7: How do M/s Airtrax Freight Logistics provide customs clearance facilities? Please explain the same with regard to the functioning of your firm.*
  Answer : The clients forward the import documents on our emailairtraxfreightmundra@gmail.com and sometimes they deliver the documents on Whats App also. Documents are examined by the staff who later on prepare check list which is sent to the clients for approval. Once the checklist is approved, the bill of entry is filed online on the ICEGATE website. Shri Satyanarayan employee filed Bill of entry online. After it is approved, the examination of the cargo is conducted by the customs officers in the presence of the Authorised representative of the firm. After the examination and out-of-charge given by the customs the documents are handed over to the transporter who is engaged by the importer only for delivery at the designated address.

- *Question 8: Please define payment terms of M/s Airtrax Freight Logistics with the mentioned firms in SI. No.5. What is the amount of salary that you get from the said firm.*
  Answer: M/s Airtrax Freight Logistics charge a fee of Rs 59000/- plus GST per container from the importer. I get 50,000/- per month as salary.

- *Question 9: Please state, who gets the examination conducted at the port for the import consignment of M/s Airtrax Freight Logistics?*

Answer: The examination at the Mundra port iS conducted by Sh. Uttam Kumar, Shri Gopal Krishna and Shri Bharat Malam facilitate customs clearance at Mundra port

- *Question 10: Are you aware that some containers which have been declared to contain MHO have been put on hold by the DRI Noida Regional unit at Mundra port ?*
  Answer: Yes, DRI Noida Regional Unit has put on hold some consignments of MHO as detailed below:

SI. No	*IEC Name*	*BOE No.*	*No of containers*
1	*M/S Shree Ram Trading,*	*2239931 Dt. 21/02/2024*	*20*
		2240118 Dt. 21/02/2024	*10*
		2014315 Dt. 06.02.2024	*4*
2	*M/S Venkateshwara Chemical Industries Private Limited,*	*2025444 Dt.*	*10*
		2071959 Dt. 09.02.2024	*10*
		2239930 Dt. 21/02/2024	*14*

- *Question 11: What were the documents that were provided by the importer in respect of containers put on hold and as mentioned in question above?*
  Answer: M/s Shree Ram Trading and M/S Venkateshwara Chemical Industries Private Limited provided invoices, packing list and Bill of Lading through mail on the basis of which we file the respective bill of entry.

- *Question 12: What is the Item "MHO/ Mix Hydrocarbon Oil/Mixed Hydrocarbon Oil/Mineral Hydrocarbon Oil", mentioned in the Bills of entries filed by you on behalf of M/s Shree Ram Trading and M/S Venkateshwara Chemical Industries Private Limited?*
  Answer: As per my knowledge mixture of all kind of petroleum products is MHO..

- *Question 13: Please state, what is the use of MHO?*
  Answer: As per the information provided by the importer it is for industrial Use.

- *Question 14: Please specifically state and clarify the industrial use as mentioned in your reply to question no 13 above.*
  Answer: I am not aware of the specific industrial use of the product. This can be clarified by the importer only.

- *Question 15: Have you been provided with any chemical analysis report/ test report of the product by the importer issued by the supplier.*
  Answer: Yes, we have been provided with chemical analysis reports or test reports by the importer which was provided by the supplier, which were filed along with Bill of entry. However, I'm submitting copies of the same again for your information

- *Question 16: On perusal of the said test reports submitted by you in reply to above question, it is seen that the same are simply parameters which have been mentioned by the supplier on his letter pad which cannot be considered as test reports. Please elaborate.*
  Answer: These are the only test reports which were provided by the importer at the time of filing of the Bills of entry.

- *Question 17: What was the basis of classification of the product under Chapter Heading 27101990 in the category of item "Others"*
  Answer: The CTH was mentioned on the invoice and the packing list of the supplier itself which were provided by the importer. On the basis of these documents, the Bill of entry was filed.

- *Question 18: Please peruse the respective test reports of consignments that have been put on hold by DRI Noida regional Unit and are mentioned in reply to question 10 above. The test results of each of the consignment have been summarized in the table below:*

S.No	IEC Name	BOE Name	Sample NO	Test Report	Lab
1	M/S Shree Ram Trading, -	2239931 Dt. 21/02/2024	SRA1-A217681	Kerosene	CRCL
2		2240118 Dt. 21/02/2024	SRC3-A215387	HFHSD	

3		*2014315 Dt. 06.02.2024*	*SRB2-A217707*	*HFHSD*	
4	*M/S Venkateshwara Chemical Industries Private Limited*	*2025444 Dt. 07.02.20224*	*VB2-A217716*	*HFHSD*	
5		*2071959 Dt. 09.02.2024*	*VC1-A215399*	*HFHSD*	
6		*2239930 Dt. 21/02/2024*	*VAl-A217685*	*Gas Oil*	

Please peruse the test reports and offer your comments.

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

- *Question 19: Do you agree with the outcome of the test reports and the result mentioned therein?*

  Answer: Yes, I agree with the result arrived at by the lab as mentioned in all the test reports

- *Question 20: Please give Your opinion on whether MHO as declared by you in the bills of entry and the item identified as per the test result of the respective item are same or different?*

  Answer: I agree that the goods identified by the laboratory as per the test reports and the declaration made in the Bill of Entry are different.

- *Question 21. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Ram Trading wherein the oil has been found to be "Kerosene as per IS 1459:1974 (Reaffirmed 2006)", on the basis of the conclusion of CRCL lab, and hence are classifiable under CTH 27101932. Do you agree that the Kerosene imported in consignment covered under BOE no 2239931 Dt. 21/02/2024 filed by M/s Airtrax Freight Logistics and imported by M/S Shree Ram Trading, is correctly classifiable under CTH 27101932 and not 27101990 as classified in the bill of entry filed by you.*

Answer: in view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2239931 Dt. 21.02.2024 should be under CTH 27101932. The declaration of the item made in the bill of entry is incorrect and wrong.

- *Question 22. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Ram Trading wherein the oil has been found to be "HFHSD as per IS 16861:2018", On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per IS 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no 2240118 Dt. 21/02/2024 filed by M/s Airtrax Freight Logistics and imported by M/S Shree Ram Trading, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.*
  Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2240118 Dt. 21/02/2024 should be under CTH 27101949. The declaration of the item made in the bill of entry is also incorrect and wrong

- *Question 23. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Ram Trading wherein the oil has been found to be"HFHSD as per IS 16861:2018", On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per IS 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no 2014315 Dt. 06.02.2024 filed by M/s AirtraxFreight Logistics and imported by M/S Shree Ram Trading, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.*
  Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2014315 Dt. 06.02.2024 should be under CTH 27101949. The declaration of the item made in the bill of entry is also incorrect and wrong

- *Question 24. Your kind attention is invited to the conclusion of the test report for the sample of M/S Venkateshwara Chemical Industries Private Limited wherein the oil has been found to be "HFHSD as per IS 16861:2018"9 On the basis of the*

conclusion of CRCL lab, the goods are actually HFHSD as per is 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no.2025444 Dt. 07.02.20224 filed by M/s Airtrax Freight Logistics and imported by M/S Venkateshwara Chemical Industries Private Limited, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.

Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2025444 Dt. 07.02.2024 should be under CTH 27101949. The declaration of the item made in the bill of entry is also incorrect and wrong

- *Question 25. Your kind attention is invited to the conclusion of the test report for the sample of M/S Venkateshwara Chemical Industries Private Limited wherein the oil has been found to be "HFHSD as per IS 16861:2018", On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per is 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no. 2071959 Dt. 09.02.2024 filed by M/s Airtrax Freight Logistics and imported by M/S Venkateshwara Chemical Industries Private Limited, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.*

  Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2071959 Dt. 09.02.2024 should be under CTH27101949. The declaration of the item made in the bill of entry is also incorrect andwrong .

- *Question 26. Your kind attention is invited to the conclusion of the test report for the sample of M/S Venkateshwara Chemical Industries Private Limited wherein the oil has been found to be "Gas Oil", On the basis of the conclusion of CRCL labs the goods are actually Gas Oil and are hence classifiable under CTH 27101941. Do You agree that the Gas Oil imported in consignment covered under BOE no. 2239930 Dt. 21/02/2024 filed by M/s Airtrax Freight Logistics and imported bY M/S Venkateshwara Chemical Industries Private Limited, is correctly classifiable under CTH 27101941 and not 27101990 as classified in the bill of entry filed by you.*

Answer: In view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2239930 Dt. 21/02/2024should be under CTH27101941. The declaration of the item made in the bill of entry is also incorrect and wrong

- *Question 27: Please take cognizance of your reply to the question no 21 and 26 above and state whether the goods declared in the Bills of entries were misdeclared.*
  Answer: I agree that the goods identified by the labs and the one declared in the Bills of entry are different. However, I wish to submit that the declaration and classification in the bill of entry was made on the basis of the documents and information provided by importer.

- *Question 28: Please take cognizance of the reply to question no 27 above. The items identified by the lab comprising the consignments and classifiable under the said headings are not freely importable as they are restricted in nature and can only be imported by STEs (State Trading Enterprises). Then why Bill of Entry has been filed by way of misdeclaration for restricted items.*
  Answer: I again submit that the Bill of entry was filed on the basis of documents and information provided by the importer in which the CTH was already mentioned and declared in the invoice and the packing list of the supplier. The issue of mis-declaration can only be explained by the importer and the supplier.

