कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:
CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421.
PHONE : 02838-271426/271163 FAX :02838-271425
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A	**FILE NO.** फ़ाइल संख्या	**GEN/ADJ/ADC/718/2026-Adjn-O/o Pr. Commr-Cus-Mundra**
B	**OIO NO.** आदेश संख्या	MCH/ZDC/ADC/470/2026-27
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	05.11.2026
E	**DATE OF ISSUE** जारी करने की तिथि	05.11.2026
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	**56/2026-27/ADC/ZDC/MCH dated 27.05.2026**
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	**M/s Deep International (IEC: IKEPS1073M0)**

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

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

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

"सीमाशुल्कआयुक्त (अपील),

चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,

नवरंगपुरा,अहमदाबाद 380 009"

"THE COMMISSIONER OF CUSTOMS (APPEALS)

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

NAVRANGPURA, AHMEDABAD-380 009."

3. उक्तअपील यहआदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

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

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

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

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

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

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

BRIEF FACTS OF THE CASE

1.1 M/s Deep International (IEC: IKEPS1073M0), having its registered office/principal place located at Plot No. 21, Near Indreshwar Commercial Center, Near Marketing Yard, Daulatpura, Junagadh, Gujarat – 362037 (hereinafter referred to as *the "Importer"*), imported goods vide Bill of Entry No. 4869187 dated 03.10.2025 at Customs House Mundra**.**

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

The details of the import consignment are as follows:

Table-I

	Details of Bill of Entry
Bill of Entry No.	4869187 dated 03.10.2025
Bill of Lading No.	RSLJEA7259MUN
Declared Goods in BE	Industrial Oil
Declared Quantity	199110 (in KGS)
Customs Broker	M/s Access Worldwide Cargo
Country of Origin	UAE
Supplier	M/s Bright Commodities FZE, Hamriya, UAE

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

2. Examination and drawl of Samples:

The examination of aforesaid consignment was conducted by the DRI under panchnama dated 13/14.10.2025 at Mundra Port, in the presence of the authorized representative of the Customs Broker appointed by the importer. During the said examination proceedings, representative samples, in duplicate, were drawn from each of the 10 containers, for laboratory testing to ascertain the exact nature of the import goods in the said consignment.

3. Testing of the Samples:

3.1 The 10 samples drawn from the containers covered under Bill of Entry No. 4869187 dated 03.10.2025 were sent to Custom House Laboratory, Visakhapatnam for testing vide Test Memo No. 466/2025 to 475/2025 dated 16.10.2025 respectively.

3.2 The laboratory subsequently submitted their test reports reference Lab No. 93-DRI to 97-DRI, vide report dated 11.11.2025 and Lab No. 175-DRI to 179-DRI, vide report dated 18.11.2025 in respect of Bill of Entry No. 4869187 dated 03.10.2025.

3.3 The test reports in respect of all 10 samples pertaining to Bill of Entry No. 4869187 dated 03.10.2025, based on the parameters tested by the Custom House Laboratory, indicated that all the samples conform to the stringent parameters of Automotive Diesel Fuel. Since all the samples yielded similar findings, the report in respect of Lab No. 178-DRI is reproduced hereunder for illustration:

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

- ***The sample meets all characteristic parameters of automotive diesel fuel except flash point (21.0°C), which is 14.0° C lower than required i.e. 35.0°C, the percentage distillation recovery at 360° C is 92% (3% lower than requirement of 95%) and Sulphur which is 1249 PPM, which is very high as comparison to required value of 10 PPM (BS-VI).***

- ***The sample also meets the stringent parameter of HFHSD as mentioned in IS: 16861 except flash point (21.0℃), which is 45.0℃ lower than the required, which was lowered by using lighter hydrocarbons.***
- ***The GCMS chromatogram of sample reveals that the sample is mainly composed of diesel fraction (more than 95% & less than 98%) & adulterated with lighter hydrocarbons.***

- ***The sample is most akin of HFHSD (IS 16861)/ adulterated HFHSD.***

3.4 For parameters not covered in the Custom Laboratory's Vishakhapatnam testing, additional samples were forwarded to Mangalore Refinery and Petrochemicals Limited (MRPL) vide Test Memo No. 828/2025 dated 03.12.2025 in respect of Bill of Entry No. 4869187 dated 03.10.2025 respectively, to ensure comprehensive testing of all specifications under IS 1460 and IS 16861, as mandated by the Hon'ble Supreme Court in ***Gastrade International v. Commissioner of Customs, Kandla.***

3.5 The Mangalore Refinery and Petrochemicals Limited (MRPL) has submitted their reports vide Test Report No. MRPL/DRI/2026/02 dated 26.12.2025.

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

Table-II

Sl. No.	**Bill of Entry No. & Dated**	**Quantity**	**Declared Description**	**Sample Test Result**	**IS Standards**
01.	4869187 dated 03.10.2025	199110 KGs	Industrial Oil	Conform to the parameters of Automotive Diesel Fuel (ADF)	IS 1460:2025

4. Whereas, the initial findings of the CRCL Visakhapatnam indicated that the sample conforms to all characteristic parameters of Automotive Diesel Fuel (ADF) except Flash Point, distillation recovery, and Sulphur content. The said

report further noted that the sample also meets the stringent parameters of High Flash High Speed Diesel (HFHSD) as per IS: 16861, except for Flash Point. Upon further testing of the samples at Mangalore Refinery and Petrochemicals Limited (MRPL), it was found that the sample conforms to 18 out of 21 parameters prescribed under IS 1460:2025, with only Flash Point, Sulphur, and Lubricity falling outside the stipulated range. As observed in the CRCL report, the reduction in Flash Point is attributable to the deliberate addition of lighter hydrocarbons, while the elevated Sulphur content is a consequence of either the intentional addition of sulphur compounds or deliberately not undergoing de-sulphurization process (*discussed in the subsequent paragraphs*), both of which have caused the said parameters to deviate from the prescribed limits under IS 1460:2025. Based on the totality of the test findings and applying the "most-akin" principle as mandated by the Hon'ble Supreme Court in *Gastrade International v. Commissioner of Customs, Kandla*, the subject goods are determined to be Automotive Diesel Fuel (ADF) conforming to IS 1460:2025.

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

Table 1 Requirement for Automotive Diesel Fuel

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

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

Table 1 (*Concluded*)

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

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

Table-III

Sr No	Bill of Entry No.	Quantity	Product description as per analysis of Test Report (CRCL+MRPL)
1	4869187 dated 03.10.2025	199110 KGs	Automotive Diesel Fuel (ADF) conforming to Standards IS 1460:2025

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

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

Further, as per ITC(HS), 2022, Schedule 1: Import Policy, Section V: Mineral Products, Chapter 27: Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes: Goods falling under the description of "Automotive Diesel Fuel (ADF) conforming to standard IS 1460", the import policy makes the goods restricted by way of importation by State Trading Enterprises only by virtue of Policy Condition No. 5 which prescribes "Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date". The screenshots of the relevant extracts:

Sl.No.	Notes	Notification No.	Notification Date
1	Import of naphtha is free.		
2	Import of SKO shall be allowed through State Trading Enterprises (STEs) i.e. IOC, BPCL, HPCL and IBP for all purposes with STC being nominated as a State Trading Enterprise (STE) for supplies to Advance Licence holders. Advance Licence holders shall however, have the option to import SKO from the above mentioned STEs including STC		
3	Import is restricted in terms of Interim PIC Procedure of Rotterdam Convention on Prior Informed Consent procedure for hazardous chemicals and pesticides.		
4	Automobile industries, having RandD registration, are allowed to make free import of reference fuels (Petrol and Diesel) which are not manufactured in India, up to maximum of 5 KL per annum, subjects to the condition that the said imported reference fuels shall be used for RandD and emission testing purposes only		
5	Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date.	08/2023	29/05/2023
6	Import of pet coke for fuel purpose is prohibited. However, import of Pet coke of the following categories shall be permitted, subject to conditions : a. Import of Pet coke is free for cement, lime kiln, calcium carbide, gasification industries and graphite electrodo industries for use as feed stock or in the manufacturing process only on Actual User basis. b. Total import of 1.9 Million MTs of Raw Petroleum Coke(RPC) for manufacturing Calcined Petroleum Coke(CPC) and 0.5 Million MTs of CPC for Aluminium Industry respectively shall be permissible during 2024-25, and 1.9 Million MTs of RPC for manufacturing CPC Manufacturing and 0.8 Million MTs of CPC for Aluminium Industry respectively shall be permissible from 2025-26 onwards, subject to the following conditions: i. Import of RPC & CPC shall be permitted only as a feedstock / raw material and under no circumstances shall be used as fuel. ii.Import of RPC and CPC shall be permitted to cater entirely to the domestic needs of aluminium	27/2024-25	04/09/2024

5 Confiscation and Seizure:

5.1 As per the test results above, it is evident that the importer had imported restricted petroleum products, by mis-declaring the same as “Industrial oil”. The Custom Laboratory reports confirmed that the goods imported vide Bill of Entry No. 4869187 dated 03.10.2025 was in fact Automotive Diesel Fuel, which is restricted for import into India, and permissible only subject to Condition No. 5 of Chapter 27 of ITC(HS), 2022, Schedule 1 Import Policy issued by DGFT. Therefore, having a reasonable belief that the goods in **Table No-II** above, were liable to be confiscated under the provisions of the Section 111 of the Customs act, 1962, the same were placed under seizure as per the provisions of Section 110(1) of the Customs Act, 1962 vide seizure memo dated 20.11.2025**.**

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

6.1 Statement of Sh. Deep Govindbhai Sojitra, Son of Shri Govindbhai, Aged 31 years (DOB: 17.10.1994), Proprietor of M/s. Deep International was recorded on 12.03.2026, wherein he interalia stated that:

- On being asked about his firm, he stated that M/s. Deep International is a proprietorship firm. The firm is engaged in import of Plastic granules, Industrial Oil and Distillate Marine Oil. He stated that IEC was taken in the year 2019 and import operations were commenced after 2-3 months.