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

13. Further, in view of the Test Reports, it appeared that the imported goods were mis-declared as *"Mixed Hydrocarbon Oil"* and mis-classified under CTH: 27101990 instead of CTH: 27101932 and CTH: 27101949 by the importer with the intent of importing "Kerosene conforming to IS 1459" and "High Flash High Speed Diesel fuel conforming to standard IS 16861" which are restricted commodities and *can be imported by STEs only as per the import policy as brought out above.* As a result, it seems that they attempted to import the restricted commodities by mis-declaring the same. Consequently, the imports made by the importer under 2239931 Dt. 21/02/2024, 2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024 appeared to be

illicit and in gross violation of the relevant provisions of the Foreign Trade Policy 2023, the Import Policy conditions and the Customs Act of 1962. Therefore, the goods imported under the aforementioned Bills of Entry at Mundra Port seemed liable for confiscation under the provisions of Section 111(d), (f), (l), and (m) of the Customs Act, 1962. As a result, the consignments were seized vide Seizure memos as detailed below:

S.No	Bill Of Entry No and Date	Seizure memo DIN no.	Seizure date
1	2239931 Dt. 21/02/2024	**202409DDZ80000333AB9**	13.09.2024
2	2240118 Dt. 21/02/2024	**202409DDZ8000000D902**	13.09.2024
3	2014315 Dt. 06.02.2024		

14. LEGAL PROVISIONS

14.1 From the foregoing it appears that the goods in the instant case, Kerosene is correctly classifiable under CTH 2710 1932, High Flash High Speed Diesel is correctly classifiable under CTH 27101949. The relevant portion of the Customs tariff head 2710 reads as under:

SECTION-V CHAPTER-27

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

		containing bio-diesel and other than waste oils		
		Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, other than those containing biodiesel and other than waste oils:		
2710 19	--	Other :		
2710 19 32	---	Kerosene intermediate and oils obtained from kerosene intermediate: -- Kerosene conforming to standard IS 1459	State trading enterprises	Import as per policy conditions (5) of Chapter 27
27101949	---	Gas oil and oils obtained from gas oil: ---- High flash high speed diesel fuel conforming to standard IS 16861	State trading enterprises	Import as per policy conditions (5) of Chapter 27

14.2 Policy Conditions of Chapter 27:

(1) ----.

(2) ----.

(3) ----.

(4) ----.

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

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

Powers to make provisions relating to imports and exports. –

(1) -----

(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods.

(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

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

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

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

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

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

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

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

14.8 *Section 2(39) of the Customs Act'1962-*

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

14.9 Section 17 of the Customs Act, 1962:

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

(2) ……..

(3) ……

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

14.10. Section 46(4) and 46(4A) of the Customs Act, 1962 :

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

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

(a)the accuracy and completeness of the information given therein;

(b)the authenticity and validity of any document supporting it; and

(c)compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

14.11. Section 112 of the Customs Act, 1962 :

Penalty for improper importation of goods, etc.- Any person, - (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

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

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

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

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

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

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

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

14.13 Section 3 of the Petroleum Act, 1934

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

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

The Central Government may makes rules—

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

i) determining in any class of cases whether a licence for the transport of petroleum shall be obtained by the consignor, consignee or carrier;

j) providing for the granting of combined licences for the import, transport and storage of petroleum, or for any two of such purposes;

k) prescribing the proportion in which any specified poisonous substance may be added to petroleum, and prohibiting the import, transport or storage of petroleum in which the proportion of any specified poisonous substance exceeds the prescribed proportion; and

l) generally, providing for any matter which in its opinion is expedient for proper control over the import, transport and storage of petroleum including the charging of fees for any services rendered in connection with the import, transport and storage of petroleum.

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

(1) Containers exceeding one litre in capacity for petroleum Class A and five litres in capacity forpetroleum Class B or petroleum class C, shall be of a type approved by the Chief Controller.

(2) Where the approval of the Chief Controller is sought to a type of container not previously

approved, an application together with copies of drawings thereof to scale showing the design,materials to be used, the method of construction and capacity of the container together with twosamples containers and a fee of rupees one thousand for scrutiny shall be submitted to theChief Controller.

(3) Nothing in sub-rules (1) and (2) shall apply to containers in the possession of theDefence Forces of the Union.

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

(1) Containers for petroleum class B or petroleum class C shall be constructed of steel or ironand be of a type approved by the Chief Controller.

(2) An air space of not less than 5 percent of its capacity shall be kept in each container for

petroleum Class B and not less than 3 percent of its capacity in each container for petroleum

Class C.

(3) Nothing in this rule shall apply to containers in the possession of the Defence Forces of theUnion.

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

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

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

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

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

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

(a) All tanks shall be fitted with independent approved filling and suctions pipes and valves, or with stand pipes with blank flanges, all pipes being carried down nearly to the bottom of the tanks, and no petroleum in bulk shall be taken on board or discharged except through such pipes and valves, unless otherwise permitted by the Chief Controller in writing;

(b) All tanks shall be fitted with manholes having screw-down cover with petroleum-tight joints and, in the case of tanks intended for use with petroleum class A, with ventilators or relief valves of approved pattern properly protected with wire gauge of a mesh not less than 11 meshes to linear centimeter; and

(c) Ventilators similarly protected shall be fitted to all spaces, around tanks.

14.20 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.

15. Summary of Investigation:

Whereas it appears from the foregoing paras that:

(i) As per condition No.5 of Import Policy of Chapter 27, the import of High Flash High Speed Diesel fuel and Kerosene which were imported by M/S Shree Ram Trading in the consignment seized by DRI, by way of mis-declaration, is allowed only through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before the said date. Thus it is evident that the said goods are not freely importable but can be imported only by State Trading Enterprises such as IOCL, HPCL, BPCL and IBP.

(ii) M/S Shree Ram Trading appeared to be well aware about the said restriction imposed by the Policy. As such it appears that in order to circumvent the said provision,in collusion with the CHA namely Airtrax Freight Logistics along, as well as Overseas Suppliers namely M/s Arman International FZE and M/s Al Madina Dualiun FZ-LLC in Dubai devised a modus operandi to import High Flash High Speed Diesel fuel and Kerosene-(restricted commodities), in the garb of importing freely importable goods.

(iii) It appears that in accordance with the said modus operandi, the importer resorted to the importof High Flash High Speed Diesel fuel and kerosene by declaring the same as “Mixed Hydrocarbon Oil (MHO)”. They classified the said goods i.e “Mixed Hydrocarbon Oil (MHO)”under Customs Tariff Heading (CTH) 27101990 which pertains to “Others” where no restriction was prescribed in the Import Policy.In accordance with said modus operandi, the suppliers namely M/s Arman International FZE and M/s Al Madina Dualiun FZ-LLC in Dubai appear to have deliberately declared the said goods in the import documents viz invoices and the corresponding packing list as “Mixed Hydrocarbon Oil (MHO)”.

(iv) It appears that on the basis of fudged and fabricated documents namely invoice, Packing List and Chemical Analysis Report, the Importer namely M/S Shree Ram Trading filed Bills of Entry wherein they declared the goods as "Mixed Hydrocarbon Oil (MHO))"and classified the same under Chapter Heading 27101990 wherein no restriction was in force in terms of the Import Policy.

(v) It further appears that M/S Shree Ram Trading all along were aware of the fact that the items which they sought to import actually were restricted items and as such they were not eligible to import the High Flash High Speed Diesel fuel and Kerosene. The documents were manipulated so that the same could be cleared on the basis of the mis-declaration and mis-classification of the goods with the Customs at Mundra Port.

(vi) During the course of the investigations, M/s Shree Ram Trading as well as their related entities involved in the case, were asked to submit supporting and related relevant documents,like buyer seller agreement, details of refinery/oil firm from where the consignment originated, copies of communication made with the supplier, copies of export declaration form filed in the supplier country etc pertaining to the said consignments vide summons issued to them. The said documents were called for as they would have enabled the identification of the commodity imported by M/S Shree Ram Tradingin the consignment under investigation. It appears that the documents were deliberately not submitted by them so as to prevent the identification of the commodity by the Officers of the DRI.

(vii) In order to ascertain the exact nature of the goods and to confirm the identity, samples were drawn from the consignment which were sent to Government Lab namely CRCL, Vizag. The parameters of the test conducted by the Lab clearly suggest that the commodity covered under the consignments pertaining to the importer as declared in the import documents and the Bill of Entry were different and not as per the import documents filed by the importer. The parameters of the samples drawn from the consignments covered under BEs viz –2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024 on being tested and analysed, indicate that all the parameters conform to the specification of IS:16861 which pertains to High Flash High Speed Diesel fuel. Further the consignments covered under BE

2239931 Dt. 21/02/2024on being tested and analysed, indicate that all the parameters conform to specification of IS:1459 which pertains to Kerosene. As there is no deviation in all the parameters as mentioned in the Test reports vis-a vis parameters prescribed under IS 16861, there appears to be no doubt about the identity of the said commodity.

(viii) The commodity sought to be actually imported viz, High Flash High Speed Diesel fuel and Kerosene under the subject consignments find specific mention in different tariff Item and not the tariff Item in which they were declared in the import documents i.e 27101990 which does not lay down any restriction if the goods are covered under the said CTH and are classified accordingly. It appears that the item has been given description Mixed Hydrocarbon Oil so that the same can be classified in the category of Chapter Heading 27101990 pertaining to others deliberately where there is no restriction in the import of commodities falling in the said category of the Customs Tariff Act'1985.