- On being asked about the uses of Industrial Oil, he stated that Industrial Oil is used in the Industrial furnaces and boilers etc., for example in textile industries, and that their buyers raised demand of such product.

- On being asked about the type of oils imported, he stated that the Industrial Oil is first time imported by them. Earlier they had imported Distillate Marine Oil.
- On being asked about the source countries, he stated that they have majorly imported these goods from UAE.

- On being asked about remittances and payment terms, he stated that he is the only person negotiating with the overseas suppliers and responsible for the payments to them. The 20-25% payments are made in advance and remaining payments were done after received documents such as BL, Commercial Invoice, Packing List and COO etc.

- On being asked about their main buyers, he stated that their major buyers is M/s Canvera Exim and that all the business dealings/orders are placed through telephonic call.
- On being asked about specifications, he stated that while placing orders for Industrial Oil, they place demand of low flash point of around 20-25 degree. These orders are based on the types of demands of Oil communicated to them by their Buyer-M/s Canvera Exim.

- On being asked about testing at the load port, he stated that they informed their supplier to do the testing at the load port. GEO Chem Laboratory had undertaken the testing of the goods and a GEO CHEM Test report no-

GCHAM/LR/4174/2025 dated 19.09.2025 was submitted.

- On being asked about the supplier, he stated that the Supplier in the said consignments is M/s Bright Commodities FZE, Hamriya UAE. He got to know about the said Supplier through the Internet. He had contacted Sh. Vivek Goyal, who is the owner of the said firm. He had visited the firm in UAE in the year 2023.
- On being asked about the goods classification, he stated that goods are classified as per the Customs Tariff. The goods - Industrial Oil is classified under CTH 27101990.
- On being asked about sampling, he stated that sampling was done in the presence of the person duly authorised by them.

- On being shown the Test Reports issued by the CRCL Laboratory pertaining to the goods imported vide Bill of Entry No. 4869187 dated 03.10.2025, he stated that he had seen the test report and as a token of having seen the same, put his dated signature on the same. He stated that earlier when the test reports were received, he informed his supplier about the adulteration, and they stated that there may be mistake in quality of Industrial Oil from their end in UAE. He further informed his supplier that he will re-export these goods to them as these are qualifying the parameters of Diesel and restricted to import in India.

- On being shown the MRPL Test Report No. MRPL/DRI/2026/02 dated 26.12.2025 pertaining to B.E. No-4869187, he stated that he perused the said MRPL Test Report and put his dated signature on the said report. He agreed with the Department observation that the goods appears to be most akin to ADF/HFHSD. He stated that there is a possibility of mistake at the Supplier's end and therefore the imported goods qualify the parameters of the ADF/HFHSD.

- He further stated that his past record can be seen. His company has been never engaged in the import of restricted goods earlier. This time, it may be fault at the Supplier's end. He has only ordered for Industrial Oil. As the

test reports of his consignments have revealed that the goods actually bears closest resemblance to ADF/HFHSD, he respectfully submitted that he is a law abiding citizen.

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

7.1 During the course of investigation, the importer had filed **Special Civil Application 16799 of 2025** before the Hon'ble High Court of Gujarat at Ahmedabad, challenging the seizure memo and seeking provisional release of their consignment.

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

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

47. Significantly, in the Test Reports in the case of ***Gastrade International (supra),*** *the Apex Court has recorded that there was no opinion and finding expressed that the imported goods are "most akin" to HSD, which is not the issue in the Test Reports in question. In the first test report of CRCL, Visakhapatnam, out of 18 parameters tested, except for the parameters relating to flash point, distillation recovery and sulphur, the report categorically records that the sample is mainly composed of diesel fraction, is adulterated with lighter hydrocarbons, and is most "akin to HFHSD (IS 16861) / adulterated HFHSD". The diesel fraction is found to be between 95% to 98%). Thus, out of 21 parameters, the 18 parameters tested by*

CRCL, Visakhapatnam and MRPL, there is a clear opinion by the laboratory that the sample meets all characteristics of ADF and HFHSD, except the flash point, which is lowered by mixing lighter hydrocarbons. In this context, we may refer to the definition of 'adulteration' as supplied in the 'Malpractices Order,2005'. It reads thus:

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

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

48. In the instant case, there is a definite conclusion that the flash point, which is one of the most important parameters as emphasized by the Supreme Court, has been lowered by the use of lighter hydrocarbons and the product is therefore characterized as adulterated HFHSD. No such clear and unambiguous opinion was rendered by any of the three laboratories in the case of ***Gastrade International(supra)*** *and also by the expert, who was examined during the inquiry."*

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

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

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

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

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

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

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

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

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

9. Relevant Legal provisions:

9.1 The relevant portion of ITC(HS), 2022 Schedule 1 Import Policy Section V, MINERAL PRODUCTS Chapter 27 Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes is reproduced as under:

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

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

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

(a) State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and /or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may be imported or

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

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

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

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

"(5) Import allowed through IOC subject to Para 2.21 of the Foreign Trade Policy, except for companies who have been granted rights for marking of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2022 for products excluding gasoline conforming to standard IS 2796 (ITC HS Code: 27101241) and Automotive Diesel Fuel, not containing Bio Diesel conforming to standard IS 1460 (ITC HS Code 27101944) which would be allowed to be imported by entities in terms of MoPNG Resolution No. P-12029(11)/2/2018-OMC-PNG dated 08.11.2019.

(B) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

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

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

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

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

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

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

9.5 Section 17 Assessment of duty:

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

..

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

9.6 Section 46 Entry of goods on importation:

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

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

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

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

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

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

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

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

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

Section 112 Penalty for improper importation of goods, etc.:

Any person,-

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

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

shall be liable,-

i. *in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 5 [not exceeding the value of the goods or five thousand rupees], whichever is the greater;*

ii. *in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penaltyot exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever n is higher:*

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

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

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

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

……..

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

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

Provided that ……..

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

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

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) minimum customs values; or

(vii) arbitrary or fictitious values.

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

10. <u>Valuation:</u>

10.1 From the foregoing paras, it is evident that M/s. Deep International was involved in mis-declaration of goods in terms of description and classification and the declared value in the corresponding Bill of Entry appears to be not acceptable as true transaction value and merits rejection in terms of Section 14 of Customs Act, 1962 read with Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Since exact comparative data in respect of the import goods covered under the subject consignment are not available in absence of clear descriptions and mis-declaration on the part of the importer, the value of the subject import consignments cannot be determined as per the provisions of Rule 4 to Rule 8 to the Customs Valuation (Determination of value of Imported goods) Rules, 2007. Since the goods cannot be fully compared with similar/identical imports as the same are restricted goods, their value appears to be determinable under Rule 9 (Residual method) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with sub-section (1) of Section 14 of Customs Act, 1962 and on the basis of

objective and quantifiable data available in India. For valuation of the seized goods-ADF, the prevailing market rates of the goods in the 1st week of October-2025 were taken, such as invoices generated by Nayara Energy Limited, ADF-**Rs 52,541.75/KL** . Accordingly, in terms of Rule 9 of the Customs Valuation Rules, 2007, the same value can be adopted for the offending goods in this case.

10.2 Further, import of "**Automotive Diesel Fuel *(ADF) as per IS 1460:2025***", is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27 of Customs Tariff, which stipulates that only '*import is allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002*' to import the same. It therefore appears that said importer mis-declared restricted goods i.e. "**Automotive Diesel Fuel *(ADF) as per IS 1460:2025***" as "Industrial Oil" in the consignment.

10.3 As discussed above, the consignment covered under Bill of Entry No. 4869187 dated 03.10.2025 was reported as "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***" by the Custom Laboratory, Vishakhapatnam and MRPL.The outcome of the test reports indicate that the invoice value declared by the importer does not reflect the actual value of the goods. Since the goods were mis-declared in the Bill of Entry, the declared assessable value of Rs **89,30,084** in Bill of Entry cannot be accepted as the true "transaction value" under Section 14 of the Customs Act, 1962, and is liable to rejection under Rule 12 of the CVR, 2007.

10.4 Accordingly, for valuation purpose, to arrive at a fair and reasonable value within the framework of law and procedures under the Valuation Rules, the ADF data dated 01.10.2025 from the Nayara Energy Limited was referred. The base price was noted as **Rs 52,541.75/KL**. Based on this, the re-determined value of the consignment of "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***", having a total quantity of **1,99,110** KGs equivalent to 242.550 KL (using average density of 0.8209 g/ml as reported by Custom House Laboratory,

Visakhapatnam), is **Rs. 1,27,44,001/-**, in terms of provisions of Rule 9 of the CVR, 2007.

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

Table-IV

Sl. No.	Bill of Entry No.	Sample Test Result	Declared Description	Quantity (in KGs)	Declared value as per BoE	Approx. Market Value (in Rs.)
01.	4869187	Automotive Diesel Fuel (ADF)	Industrial Oil	199110	89,30,084/-	1,27,44,001/-
Total					**89,30,084/-**	**1,27,44,001/-**

Therefore, the said goods having declared value of Rs. **89,30,084/-** and re-determined value of Rs. **1,27,44,001/-** as per Table-IV, appear to be liable for confiscation under Section 111(d) and 111 (m) of the Customs Act, 1962.

11. Findings of the investigation:

11.1 Specific intelligence gathered by the Directorate of Revenue Intelligence indicated that M/s. Deep International was indulged in import of restricted goods through mis-declaration. The importer had declared the consignment as Industrial Oil, whereas examination and sampling carried out by the DRI revealed otherwise. The representative samples drawn in respect of Bill of Entry No. 4869187 dated 03.10.2025 were forwarded to the Custom House Laboratory, Visakhapatnam which confirmed that the goods met all characterstics parameters of Automotive Diesel Fuel (ADF) under IS 1460:2025.

To ensure comprehensive testing of all parameters mandated by the Hon'ble Supreme Court in ***Gastrade International v. Commissioner of Customs, Kandla***, additional samples were sent to Mangalore Refinery and Petrochemicals Limited (MRPL). The combined reports from CRCL and MRPL conclusively established that the imported goods were in fact Automotive Diesel Fuel conforming to IS 1460, and not Industrial Oil as declared.

11.2 The sample Test report (CRCL Visakhapatnam, Lab No. 95-DRI, Test Memo No. 473/2025) in respect of Bill of Entry No. 4869187 dated 03.10.2025 is reproduced below:

TEST REPORT

Date: 11.11.2025

Lab No: 95-DRI
F.No.DRI/GRU/Int-26/2025 **Date:** 22.10.2025
Test Memo No: 473/2025 **Date:** 16.10.2025
B.E. No: 4869187 **Date:** 03.10.2025

Sample Received from: Senior Intelligence officer, (DRI), Gandhidham Regional Unit.
Description of Sample: Industrial Oil (CTH 27101990)
Date of Receipt: 22.10.2025
Sample Plan: Sample not Drawn by this laboratory

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

1. Appearance	= clear & bright, free from sediments, suspended matter &undissolved water
2. Total Acid Number (mg of KOH/gr)	= Less than 0.20% by wt.
3. Ash content	= Nil
4. Carbon residue on 10% Residue	= Less than 0.30% by wt.
5. Cetane Number	= To be done at Refinery end.
6. Cetane Index	= 53.7
7. Pour Point	= below 3^0C.
8. Flash Point (Abel), deg. C	= 21.0 ^{0}C
9. Density at 15^0 C	= 0.8214 g/ml
10. Kinematic viscosity at 40^0 C	= 2.10 cSt.
11. Sulphur Content	= 1589 ppm.
12. Distillation: IBP	= 89.0^{0}C
50% distilled at, ^{0}C	= 256.7^{0}C
85% Recovery by vol., at ^{0}C	= 336.1^{0}C
%Volume recovered at 360 deg. C	= 92 % by vol.
%Volume recovered at 370 deg. C	= 94 % by vol.
95% Recovery by vol., at ^{0}C	= 375.4^{0}C
13. Cold Filter Plugging Point	= Facilility available at Refinery end only
14. Oxidation stability	= To be done at refinery end only.
15. Lubricity wear scan at 60° C	= Facility available at Refinery end only
16. Fame Content	= Absent
17. PAH % by max	= not determined as it is not an Characteristic parameter.
18. Water	= Less than 200 PPM.

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

The sample meets all characteristic parameters of HFHSD as mentioned in IS: 16861 except flash point (21.0°C), which is 45.0°C lower than required i.e. 66.0°C and the percentage distillation recovery at 370°C is 94% (1% lower than requirement of 95%).

The GCMS chromatogram of sample reveals that the sample is mainly composed of diesel fraction (more than 95 % & less than 98%) & adulterated with lighter hydrocarbons. The sample is most akin of HFHSD (IS 16861)/adulterated HFHSD.

Sealed remnant sample returned herewith.

The above test reports in respect of Bill of Entry No. 4869187 dated 03.10.2025 clearly establish, as the intelligence had suggested, that the importer had in fact imported restricted goods, namely Automotive Diesel Fuel (ADF), conforming to the parameters and specifications of **IS 1460.**

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

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

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

Table-V:

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

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4869187 (Result / Match) with IS 1460:2025	Remarks
1	Flash Point (°C)	Min. 35°C	~20°C / NOT MATCHING	Deliberately Lowered by addition of lighter hydrocarbons
2	Sulphur Content (ppm)	Max. 10 ppm	1249 ppm (CRCL) / NOT	Addition of Sulphur/not

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4869187 (Result / Match) with IS 1460:2025	Remarks
			MATCHING	undergone Desulfurization
3	Lubricity	Max. 520	540 / NOT MATCHING	High Lubricity due to High Sulphur
4-21	All remaining parameters (18 nos.)	As per IS 1460	All Matching	Rest all parameters within Range
TOTAL	**21 Parameters tested**	**—**	**18/21 Matching;**	**-**