(ix) The importer failed to provide any document to substantiate the chemical composition/constituent if any of Mixed Hydrocarbon Oil. It appears that the misclassification was done deliberately and knowingly so as to mislead the department. The correct classification is 27101949 pertaining to "High Flash High Speed Diesel fuel as per IS 16861", and 27101932 pertaining to "Kerosene".The act of mis-declaration and misclassification leading to import of restricted goods namely High Flash High Speed Diesel fuel and Kerosenehas been categorically accepted and acknowledged in their respective voluntary statements by M/S Shree Ram Trading and the CHA M/s Airtrax Freight Logistics.

(x) M/S Shree Ram Trading are not an STE entity and hence they are not eligible to import the said restricted goods. Therefore they appeared to have deliberately resorted to the act of mis-declaration and mis-classification so as to import the said restricted goods.

(xi) M/S Shree Ram Trading failed to submit any document in support of the item Mixed Hydrocarbon Oil declared by the supplier in the import documents and Bills of Entry filed by M/s Airtrax Freight Logistics. Even subsequently during the course of the investigations after the containers were put on hold, till date they have not been able to submit any such document to substantiate the

identity of the goods in accordance with declaration in Invoice & Packing list as well as bill of entries.

(xii) M/S Shree Ram Trading failed to provide specific use of the item "Mixed Hydrocarbon Oil". On being asked in his voluntary statement tendered under Section 108 of the Customs Act'1962 whether he was aware about the parameters/specifications of the MHO, Shri Popat Nishit Bharatbhai, Authorised representative, and son of Shri Bharatbhai Popat, proprietor of M/s Shree Ram Trading replied that he is unaware of the specification. He also failed to provide information about the specific industry which used the Mix/Mixed Hydrocarbon Oil. Further, he could not state anything about the parameters /specification of Mixed Hydrocarbon Oil. Further even the CHA could not give any information about the use of the Mixed Hydrocarbon Oil. This suggests that they were not aware about the use of the said commodity i.e "Mixed Hydrocarbon Oil" as the same was not intended to be imported actually in the containers put on hold and subsequently examined by the Officers of the DRI.

(xiii) The parties also appear to have violated the provisions of Petroleum Act, 1934. The goods were imported in gross violation of the said provisions. The Petroleum Act, 1934, classifies petroleum products into 3 categories based on their flash points as detailed below:

S.No	Petroleum products Class	Flash Point
1	Class A	Below 23°C (73°F)
2	Class B	Between 23°C and 65°C (73°F to 149°F)
3	Class C	Between 65°C and 93°C (149°F to 200°F)

Further, as per the test reports the goods in question here i.e. Kerosene as per IS 1459, falls under the "Class B" category of petroleum products as per the Petroleum Act 1934. Class B petroleum products are hazardous, and their import, storage, and transport are strictly regulated. Now to import the class B category of petroleum products an Importer has to follow certain rules and require certain certifications as discussed below:

1. Class B petroleum products must be handled with proper care due to their flammable nature. The Petroleum Act and the Petroleum Rules, 2002, mandate the use of appropriate containers for the storage and transport of

such products. Flexi bags are not suitable for carrying Class B petroleum products because they do not meet the stringent safety standards for the containment of flammable liquids. Containers used for storing and transporting Class B petroleum must be certified as per PESO standards and must be explosion-proof and fire-resistant to prevent any accidental ignition. The use of Flexi bags, which are typically not compliant with these safety norms, violates this requirement.

2. Any importer dealing with Class B petroleum products must have requisite licenses and approvals, such as an import license from the Petroleum and Explosives Safety Organization (PESO).

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

(xiv) Shri Popat Nishit Bharatbhai Authorised representative, and son of Shri Bharatbhai Popat, proprietor of M/s Shree Ram Tradingon being shown the Test Reports and the parameters mentioned therein has accepted the conclusions and findings of the Test Reports of CRCL. He has also accepted that the consignments were mis-declared and misclassified. On the basis of the conclusions of the Test Reports he agreed that the respective consignments comprised of High Flash High Speed Diesel fuel and Keroseneas suggested in the said Test Report. However he has sought to shift the onus and blame for mis-declaration upon the supplier and has claimed that the issue of the mis-declaration can be explained by the supplier. He has sought to project his innocence in the case which however does not appear to be the case. The fact that the importer has not produced any document from the supplier or the supplier has not issued any clarification till date, suggests that the consignment was as per the orders placed by M/s Shree Ram Trading**.**

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

required to ensure that he declared the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. By furnishing incorrect and wrong information in the import documents, it appears that M/s Shree Ram Trading **and** the CHA M/s Airtrax Freight Logistics appear to have violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act'1962.

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

(xvii) Further, by attempting to import restricted goods, the importer- Airtrax Freight Logistics appear to have indulged in the act of smuggling as defined under Section 2(39) of the Customs act'1962. With the introduction of self-assessment and consequent upon amendments to Section 17 of the Customs Act, 1962 w.e.f. 08.04.2011, it was the obligatory on their part to declare the actual description and correct classification of the goods imported by them and pay the duty applicable in respect of the said goods. Therefore, by not disclosing the true and correct facts to the proper officer, at the time of filing of Bill of Entry for the respective consignment, the importer appears to have indulged in mis-

declaration and mis-classification by way of suppression of facts and willfully mis-declared and mis-classified the imported goods with intent to import restricted goods. Thus, the importer appears to have contravened the provisions of Section 46(4) & 46(4A) of the Customs Act, 1962, in as much as they have mis-classified and mis-declared the goods imported by them by suppressing the true and actual description of the goods, while filing the declaration seeking clearance at the time of importation of impugned goods.

(xviii) The facts and the investigations have revealed that the CHAs- M/s Airtrax Freight Logistics was actively involved in facilitating and assisting the customs clearance of the restricted goods namely High Flash High Speed Diesel fuel and Kerosenein the garb of Mixed Hydrocarbon Oil. The CHA appear to have failed to fulfil the following obligations as prescribed under Regulation 10 of Customs Broker Licensing Regulation 2018-

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

(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

(q) co-operate with the Customs authorities

M/s Airtrax Freight Logistics appear to have not advised their client as obligated vide obligation (d) of the Regulation 10 to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof. They further did not bring the violations and contraventions of the import of restricted goods by way of mis-declaration and mis-classification to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs as required under the Regulation. They did not advise them against importing restricted commodities by way misclassification and mis-declaration in flexi bags in violation of the provisions of the Customs Act'1962 and the Petroleum Act'1934. M/s Airtrax Freight Logistics appear to also have violated the obligation (e) as they did not exercise due diligence to ascertain the correctness of the details and documents provided by the importer for

filing of bill of entries. They have been found to be in the business of customs clearance for a considerable period of time yet they did not ask for any proper chemical/analysis report from the importer in support of the details and the description filed by then in the Bills of Entry in respect of the goods sought to be imported under vide the consignments under investigation. In fact they submitted the fudged and fabricated parameters reproduced by the supplier as Chemical Analysis Report alongwith the bills of entry in support of the goods misdeclared as Mixed Hydrocarbon Oil. M/s Airtrax Freight Logistics also did not co-operate with the Customs authoritiesas provided under obligation (q) of the Regulation 10 of the CBLR. During the course of the investigationstheydid not disclose vital information relating to the case on their own. However, on being shown the relevant documents subsequently they have accepted the Lab Reports and have also accepted that the consignments were mis-declared and misclassified in their voluntary statements.

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

(xix) The consignments consisting of 34 containers pertaining to 3 BEs were imported by way of mis-declaration and mis-classification as Mixed Hydrocarbon Oil in the manner as discussed above in contravention of Section 17 (1), Section 46(4) and 46(4A) ,appear liable for confiscation in terms of Section 111(d), (f), (l) and (m) of Customs Act, 1962. Further, M/s Shree Ram Trading- a proprietorship firm, M/s Airtrax Freight Logistics- also a proprietorship firm, Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics, for their respective roles in the instant case appear to have rendered themselves liable for imposition of penalty under Section 112 (a) or (b), and 114 AA of the Customs Act'1962.

15. **ROLE PLAYED BY THE ENTITIES IN THE CASE**:

A. **Role played by the Importer- M/s Shree Ram Trading:**

Whereas it appears that M/s Shree Ram Trading deliberately resorted to illicit import of restricted goods (High Flash High Speed Diesel fuel and Kerosene) under the guise of "Mixed Hydrocarbon Oil (MHO)" to bypass import restrictions applicable to non-State Trading Enterprises (STEs).They misused Customs Tariff Heading 27101990 ("Others") to declare the goods as freely importable. M/s Shree Ram Trading appear to have colluded with suppliers (M/s Arman International FZE and M/s Al Madina Dualiun FZ-LLC to submit falsified invoices, packing lists, and chemical Analysis Reports that misrepresented the true nature of the goods. They further failed to declare the correct classification and description of goods during self-assessment under Section 17(1) of the Customs Act, 1962, and provided inaccurate and incomplete information in the Bills of Entry, violating Sections 46(4) and 46(4A) of the Customs Act, 1962. M/s Shree Ram Trading were fully aware that the imported items were restricted commodities (High Flash High Speed Diesel fuel and Kerosene) and not "Mixed Hydrocarbon Oil," as evidenced by voluntary statements. They appear to have deliberately withheld key documents, including buyer-seller agreements and export declarations, to prevent the identification of the goods. The mis-declared goods namely High Flash High Speed Diesel fuel and kerosenehave been categorized as hazardous Class B petroleum products (High Flash High Speed Diesel fuel and kerosene) but were imported in unsafe Flexi bags, violating and compromising safety norms mandated by the Petroleum Rules, 2002. The misdeeds and malafide acts of M/s Shree Ram Trading appear to be confirmed from the fact that they accepted the findings of the lab tests conducted by CRCL, which confirmed the goods as High Flash High Speed Diesel fuel and Kerosene. They have attempted to pass the responsibility for their malafide act of importing restricted goods on the shoulders of the supplier. The illicit acts of M/s Shree Ram Trading which include misdeclaration, misclassification, and illegal importation of restricted petroleum products appear to violate multiple provisions of the Customs Act, 1962, the Foreign Trade Policy, and the Petroleum Act, 1934 for financial gain. The illicit import of the said restricted goods viz High Flash High Speed Diesel fuel and Keroseneamounts to act of smuggling as defined under Section 2(39) of the Customs Act’1962. Thus, for their acts of omission and commission in the case borne out by the

investigation, M/s Shree Ram Trading appear to have rendered themselves liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962.