11.4 The Flash Point of the imported goods was found to be less than 20°C (MRPL) / 22.1°C (CRCL) against the mandatory minimum of 35°C under IS 1460 for B.E. No. 4869187. The Custom House Laboratory, Visakhapatnam categorically concluded that the flash point was decreased by the adulteration of lighter hydrocarbons. This finding was explicitly upheld by the Hon'ble Gujarat High Court in its judgment dated 09.03.2026 on the Special Civil Application No. 16799 of 2025 filed by the Importer . The Hon'ble High court categorically recorded the following finding:

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

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

11.4.1 Sulphur Content and BS-VI (Euro VI) Standards: The sulphur parameter is a critical quality and environmental compliance marker for diesel fuel . It may be noted that in Automotive diesel, sulphur parameters are quality parameters only and their focus is on reducing emissions, as required by latest emission standards (BS-VI/Euro V-VI) requiring Ultra-Low Sulphur Diesel (ULSD) at less than 10 ppm ,introduced through e-Gazette Notification dated 16.09.2016 (Central Motor Vehicles (11th Amendment) Rules, 2016),issued by Ministry of Road Transport and Highways . This limit is designed to significantly reduce Sulphur Dioxide (SO2) and particulate emissions from vehicles, thereby safeguarding public health and meeting India's environmental commitments. The reduction of sulphur to these levels ordinarily requires a process known as Desulfurization (generally through hydro-desulfurization). Significantly, the process of HDS, while reducing sulphur content, also simultaneously reduces the lubricity of diesel fuel. In the present case, the sulphur content of the imported goods was found to be 1249 ppm for against the maximum permissible 10 ppm under IS 1460:2025. In the instant case, since lab reports have pointed out towards adulteration of diesel to make it fall out of IS standard parameters, the deviation of the said parameters by way of adulteration with Sulphur and lower hydrocarbons is expected to lead to these specious results in the aforesaid reports.

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

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

diesel respectively or any other requirement notified by the Central Government from time to time;

"

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

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

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

authority to grant an authorization to any other person to import the goods notified for exclusive trading through the STEs.

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

11.5.2 As per Section 3 (2) of the FTDR Act, 1992 empowers the Central Government to issue order, making provisions for prohibiting, restricting or otherwise regulating, the import of goods. As per Section 3(3) of the FTDR Act, 1992, all goods to which the order under Section 3(2) applies shall be deemed to be goods the imports of which has been prohibited under Section 11 of the Customs Act, 1962 and all the provisions of that Act shall have effect accordingly.

11.6 And whereas the provisions of Section 17(1) of the Customs Act, 1962 read with Section 2(2) of the Customs Act lay down onus on the importer to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. By furnishing incorrect and wrong information in the import documents, it appears that the importer has violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act, 1962.

11.7 And whereas in terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bill of Entry. Further, in terms of Section 46(4A) of the Customs Act, 1962, the importer who presents a bill of entry shall ensure the accuracy and completeness of the information given therein; shall ensure the authenticity and validity of any document supporting it; and shall ensure compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force. In the

instant case it appears that the importer was fully aware of the actual goods imported by them. Thus, in view of the facts discussed in the foregoing paras and material evidences available on records, it appears that M/s Deep International has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, in as much as they had intentionally mis-declared the description of the goods imported by them with a malafide intention to import restricted goods under the garb and guise of freely importable goods.

12 Role and Culpability:

12.1 Role played by M/s Deep International (IEC: IKEPS1073M0), Plot No. 21, Near Indreshwar Commercial Center, Near Marketing Yard, Daulatpura, Junagadh, Gujarat – 362037):

From the facts narrated in foregoing paras and evidences gathered during investigation, it appears that M/s. Deep International, Junagadh imported consignment covered under 4869187 dated 03.10.2025 filed at Mundra, by mis-declaring the import goods as "Industrial Oil" classified under CTh 27101990. The investigation conducted by DRI revealed that the actual goods were "***Automotive Diesel Fuel (ADF) as per IS 1460***", which is a '***Restricted***' commodity permitted for import only into India under Policy Condition No. 5 of the Customs Tariff. The inquiry further established that the importer deliberately adulterated the goods by mixing lighter hydrocarbons in order to manipulate certain parameters, thereby attempting to disguise the restricted product as Industrial Oil. This act of mis-declaration and adulteration was intended to circumvent import restrictions and facilitate the clearance of restricted goods for sale in the domestic market.Therefore, it appears that M/s. Deep International, by filing incorrect declarations and failing to ensure proper classification of the goods, knowingly violated the provisions of Section 17(1), Section 46(4) and 46(4A) of the Customs Act, 1962 by deliberately mis-declaring and mis-classifying the imported goods with intent to import restricted goods under the garb of freely importable goods, thereby contravening the import restrictions prescribed under the Foreign Trade Policy and rendering the goods liable to confiscation under Section 111(d) and 111(m) of the Customs Act, 1962. Therefore, M/s Deep International have made themselves liable for penalty under

Section 112(a) and 112(b) of the Customs Act, 1962. Furthermore, M/s Deep International have deliberately filed false and incorrect documents with the Customs Authorities, suppressing the actual nature of the goods, in order to import restricted goods, M/s Deep International are also liable for penalty under Section 114AA of the Customs Act, 1962.