B. Role played by the CHA- M/s Airtrax Freight Logistics

It appears that M/s Airtrax Freight Logistics the CHA of the Importer- M/s Shree Ram Trading was also equally involved in the illicit import of the restricted goods namely restricted items (High Flash High Speed Diesel fuel and Kerosene) under the guise of freely importable goods labelled as "Mixed Hydrocarbon Oil (MHO)." As a Customs House Agent, they did not advise M/s Shree Ram Trading to comply with the applicable laws under the Customs Act, 1962, and the Petroleum Act, 1934. They similarly allowed misclassification and misdeclaration of restricted petroleum products as "Mixed Hydrocarbon Oil (MHO)." M/s Airtrax Freight Logistics failed to exercise due diligence and did not verify the accuracy and the authenticity of import documents, including invoices and chemical analysis reports. This becomes more important and critical in view of the kind of goods being imported. M/s Airtrax Freight Logistics filed false/fabricated documents, enabling the import of restricted petroleum products in unsafe Flexi bags, violating the Petroleum Act, 1934, and Customs Act, 1962. For their acts of omission and commission in the case borne out by the investigation, which amounts to smuggling in accordance with Section 2(39) of the Customs Act'1962, M/s Airtrax Freight Logistics appear to have rendered themselves liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962

C. Role Played by Shri Bhupati Maddu (M/s Airtrax Freight Logistics):

Shri Bhupati Maddu has been found to be working in the capacity of Manager of M/s Airtrax Freight Logistics. In his voluntary statement tendered under Section 108 of the Customs Act'192, he has stated that he is handling documentation work and providing customs clearance services to various importers on behalf of M/s Airtrax Freight Logistics at Mundra Port. Thus he is in a key and important position in the firm. He appears to have not discharged his responsibility properly and thus appears to have facilitated the illicit import of restricted goods by M/S Shree Ram Trading. As he has himself submitted that he was looking after documentation, he appears to have not exercised due diligence

while scrutinizing and thereafter filing of the Bills of Entry. He also appears to have played a role in the mis-classification of the goods under the category of "Others" of Chapter 2710. He should have refrained and advised M/s Shree Ram Trading from indulging in illicit and illegal import of the restricted goods. For his failure to discharge his duties responsibly and in accordance with the obligations laid down in the Regulation 10 of Customs Broker Licensing Regulation 2018, Shri Bhupati Maddu appears to have rendered himself liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962 for his role in the in the case as discussed supra.

16. Accordingly, Show Cause Notice F.no. VIII/48-04/ADJ/ADC/MCH/2024-25 dated 13.02.2025 was issued to M/s Shree Ram Trading(IEC-ASKPP1389F) wherein they were called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Custom House, Mundra as to why:-

(i) The impugned goods i.e. High Flash High Speed Diesel fuel conforming to IS: 16861 having total quantity 258.430MTS mis-declared as Mixed Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry no. 2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024, should not be classified under the Customs Tariff Item 27101949.

(ii) The impugned goods i.e. Kerosene conforming to IS:1459 having total quantity 374.370MTS mis-declared as Mixed Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of entry no. 2239931 Dt. 21/02/2024, should not be classified under the Customs Tariff Item 27101932.

(iii) High Flash High Speed Diesel fuel and Kerosene sought to be imported by them in 34 containers pertaining to 3 BOEs having declared value of Rs **2,69,43,455**/- seized under Section 110 of the Customs Act'1962 vide Seizure Memorandums dated 13.09.2024 lying seized at Mundra Port should not be confiscated under Sections111(d), (f), (l)& (m) of the Customs Act'1962.

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

17. Vide Show cause Notice dated 13.02.2025, M/s Airtrax Freight Logistics, Customs House Agent-CHA were hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Custom House, Mundra, as to why penalty should not be imposed upon them under Section 112 (a) or (b) and 114 AA of the Customs Act'1962 for their role in the illicit import of restricted commodity namely High Flash High Speed Diesel fuel and Kerosene.

18. Further, vide Show cause Notice dated 13.02.2025, Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics- CHA, was hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, Customs House, Mundra, as to why penalty should not be imposed upon him under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

19. **Written Submissions**:-

19.1 **M/s. Shree Ram Trading** (IEC-ASKPP1389F) **submitted their reply dated 11.09.2025, wherein they have, *inter alia*, submitted that:-**

- The importer stated that in light of the Test Reports, Customs viewed that the goods were mis-declared as "Mixed Hydrocarbon Oil" and mis-classified under CTH 27101990 instead of CTH 27101932 and 27101949, with the intention of importing restricted commodities. The imports under Bills of Entry Nos. 2239931, 2240118, and 2014315 dated 21.02.2024 / 06.02.2024 appeared to be illicit and in gross violation of the Foreign Trade Policy 2023, Import Policy conditions, and the Customs Act, 1962, rendering the goods liable for confiscation under Section 111(d), (f), (l) and (m) of the Customs Act, 1962.
- The importer explained that Mixed Hydrocarbon Oil (MHO) is a trade and commercial term used in the petroleum and petrochemical industry to describe a blend or mixture of hydrocarbon fractions obtained during refining or petrochemical processing of crude oil. It is a non-standardized mixture that does not conform to any single BIS, ASTM, or EN fuel specification such as those for diesel, kerosene, or gasoline. It is generally used to describe residual, off-spec, intermediate, or recovered fractions from various refining or distillation stages. Key Characteristics of MHO are as follows: - • No Uniform Composition: MHO is not a chemically uniform product. Its exact composition can vary widely depending on the source (e.g, refinery, petrochemical plant), the cut points used

during distillation, and the method of recovery or blending. It may contain varying proportions of paraffinic, naphthenic, and aromatic hydrocarbons. » No Prescribed Standards.

- There is no Indian Standard (IS) or globally recognized specification (ASTM/ISO/EN) that defines or regulates MHO. It does not fall within the scope of IS 1460 (Diesel), IS 1459 (Kerosene), IS 15770 (LDO), or IS 16861 (HFHSD) and is therefore not governed by any licensing or restriction under the Foreign Trade Policy unless specifically notified. While MHO may visually resemble diesel or kerosene, it is not functionally or chemically equivalent. Similarity in flash point, viscosity, or density does not make it a regulated fuel unless it fully conforms to all parameters of such fuels. Its common uses are as blending stock in industrial lubricants, in manufacture of petrochemical intermediates, as feedstock in bitumen and wax production, and occasionally in controlled combustion environments, but not for automotive or retail fuel use.
- The importer submitted through their previous letter and during the personal hearing (where their Consultant Mr. Pradeep Kedia appeared) that they were not satisfied with the CRCL test report, as it did not reveal the exact characteristics of "Mixed Hydrocarbon Oil". The parameters appeared not to have been determined so as to differentiate it from other restricted petroleum products, and the methodology of the test conducted by CRCL was not disclosed to them. The importer further submitted that in similar matters, the Hon'ble High Court and the Tribunal had allowed retesting of samples. Copies of the judgments were appended for reference. They most humbly requested that retesting of the samples be allowed to accord them natural justice.

19.2 M/s. Airtrax Freight Logistics and Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics, through their authorized representative, Shree Vikas Mehta, Consultant, submitted their reply dated 01.10.2025, wherein they have, *inter alia*, stated that:-

- At the outset, the notices deny the allegations and averments leveled against them in the notice. Save and except what is specifically admitted herein, no part of the notice which is not expressly dealt with shall be deemed to be admitted by them.
- The entire case of the department regarding mis-declaration (and mis-classification) of goods, namely Mixed Hydrocarbon Oil (MHO) classified by the

importer under CTH 27101990, allegedly found to be High Flash High Speed Diesel Fuel and Kerosene based on chemical testing of samples by CRCL, Vizag.

- It is submitted that a Custom Broker is not an expert in chemical goods. He is neither required nor equipped to carry out testing of goods imported by his principal. He is only required to prepare the check list for filing a bill of entry on the basis of documents like invoice, bill of lading, etc. placed in his hands by the importer. Once the check list is approved by the importer, he has filed the bills of entry for assessment/re-assessment by Customs. Hence, acting as a Custom Broker, M/s. Airtrax and Shri Bhupati, Manager had nothing to hide or conspire with the importer in passing off mis-declared and/or mis-classified goods. It is a settled law that unless proved that Custom Broker had any prior knowledge about the alleged mis-declaration of goods, his act of preparing the check list and filing bill of entry on the basis of documents placed in his hands by the importer does not render him liable to penalty under section 112(a) or (b) or 114AA of the Customs Act, 1962.
- The show cause notice does not bring out any cogent evidence to dispute the facts stated by Shri Bhupati, Manager in his statement dated 09.08.2024, including that the importer had supplied chemical analysis report/test report which was duly filed along with bill of entry, the declaration and classification in the bills of entry was made on the basis of documents and information provided by the importer, and the bills of entry were filed on the basis of documents and information provided by the importer in which the CTH was already mentioned and declared in the invoice and packing list of the supplier. The issue of mis-declaration can only be explained by the importer and the supplier. The importer has not rebutted the statement of Shri Bhupati, Manager of the Custom Broker. The importer has nowhere implicated the Custom Broker and Shri Bhupati, Manager of the Custom Broker. Hence, none of the allegations leveled against M/s. Airtrax and Shri Bhupati, Manager regarding involvement, etc. are proved.
- The onus to prove that provisions of section 114AA of the Customs Act, 1962 is attracted is even more stringent. It is for the department to prove “knowledge” or “intention” on the part of a person against whom section 114AA is invoked. In this case, none of the statements recorded have implicated the Custom Broker and/or their partner as having knowingly or intentionally made, signed or used any false or incorrect declaration, statement or document. The

allegation that the Custom Broker "was equally involved in the illicit import of the restricted goods" is hereby called to strict proof.

- As such, the allegations leveled against M/s. Airtrax and Shri Bhupati, Manager, who had merely acted as a Custom Broker and had prepared and filed Bills of Entry solely on the basis of documents placed in their hands by the importer, are not sustainable. Consequently, they are not liable for penalty under Section 112(a) and (b) of the Customs Act, 1962. Without prejudice, sub-section (a) and sub-section (b) of Section 112 operate in two different situations and therefore both cannot be simultaneously invoked. The notice does not pass the muster insofar as the criteria of "knowingly or intentionally" required for invoking Section 114AA. Hence, they are also not liable to penalty under Section 114AA of the Customs Act, 1962.

19.3. Further, the Importer M/s. Shree Ram Trading vide their 3 letters all dated 04.05.2026 have submitted that they are willing to **re-export** the goods of subject 3 consignments, back to the supplier, therefore they have requested to grant permission for re-export of the goods. They have also requested to decide the case on merit basis.

PERSONAL HEARING

20. Shri Pradeep Kumar Kedia, consultant, appeared for personal hearing on 11.07.2025 and 30.09.2025 on behalf of M/s. Shree Ram Trading. During the hearing, he requested for re-testing of the goods in the Principal of natural Justice as they are not agreeing with the test results.

20.1 Shri Vikas Mehta, consultant, appeared for personal hearing on 29.09.2025 on behalf of M/s. Airtrax Freight Logistics & Shri Bhupati Maddu. He submitted that all the allegations and averments made in respect of violation of CBLR, 2018, which are made in the show cause notice cannot be dealt with and adjudicated in this case considering that a separate procedure and a separate authority is specified in the CBLR, 2018 to deal with them. On this basis, he submitted that no orders may be passed with regard to any of these allegations for want of jurisdiction since only an inquiry officer appointed by Commissioner (licensing authority) can look into these allegations. Further, he re-iterated earlier submission dated 09.08.2025 of Shri Bhupati Maddu, Manager of CB firm M/s. Airtrax wherein he has more than once stated that they had prepared and filed the bills of entry on the basis of documents received by the CB from importer. They had declared the same description and classification as mentioned in the documents submitted by importer. They had no

means to test the goods to verify the description (based on which classification is made). There is no evidence to rebut the facts stated by Shri Bhupati that Custom Broker is neither required in law nor equipped with technical apparatus required to carry out testing of goods imported by an importer. He had submitted several decisions of appellate bodies in support of submissions.

DISCUSSION AND FINDINGS

21. I have carefully gone through the facts of the case, Show Cause Notice dated 13.02.2025 and the noticee's submissions both, in written and in person. I find that in the present case, principle of natural justice have been complied with and therefore, I proceed to decide the case on the basis of applicable laws/rules, written submissions and documentary evidences available on record.

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

(i) Whether, the impugned goods i.e. High Flash High Speed Diesel fuel conforming to IS: 16861 having total quantity 258.430MTS mis-declared as Mixed Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry no. 2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024, have to be classified under the Customs Tariff Item 27101949 ?

(ii) Whether, the impugned goods i.e. Kerosene conforming to IS:1459 having total quantity 374.370MTS mis-declared as Mixed Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of entry no. 2239931 Dt. 21/02/2024, have to be classified under the Customs Tariff Item 27101932 ?

(iii) Whether, High Flash High Speed Diesel fuel and Kerosene imported in 34 containers pertaining to 3 BOEs having declared value of Rs. **2,69,43,455**/- are liable for confiscation under Sections111(d), (f), (l)& (m) of the Customs Act'1962.

(iv) Whether, the noticees are liable for penalty under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

23.1 I find that 34 containers covered under 03 Bills of Entry as mentioned in **TABLE-A** above pertaining to the Importer were put on hold by DRI Noida Regional

Unit on 15.02.2024 and 27.02.2024 for examination by officers of DRI. The said 34 containers covered under the above-mentioned 3 Bills of Entry were subjected to examination on 12.03.2024 and 13.03.2024. During examination goods are found as yellow coloured liquid substance inside the flexi bags in each container. Representative samples were drawn from one randomly selected container per Bill of Entry for all Bills of Entry. RSS were sent to the CRCL lab, Vizag to ascertain the identification of the goods comprising the consignment.

23.2 I find that test reports indicate that the goods declared in the import documents and the Bill of Entry were different. The parameters of the test reports suggested that the goods being imported in the said containers of Bills of Entry 2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024 meets the requirements of both Automotive Diesel Fuel conforming to standard IS 1460 and High Flash High Speed Diesel conforming to IS 16861. The goods imported in the said containers of Bill of Entry 2239931 dated 21.02.2024 meets the requirement of Kerosene conforming to standard IS 1459.

23.3 I find that as per Customs Tariff Act it appears that the goods imported Bills of Entry 2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024 are classifiable under two different CTIs- i.e. 27101944 [which pertains to “Automotive Diesel Fuel] and 27101949 [which pertains to High Flash High Speed Diesel]. As per General Rules for the Interpretation of the Harmonized System, there are certain rules which shall govern the classification of goods in the Nomenclature. The rules are to be followed sequentially to classify goods. In the instant case, the goods cannot be classified under any rule up to Rule 3(c) of GIR. As per Rule 3(c) of the GIR, in such cases where goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. Thus, in view of above, in the instant case the goods covered under Bill of Entry No 2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024 are appropriately classifiable under CTI 27101949 which pertains to High Flash High Speed Diesel conforming to IS 16861.

23.4 I find that on analysis of the parameters detailed in the Test Reports vis-à-vis the parameters stipulated in the BIS standards of Kerosene (IS:1459), High Flash High Speed Diesel fuel conforming to standard IS:16861, it is in accordance with the intelligence, that goods being imported appeared to be mis-declared and following conclusion flow from the analysis:

Sl. No.	Bill of Entry No.	Date of Bill of Entry	No. of containers	Product description as per the analysis of the Test report
1.	2239931	21/02/2024	20	Kerosene conforming to standard IS: 1459
2.	2240118	21/02/2024	10	High Flash High Speed Diesel fuel conforming to standard IS: 16861
3.	2014315	06.02.2024	4	High Flash High Speed Diesel fuel conforming to standard IS: 16861

23.5 I find that in the light of the parameters of the Test Reports of the CRCL, the goods imported under 2240118 Dt. 21/02/2024 and 2014315 Dt. 06.02.2024, are liable to be classified under CTH 27101949 under the description High Flash High Speed Diesel while the goods imported under BE 2239931 Dt. 21/02/2024 are liable to be classified under CTH 27101932 under the description of Kerosene conforming to IS 1459.The relevant description of CTH 27101949 and 27101932 as per Customs Tariff Act'1985 are as below:

2710 19 43	---- Light diesel oil conforming to standard IS 15770	kg.	10.00	5.00	---	18.00	0.50	24.490	prises State Trading Enterprises	Chapter 27 Import as per Policy Condition (5) of Chapter 27
2710 19 44	---- Automotive diesel fuel, not containing biodiesel, conforming to	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn 12/2018-Cus.
2710 19 49	---- High flash high speed diesel fuel conforming to standard IS 16861	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	Import as per Policy Condition (5) of SWS - 3% by Ntfn

Chapter Heading 27101949

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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 12 90	--- Other	kg.	5.00	5.00	—	14% + Rs. 15 per litre			State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
2710 19	-- Other:									
2710 19 20	--- Solvent 125/240 (petroleum hydrocarbon solvent) as specified under standard IS 1745	kg.	5.00	5.00	—	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
	--- Kerosene intermediate and oils obtained from kerosene intermediate:									
2710 19 31	---- Kerosene intermediate	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 32	---- Kerosene conforming to standard IS 1459	kg.	5.00	5.00	—	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27

Chapter Heading 27101932

23.6 I find that as per ITC(HS), 2022, Schedule 1: Import Policy, Section V: Mineral Products, Chapter 27: Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes: Goods falling under the description of *"Kerosene intermediate and oils obtained from kerosene intermediate: -- Kerosene conforming to standard IS 1459"and "Gas oil and oils obtained from gas oil:---- High Flash High-Speed Diesel fuel conforming to standard 16861" the import policy makes the goods restricted by way of importation by State Trading Enterprises only by virtue of Policy Condition No. 5 which prescribes "Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date*". The screenshots of the relevant extracts are as below:

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

27101932	---	"Kerosene intermediate and oils obtained from kerosene intermediate: ---- Kerosene conforming to standard IS 1459"	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.