13. Accordingly, M/s. Deep International (IEC: IKEPS1073M0) located at 'Plot No. 21, Near Indreshwar Commercial Center, Near Marketing Yard, Daulatpura, Junagadh, Gujarat – 362037' were hereby called upon to Show cause to **the Additional Commissioner of Customs, Customs House Mundra**, having office situated at office of the Pr. Commissioner of Customs, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421, within 30 (thirty) days from the date of receipt of this notice, as to why:

(i) The classification of goods covered under Bill of Entry No. 4869187 dated 03.10.2025 filed at Mundra Port, declared as 'Industrial Oil', under CTH 27101990, should not be rejected and the same should not be re-classified as 'Automotive Diesel Fuel (ADF) as per IS 1460:2025' under CTH 27101944;

(ii) The declared value of the said goods declared as 'Industrial Oil', as **Rs. 89,30,084/-**) should not be rejected in terms of Rule 12 of the CVR, 2007 and the same should not be re-determined as **Rs 1,27,44,001/- ,** as discussed in foregoing para;

(iii) The goods declared as 'Industrial Oil', under the Bill of Entry No. 4869187 dated 03.10.2025 filed at Mundra Port having re-determined value of Rs 1,27,44,001/- as discussed in Table-IV, should not be held liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.

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

WRITTEN SUBMISSION AND PERSONAL HEARING

14. M/s. Deep International (IEC: IKEPS1073M0) vide their letter dated 20.08.2026, has submitted that they don't want personal hearing in the subject

matter and requested to finalized the matter on merit basis and allow the re-export of subject goods from Mundra port at the earliest.

DISCUSSION AND FINDINGS

15. I have carefully gone through the Show Cause Notice, the relied upon documents, the voluntary statement of Shri Deep Govindbhai Sojitra, Proprietor of M/s. Deep International, recorded under Section 108 of the Customs Act, 1962 on 12.03.2026, the legal provisions and the records available before me. I note that M/s. Deep International vide their letter dated 20.08.2026 have stated that they do not wish to avail the personal hearing opportunity and have requested permission for re-export of the subject goods back to the supplier. They have not filed any written submissions on merits nor raised any substantive defence against the proposals in the Show Cause Notice. The case is therefore being decided on the basis of the Show Cause Notice, the relied upon documents, the voluntary statement recorded during investigation and other material evidence available on record. I find that the principle of natural justice has been complied with and therefore, I proceed to decide the case on the basis of applicable laws/rules and documentary evidence available on record.

15.1 On a careful perusal of the Show Cause Notice and case records, I find that the following main issues arise for consideration and determination in this case:

- Whether the classification of goods covered under Bill of Entry No. 4869187 dated 03.10.2025 filed at Mundra Port, declared as 'Industrial Oil' under CTH 27101990, should be rejected and the same should be re-classified as 'Automotive Diesel Fuel (ADF) as per IS 1460:2025' under CTH 27101944;

- Whether the declared value of **Rs. 89,30,084/-** (Rupees Eighty-Nine Lakh Thirty Thousand Eighty-Four Only) should be rejected in terms of Rule 12 of the CVR, 2007 and re-determined as **Rs. 1,27,44,001/-** (Rupees One Crore Twenty-Seven Lakh Forty-Four Thousand and One Only);

- Whether the goods covered under Bill of Entry No. 4869187 dated 03.10.2025, having re-determined value of **Rs. 1,27,44,001/-**, are liable

for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962; and

- Whether penalty is imposable upon M/s. Deep International under Sections 112(a), 112(b) and 114AA of the Customs Act, 1962.

16. CLASSIFICATION

16.1 Regarding the first issue, I find that M/s. Deep International filed Bill of Entry No. 4869187 dated 03.10.2025 at Mundra Port declaring the goods as 'Industrial Oil' and classifying the same under Customs Tariff Item 27101990 ('Others' — import policy: Free). The said Bill of Entry covered a consignment of 1,99,110 KGs in 10 containers, with declared assessable value of **Rs. 89,30,084/-**, imported from M/s. Bright Commodities FZE, Hamriya, UAE.