Product Description and Import Policy

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

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

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

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

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

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

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

Existing Policy Condition	Revised Policy Condition
Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P and NGs Resolution No. P23015/1/2001-MKT.Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date.	Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2002 for products excluding gasoline conforming to standard IS 2796 (ITC HS Code: 27101241) and Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460 (ITC HS Code 27101944) which would be allowed to be imported by entities in terms of MoPNG Resolution No. P-12029(11)/2/2018-OMC-PNG dated 08.11.2019".

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

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

"2.20 State Trading Enterprises (STEs)

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

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

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

23.9 I find that in the instant case, the importer M/s. Shree Ram Trading, is neither a STE (State Trading Enterprise) nor any authorization has been granted by DGFT to the Importer for import of said restricted goods.

23.10 I also find that M/s. Shree Ram Trading (Importer), have violated the provisions of Petroleum Act, 1934. The goods were imported in gross violation of the said provisions. The Petroleum Act, 1934, classifies petroleum products into 3 categories based on their flash points as detailed below:

S.No	Petroleum products Class	Flash Point
1	Class A	Below 23°C (73°F)
2	Class B	Between 23°C and 65°C (73°F to 149°F)
3	Class C	Between 65°C and 93°C (149°F to 200°F)

Further, as per the test reports the goods in question here i.e. Kerosene as per IS 1459, falls under the "Class B" category of petroleum products as per the Petroleum Act 1934. Class B petroleum products are hazardous, and their import, storage, and transport are strictly regulated. . The Petroleum Act, 1934 and the Petroleum Rules, 2002, mandate the use of appropriate containers for the storage and transport of such products. Flexi bags are not suitable for carrying Class B petroleum products because they do not meet the stringent safety standards for the containment of flammable liquids. Containers used for storing and transporting Class B petroleum must be certified as per PESO standards and must be explosion-proof and fire-resistant to prevent any accidental ignition. The use of Flexi bags, which are typically not compliant with these safety norms, violates this requirement.

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

23.11 I find that as per the provisions of Section 17 (1)of the Customs Act, 1962 read with Section 2 (2) of the Customs Act and CBIC Circular No. 17/2011-Customs dated 08.04.2011 lay down onus on the importer and the CHAs to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declared the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. By furnishing incorrect and wrong information in the import documents. Therefore, I find that M/s Shree Ram Trading and the CHA M/s Airtrax Freight Logistics appear to have violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act'1962.Further, as per Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bills of Entry. Further, in terms of Section 46 (4A) of the Customs Act, 1962, the importer who presents a bill of entry shall ensure the accuracy and completeness of the information given therein, shall ensure the authenticity and validity of any document supporting it and shall ensure compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force. In the instant case it appears that the importer- M/s Shree Ram Trading was fully aware of the actual goods imported by them. Also on being shown the Test Reports, Shri Popat Nishit Bharatbhai Authorised representative, and son of Shri Bharatbhai Popat, proprietor of M/s Shree Ram Trading accepted that they had mis-declared the description of goods imported under subject bills of entry before the custom authorities in his voluntary statement. Thus, in view of the facts discussed in the foregoing paras and material evidences available on records, I find that the importer has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, in as much as they had intentionally mis-declared the description of the goods imported by them with a malafide intention to import a restricted good under the garb and guise of a freely importable good.

24 I also find that Importer vide letter dated 11.09.2025 and during the personal hearing conducted on 30.09.2025 has requested for re-testing of imported goods stating that they are not agree with the test reports of CRCL, Vizag. Accordingly, the matter for re-testing request of the sample was examined and rejected and the same was informed to the importer vide this office letter dated 14.10.2025.

24.1 In this reference, I find that M/s. Shree Ram Trading has raised the defence that the CRCL test report is not reliable as it does not reveal the exact characteristics of "Mixed Hydrocarbon Oil" and that they are not satisfied with the CRCL test methodology, seeking re-testing of the samples. I find that re-testing is not an absolute right of the importer. I reject the request of the import on following grounds:-

(i) As per CBIC circular no. 30/2017 dated 18.07.2017 regarding detailed guidelines for re-testing of samples, as per para 2(b) of,

"*In case the importer or his agent intends to request the jurisdictional Additional/ Joint Commissioner of Customs for a re-rest, the same shall be made in writing to the said officer within a period of ten days from the receipt of the communication of the test results of the first test. Customs officers will take a reasoned view in case the importer or his authorized representative Customs Broker is unable to do so for reasons beyond his control.*"

In the instant case, Shri Popat Nishit Bharatbhai, Authorised Representative and son of Shri Bharatbhai Popat, proprietor of M/s Shree Ram Trading, in his voluntary statement dated 06.08.2024 (Q.30–38 of the SCN), perused the parameters detailed in the test reports submitted by CRCL, Vizag, dated 03.06.2024, and accepted the findings and conclusions of CRCL, Vizag.

After a considerable lapse of around 11 months, the samples have started to deteriorate and have lost their representative characteristics due to evaporation and chemical changes. Subsequently, M/s Shree Ram Trading, during their personal hearing on 11.07.2025 and in their written submissions dated 04.08.2025, requested re-testing of the samples. This clearly indicates that the importer did not comply with CBIC Circular No. 30/2017 dated 18.07.2017, which stipulates that any request for re-testing must be made in writing to the Adjudicating Authority within a period of 10 days. Furthermore, the Show Cause Notice (SCN) in the subject matter was already issued on 13.02.2025. It appears that the importer failed to request re-testing within the prescribed time limit and waited for approximately 11 months, during which the

sample specifications/characteristics changed. This delay seems to be a deliberate attempt to hinder the adjudication proceedings, indicating mala fide intentions.

ii) The importer has already accepted the CRCL Laboratory test results during his voluntary statement dated 06.08.2024 and no any objection was raised earlier during statement time and SCN issuance time. Now at the later stage importer request for re-test is treated as an afterthought to evade liability.

iii) The CRCL lab is final authority and their opinion is already conclusive hence there no grounds were left to doubt the test results provided by the CRCL.

iv) As mis-declaration is already corroborated throughout the investigation and importer had not submitted any documents to the investigation agency in his support, re-test request is only to create doubt.

v) The right to re-testing of a contested sample is not an unfettered substantive right under the Customs Act, it is a procedural, facilitative remedy governed by departmental instructions and settled judicial principles. Further, where independent notified laboratories (CECL/IOCL) have examined the remnant/duplicate samples and have given reports confirming the original conclusion, a further re-test will not be ordered. In the present matter the samples were fully tested by notified labs, and the conditions for a meaningful re-test are not satisfied. Accordingly the request for re-testing is refused.

vi) It is observed that the request for re-testing of the impugned sample (diesel/base oil) cannot be acceded to as the sample in question is of a volatile petroleum product whose characteristics undergo alteration over time, and in absence of any evidence of procedural irregularity in the initial test conducted by CECL, the prayer for re-testing is not tenable.

v) Further, I relied upon the following rulings :-

a) In the case of CC vs. HPL Chemicals Ltd, 2006 (197) ELT 324 (Tri.-Del.), CESTAT held that CRCL is the final authority for chemical testing under Customs law and Once CRCL gives a conclusive report**,** re-testing cannot be claimed as a matter of right and Denial of re-test is valid where there is no evidence that the first testing was faulty or biased. Therefore Importer cannot keep demanding repeated re-tests merely to create doubt.

b) In the case of CC (Imports), Mumbai v. Arham Petrochem Pvt. Ltd., 2014 (310) ELT 314 (Tri.-Mumbai) CESTAT held that right to re-test must be exercised immediately after first test report, and not belatedly during adjudication.

c) In the case of Hindustan Zinc Ltd. v. CC, Kandla, 2008 (227) ELT 289 (Tri.-Ahmd.), CESTAT held that importer had not request re-test promptly, their request at adjudication stage was rejected. Silence or acceptance at the time of sampling/first test bars later re-test requests.

d) In the case of Jindal Drugs Pvt. Ltd. v. CC, Mumbai, 2001 (133) ELT 539 (Tri.-Mum.) CESTAT held that request for re-test must be bona fide and based on technical grounds**,** not just as a defence strategy. If first test is done by an accredited government laboratory, denial of re-test is valid unless importer can show concrete reasons why first test is unreliable**.** Re-test is discretionary, not automatic.

25. CONFISCATION OF GOODS:

25.1 I find that the Show Cause Notice has proposed confiscation of the impugned goods under Sections 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962. In this regard, I find that as far as confiscation of goods is concerned, Section 111 of the Customs Act, 1962 defines the confiscation of improperly imported goods. The relevant legal provisions of Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962 are reproduced below:

"…

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

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

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

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

…"

25.2 I find that M/s. Shree Ram Trading filed three Bills of Entry at Mundra Port declaring the goods in all three consignments as "Mixed Hydrocarbon Oil" and classifying the same under CTI 27101990. Upon examination and testing of the representative samples drawn from the consignments by the Central Revenue Control Laboratory (CRCL), Vizag, the goods were found to be as follows:

Sl. No.	Bill of Entry No.	Date	No. of Containers	Actual Goods (as per CRCL)	Correct CTH
1.	2239931	21.02.2024	20	Kerosene conforming to IS 1459	27101932
2.	2240118	21.02.2024	10	High Flash High Speed Diesel fuel conforming to IS 16861	27101949
3.	2014315	06.02.2024	04	High Flash High Speed Diesel fuel conforming to IS 16861	27101949

Shri Popat Nishit Bharat bhai, Authorised Representative and son of the proprietor of M/s. Shree Ram Trading, in his voluntary statement dated 06.08.2024, accepted the conclusions of the CRCL test reports for all three consignments and agreed that the correct classification of the goods covered under BOE No. 2239931 dated 21.02.2024 is under CTH 27101932 (Kerosene), and the correct classification of the goods covered under BOE No. 2240118 dated 21.02.2024 and BOE No. 2014315 dated 06.02.2024 is under CTH 27101949 (High Flash High Speed Diesel fuel). Thus, there is no ambiguity that the goods were mis-declared by the importer with respect to description, classification and import policy status in all three consignments. Both Kerosene (CTH 27101932) and High Flash High Speed Diesel fuel (CTH 27101949) are restricted goods under Policy Condition No. 5 of Chapter 27 of ITC(HS) and can be imported only by State Trading Enterprises (STEs) or entities specifically authorized by DGFT. M/s. Shree Ram Trading is neither a STE nor does it possess any such authorization from DGFT.

25.3 I find that the Importer has violated the Policy Condition (5) of the ITC(HS) for Exports and Imports 2015-2020 for Chapter 27 which mandates that *"Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2002..."* By mis-declaring all three consignments as "Mixed Hydrocarbon Oil" under CTH 27101990 (Free), the importer has deliberately attempted to circumvent the import restrictions applicable to both Kerosene and High Flash High Speed Diesel fuel. Therefore, the goods in all three consignments are liable for confiscation under Section 111(d) of the Customs Act, 1962.

25.4 I also find that the goods were imported in Flexi bags fitted inside general purpose 20 feet containers. As regards the Kerosene covered under BE No. 2239931 dated 21.02.2024, it falls under Class B petroleum products as per the Petroleum Act, 1934 (flash point between 23°C and 65°C). Import, transport and storage of Class B petroleum products are strictly regulated under the Petroleum Rules, 2002. Flexi bags are not approved containers for transportation of Class B petroleum products as they do not meet the safety standards prescribed under the said Rules. In reference to the above, Public Notice No. 08/2024 dated 27.09.2024 issued by the Principal Commissioner, Mundra Customs, makes it clear that Flexi bags fitted in general purpose 20 feet containers are not covered under the definition of containers under the Petroleum Rules, 2002. Thus, the impugned goods i.e. Kerosene of Bill of entry no 2239931 dated 21.02.2024 have been imported in violation of the provisions of the Petroleum Act, 1934 and Rules made thereunder, rendering them additionally liable for confiscation under Section 111(d) of the Customs Act, 1962 on this count as well.

25.5 Further, the goods declared as "Mixed Hydrocarbon Oil" under CTH 27101990 in all three Bills of Entry do not correspond with the actual goods found on testing i.e. Kerosene (CTH 27101932) and High Flash High Speed Diesel fuel (CTH 27101949). The description, classification and policy status mentioned in the Bills of Entry are completely at variance with the actual nature of the goods in all three consignments. Therefore, the goods are also liable for confiscation under Section 111(m) of the Customs Act, 1962.

25.6 Since the goods were not correctly declared in the Bills of Entry and the import manifests/IGMs in respect of the actual description and classification, the goods are

also liable for confiscation under Section 111(f) and Section 111(l) of the Customs Act, 1962.

25.7 Accordingly, in the manner as discussed above and in contravention of Section 17(1), Section 46(4) and 46(4A) of the Customs Act, 1962, I find that the said acts of omission and commission on the part of the importer have made the imported goods in 34 containers covered under 3 Bills of Entry having total declared assessed value of Rs. 2,69,43,455/- (Rupees Two Crore Sixty Nine Lakh Forty Three Thousand Four Hundred and Fifty Five Only), liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962.

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

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

26.2 Section 125(1) of the Customs Act, 1962 reads as under:

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

26.3 A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to the owner of confiscated goods for release of confiscated goods by paying redemption fine where there is no restriction on policy provision for domestic clearance. In the present case, the goods — both Kerosene and High Flash High Speed Diesel fuel — are restricted in nature for the importer (non-STE) and have been imported in violation of Policy Condition No. 5 of Chapter 27 as well as the provisions of the Petroleum Act, 1934 and

Petroleum Rules, 2002. Therefore, the goods in all three consignments are not fit for clearance for home consumption.

26.4 During the adjudication proceedings, M/s. Shree Ram Trading vide their three letters all dated 04.05.2026 have requested permission to re-export the goods of all three subject consignments back to the overseas supplier, and have requested that the case be decided on merit. The goods have remained under customs control at Mundra Port and have not been cleared for home consumption. I observe that redemption is not a right but a discretion to be exercised by the Adjudication Authority.

26.5 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 thus a legal consequence of non-fulfilment of statutory conditions and absence of requisite authorisation.

26.6 In view of the above discussion, I am of the considered view that the ends of justice would be met by allowing redemption of the subject goods for the limited purpose of re-export. Imposition of redemption fine along with penalty is sufficient to address the violation and convey a clear deterrent message to similarly placed importers. At the same time, this course ensures that the goods do not enter the domestic market in violation of statutory conditions. Therefore, exercising powers under Section 125 of the Customs Act, 1962, I deem it appropriate to allow the importer an option to redeem the goods for the limited purpose of re-export on payment of redemption fine under the provisions of Section 125 of the Customs Act, 1962.

DISCUSSION ON IMPOSITION OF PENALTIES ON NOTICEES

27. Penalty on M/s. Shree Ram Trading (Importer):

27.1 I find that M/s. Shree Ram Trading filed three Bills of Entry at Mundra Port declaring the goods as "Mixed Hydrocarbon Oil" classifiable under CTH 27101990 (Free), whereas the goods on testing by CRCL, Vizag were found to be Kerosene

classifiable under CTH 27101932 (BE No. 2239931 dated 21.02.2024 — 20 containers) and High Flash High Speed Diesel fuel classifiable under CTH 27101949 (BE No. 2240118 dated 21.02.2024 — 10 containers and BE No. 2014315 dated 06.02.2024 — 4 containers). Both Kerosene and High Flash High Speed Diesel fuel are restricted items under Policy Condition No. 5 of Chapter 27 of ITC(HS) and can be imported only by State Trading Enterprises (STEs). Hence, the imported goods covered under all three Bills of Entry were mis-declared by the importer with respect to description, classification and import policy status to circumvent the import policy.

27.2 The importer at the adjudication stage has sought to challenge the CRCL test reports and has sought re-testing. This defence has been rejected for reasons detailed in Para 27.2 above. The voluntary admission by the importer's Authorised Representative recorded under Section 108 of the Customs Act, 1962 accepting the CRCL test reports and the correct classifications for all three consignments is conclusive and binding. M/s. Shree Ram Trading deliberately withheld key documents including buyer-seller agreements, load port reports, surveyor reports, export declarations and refinery certificates, to prevent the identification of the goods by the investigating officers. They failed to produce any document to substantiate the chemical composition or constituent of "Mixed Hydrocarbon Oil" as declared by them. Neither the importer nor their authorised representative could describe any specific industrial use of "Mixed Hydrocarbon Oil" or provide any specification or standard governing the said product — a telling indicator that the product was never actually ordered or intended to be imported. The fact that approximately 17-18 consignments were imported by a firm established in March 2023, within such a short period, without any written buyer-seller agreement, without any refinery certificate, and without any independently certified Chemical Analysis Report, by itself establishes the systematic and deliberate nature of the modus operandi. The CB filed the Bills of Entry with fudged and fabricated Chemical Analysis Reports prepared on the supplier's own letterhead — without any technical qualification — which were presented to Customs in support of the misdeclared goods; the importer was responsible for supplying these documents to the CB. The mis-declared goods, Kerosene, were imported in unsafe Flexi bags, violating the Petroleum Act, 1934 and Petroleum Rules, 2002 and Public Notice No. 08/2024 dated 27.09.2024. M/s. Shree Ram Trading is not an STE and was not authorized by DGFT to import these restricted goods. Their illicit act of importing restricted petroleum products — Kerosene and HFHSD — under the false declaration of "Mixed Hydrocarbon Oil" amounts to

smuggling as defined under Section 2(39) of the Customs Act, 1962. Thus, for their acts of omission and commission in the case as borne out by the investigation, M/s. Shree Ram Trading have rendered themselves liable for penalty under the provisions of Section 112(a)(i) of the Customs Act, 1962.

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

Further, M/s. Shree Ram Trading knowingly and intentionally filed Bills of Entry containing false and incorrect declarations in material particulars namely description and classification of goods, and further caused to be used fabricated invoices, packing lists and Chemical Analysis Reports in support thereof, thereby rendering themselves liable for penalty under Section 114AA of the Customs Act, 1962.

28. Penalty on M/s. Airtrax Freight Logistics (CB):

28.1 M/s. Airtrax Freight Logistics, as the Customs Broker, filed all three subject Bills of Entry using their license. Shri Bhupati Maddu, Manager of M/s. Airtrax Freight Logistics, in his voluntary statement dated 09.08.2024, admitted that the goods identified by the laboratory and the declarations made in the Bills of Entry are different. He agreed that the correct classification of the goods covered under BOE No. 2239931 dated 21.02.2024 should be under CTH 27101932 (Kerosene), and under BOE No. 2240118 dated 21.02.2024 and BOE No. 2014315 dated 06.02.2024 should be under CTH 27101949 (HFHSD), and that the declarations made in the Bills of Entry are incorrect and wrong. He however took the position that the Bills of Entry were filed on the basis of documents and information provided by the importer, and that the issue of misdeclaration can only be explained by the importer and the supplier.

28.2 This defence is not acceptable. As a licensed Customs Broker, M/s. Airtrax Freight Logistics was duty bound under Regulation 10 of the Customs Brokers Licensing Regulations, 2018 to exercise due diligence, advise the client properly and ensure correctness of classification and compliance with the import policy. The defence that classification was done on the basis of CTH mentioned in the supplier's own invoice — without independent verification — is wholly untenable for a goods

category as sensitive as Chapter 27 petroleum products, many of which are restricted commodities. In fact, it is found that M/s. Airtrax Freight Logistics went further and submitted the fudged and fabricated parameters reproduced by the supplier on its own letterhead as a "Chemical Analysis Report" along with the Bills of Entry in support of the goods misdeclared as Mixed Hydrocarbon Oil. Submitting a supplier's own letterhead document as a Chemical Analysis Report — without verifying the technical qualification or competence of the issuer, for a product in Chapter 27 — constitutes a grave failure of due diligence mandated under Regulation 10(e) of the CBLR 2018 and also amounts to facilitation of misdeclaration. They admittedly handled the customs clearance of approximately 17-18 consignments of MHO for M/s. Shree Ram Trading and knew or had reason to know the nature of goods being cleared. They failed to advise M/s. Shree Ram Trading to comply with the applicable laws under the Customs Act, 1962 and the Petroleum Act, 1934, as required under Regulation 10(d) of the CBLR 2018, and did not bring the violations to the notice of the Customs authority. Thus, they failed to co-operate with the Customs authorities and admitted the mis-declaration only when confronted with incontrovertible evidence, as required under Regulations 10(q) of the CBLR, 2018. Their conduct enabled the import of restricted petroleum products — Kerosene (Class B) and High Flash High Speed Diesel fuel (Class C) — in unsafe Flexi bags, violating the Petroleum Act, 1934 and the Customs Act, 1962. For their acts of omission and commission in the case, which amount to smuggling in accordance with Section 2(39) of the Customs Act, 1962, M/s. Airtrax Freight Logistics have rendered themselves liable for penalty under the provisions of Section 112(a)(i) of the Customs Act, 1962.

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

Further, M/s Airtrax Freight Logistics facilitated and abetted the mis-declaration and mis-classification of the impugned goods by filing import documents. Accordingly, I find that M/s Airtrax Freight Logistics knowingly and intentionally made, signed or used and/or caused to be made/signed/used import documents and other related documents, which were false or incorrect, in material particulars, for the purposes of illegal import of subject goods, therefore M/s Airtrax Freight Logistics are also liable to penalty under Section 114AA of the Customs Act, 1962.

29. Penalty on Shri Bhupati Maddu, Manager of M/s. Airtrax Freight Logistics:

29.1 I find that Shri Bhupati Maddu was working as the Manager of M/s. Airtrax Freight Logistics at Mundra Port and was handling all documentation work and customs clearance services on behalf of M/s. Airtrax Freight Logistics at Mundra Port. In his voluntary statement dated 09.08.2024, he confirmed that he managed all customs clearance work at Mundra Port on behalf of the firm and that M/s. Shree Ram Trading is among the firm's major clients. He admitted that the documents provided by the importer — invoices, packing lists and Bills of Lading — formed the basis for filing the Bills of Entry. He confirmed that the test reports showed the goods to be Kerosene and HFHSD as against the declared Mixed Hydrocarbon Oil, and agreed that the declarations in all three Bills of Entry are incorrect and wrong. The defence submissions filed on behalf of M/s. Airtrax Freight Logistics and Shri Bhupati Maddu by their authorized representative that a Customs Broker is not equipped to test goods and that they merely relied on importer's documents is not acceptable.

29.2 Shri Bhupati Maddu, as the Manager in charge of all documentation and customs clearance work at Mundra Port, was the key operational figure managing the clearance of all three consignments. He received the import documents from the importer, supervised the preparation of the checklist, and facilitated the examination and clearance process for all 34 containers. Critically, he personally supervised the submission of what he knew were supplier-generated, technically unqualified documents as "Chemical Analysis Reports" along with the Bills of Entry. He did not ask for or obtain an independent and credible Chemical Analysis Report from a recognized laboratory for goods in Chapter 27 — a basic and mandatory step for a specialist clearing agent dealing in petroleum products. He did not advise the importer against importing restricted petroleum products by way of misdeclaration in Flexi bags in violation of the Customs Act, 1962 and the Petroleum Act, 1934, and did not bring the violation to the notice of the Customs authority. By actively managing the clearance of goods which he knew or had reason to believe were liable to confiscation under Section 111 of the Customs Act, 1962, Shri Bhupati Maddu has rendered himself liable for penalty under Section 112(b)(i) of the Customs Act, 1962.

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

Further, Shri Bhupati Maddu was actively involved in facilitating the filing of Bills of Entry containing false and incorrect declarations in material particulars including submission of fabricated Chemical Analysis Reports from the supplier, and it is clearly established that he was fully aware of the nature of the goods being cleared, thereby rendering himself liable for penalty under Section 114AA of the Customs Act, 1962.

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

ORDER

30.1 Order for Classification, Confiscation and Redemption

i. I order to reject the declared classification of the impugned goods mis-declared as 'Mixed Hydrocarbon Oil' under Customs Tariff Item 27101990, imported vide three Bills of Entry, and order to re-classify the same as under:

Sl. No.	Bill of Entry No. & Date	Correct Classification	Description
1.	2239931 dt. 21.02.2024 (20 containers)	CTH 27101932	Kerosene conforming to IS 1459
2.	2240118 dt. 21.02.2024 (10 containers)	CTH 27101949	High Flash High Speed Diesel fuel conforming to IS 16861
3.	2014315 dt. 06.02.2024 (04 containers)	CTH 27101949	High Flash High Speed Diesel fuel conforming to IS 16861

ii. I order to confiscate the impugned goods — Kerosene conforming to IS 1459 (20 containers under BE No. 2239931 dated 21.02.2024) and High Flash High Speed Diesel fuel conforming to IS 16861 (10 containers under BE No. 2240118 dated 21.02.2024 and 4 containers under BE No. 2014315 dated 06.02.2024) — sought to be imported by M/s. Shree Ram Trading, in 34 containers covered under 3 Bills of Entry, having total declared assessed value of **Rs. 2,69,43,455/- (Rupees Two Crore Sixty Nine Lakh Forty Three Thousand Four Hundred and Fifty Five Only)** seized under Section 110 of the Customs Act, 1962, under Sections 111(d), 111(f), 111(l) & 111(m) of the Customs Act, 1962. However, I give an option to the Importer to redeem

the goods only for re-export purpose, upon payment of Redemption Fine of **Rs. 26,00,000/- (Rupees Twenty Six Lakh Only)** under the provisions of Section 125 of the Customs Act, 1962.

30.2 Penalty Under Section 112 of the Customs Act, 1962.

i. I impose a penalty of **Rs. 13,00,000/- (Rupees Thirteen Lakh Only)** on M/s. Shree Ram Trading, under Section 112(a)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(b) of the Customs Act, 1962, for the reasons discussed above.

ii. I impose a penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on M/s. Airtrax Freight Logistics, Customs Broker, under Section 112(a)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(b) of the Customs Act, 1962, for the reasons discussed above.

iii. I impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only)** on Shri Bhupati Maddu, Manager of M/s. Airtrax Freight Logistics, under Section 112(b)(i) of the Customs Act, 1962. However, I do not impose penalty under Section 112(a) of the Customs Act, 1962, for the reasons discussed above.

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

i. I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** on M/s. Shree Ram Trading, under Section 114AA of the Customs Act, 1962.

ii. I impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only)** on M/s. Airtrax Freight Logistics, Customs Broker, under Section 114AA of the Customs Act, 1962.

iii. I impose a penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** on Shri Bhupati Maddu, Manager of M/s. Airtrax Freight Logistics, under Section 114AA of the Customs Act, 1962.

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

32. The Show Cause Notice issued vide F. No. VIII/48-04/ADJ/ADC/MCH/2024-25 dated 13.02.2025 is hereby disposed of on the above terms.

Digitally signed by Dipakbhai Zala
Date: 27-05-2026 17:20:38

DIPAK ZALA
ADDITIONAL COMMISSIONER OF CUSTOMS,
MUNDRA CUSTOMS HOUSE

To,

1. M/s. Shree Ram Trading (IEC- ASKPP1389F),
1st Floor, Office no. 111, Kutch Platinum Arcade, Survey no. 234-1 235,
Mithi Rohar Branch Post Office, Mithirohar, Kachchh, Gujarat-370240
Email id: shreeramtrading353@gmail.com

2. M/s Airtrax Freight Logistics, Customs Broker,
Plot no 59/60, Masilamani Nagar, Thirumazhisai, Chennai - 600077
Email id: Airtraxfreightmundra@gmail.com

3. Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics,
House No. 1-27, Maddi Street, Thotavuru, Vjrapukotturu,
Srikakulam, Andhra Pradesh-761006
Email id: Airtraxfreightmundra@gmail.com

Copy to:

1. The Deputy Director, Directorate of Revenue Intelligence, Noida Regional Unit
2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.
3. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra... (with the direction to upload on the official website immediately)
4. The Deputy/Assistant Commissioner of Customs, Group-I, Custom House, Mundra.