16.2 I find that specific intelligence gathered by the DRI was acted upon and the consignment covered under Bill of Entry No. 4869187 dated 03.10.2025 was put on hold and subjected to 100% examination. During the examination proceedings conducted under Panchnama dated 13/14.10.2025, representative samples in duplicate were drawn from each of the 10 containers. The samples were forwarded to Custom House Laboratory, Visakhapatnam vide Test Memos No. 466/2025 to 475/2025 dated 16.10.2025. The laboratory submitted its test reports (Lab No. 93-DRI to 97-DRI, dated 11.11.2025 and Lab No. 175-DRI to 179-DRI, dated 18.11.2025). For the remaining parameters not covered by the Custom House Laboratory, Visakhapatnam, additional samples were forwarded to Mangalore Refinery and Petrochemicals Limited (MRPL) vide Test Memo No. 828/2025 dated 03.12.2025, which submitted its report vide Test Report No. MRPL/DRI/2026/02 dated 26.12.2025.

16.3 I find that the combined parameter-wise assessment of the test reports of Custom House Laboratory, Visakhapatnam and MRPL against all 21 parameters prescribed under IS 1460:2025 for Automotive Diesel Fuel confirms that 18 out of 21 parameters are met by the subject goods. The three parameters found outside the IS 1460:2025 limits are:

(a) Flash Point: Found to be below 20°C (MRPL) / 21°C (CRCL), against the prescribed minimum of 35°C under IS 1460:2025. The Custom House Laboratory, Visakhapatnam has categorically stated that the flash point was decreased by adulteration with lighter hydrocarbons and that the GCMS chromatogram of the sample reveals that the sample is mainly composed of diesel fraction (more than 95% and less than 98%) and adulterated with lighter hydrocarbons. The laboratory further specifically concluded that *"The sample is most akin to HFHSD (IS 16861) / adulterated HFHSD"*. This categorical positive qualitative opinion is of decisive significance, as it directly distinguishes the present case from *Gastrade International*, where no such unambiguous qualitative opinion was rendered by any of the three laboratories tested.

(b) Sulphur Content: Found to be 1249 ppm, against the maximum permissible limit of 10 ppm under IS 1460:2025 — nearly 125 times the prescribed maximum. This extreme deviation is not consistent with any ordinary quality variation; it is consistent with deliberate addition of sulphur compounds or deliberate non-undergoing of the desulphurization process, which ordinarily reduces sulphur content to BS-VI compliant levels in any legitimate commercial Automotive Diesel Fuel.

(c) Lubricity: Found to be 540 µm WSD at 60°C, against the maximum permissible limit of 520 µm WSD under IS 1460:2025. As noted in the test reports, the elevated lubricity is a direct consequence of the high sulphur content — since the hydro-desulphurization process that reduces sulphur also simultaneously reduces lubricity, the absence of desulphurization explains both the extreme sulphur deviation and the lubricity deviation. These two parameters thus form an internally consistent pattern, each corroborating the other as markers of deliberate manipulation of an otherwise conforming diesel product.

16.4 I find that the remaining 18 out of 21 parameters — including Density at 15°C (0.8209 g/ml, within the range 0.810–0.845), Cetane Number (above minimum 51), Cetane Index (above minimum 46), Pour Point (below maximum +3°C), Kinematic Viscosity at 40°C (within 2.0–4.5 cSt range), Cold Filter Plugging Point (below maximum +6°C), FAME Content (absent), and all other parameters — fully conform to IS 1460:2025 specifications. The composite

picture that emerges is one of an essentially conforming Automotive Diesel Fuel product in which three specific parameters — flash point, sulphur and lubricity — have been selectively and deliberately manipulated to render it facially non-compliant with IS 1460 specifications, so as to facilitate its import under the freely importable category of "Industrial Oil."

16.5 I note that the testing in this case covers all 21 parameters prescribed under IS 1460:2025, as mandated by the Hon'ble Supreme Court in *Gastrade International v. Commissioner of Customs, Kandla* — Custom House Laboratory, Visakhapatnam having tested 18 parameters and MRPL having tested the remaining parameters. The Hon'ble Gujarat High Court, in its judgment dated 09.03.2026 in R/SCA No. 16799 of 2025, has specifically held:

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

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

The combined test results of Custom House Laboratory, Visakhapatnam and MRPL accordingly satisfy the requirements of *Gastrade International* and are fully admissible and reliable.

16.6 I further note that the present case is factually distinguishable from *Gastrade International* in a material and decisive respect — and this distinction was expressly recognised and recorded by the Hon'ble Gujarat High Court in its judgment dated 09.03.2026 in R/SCA No. 16799 of 2025, which was filed by M/s. Deep International itself. The Hon'ble Court recorded at paragraph 47:

"Significantly, in the Test Reports in the case of Gastrade International (supra), the Apex Court has recorded that there was no opinion and finding expressed that the

imported goods are 'most akin' to HSD, which is not the issue in the Test Reports in question. In the first test report of CRCL, Visakhapatnam, out of 18 parameters tested, except for the parameters relating to flash point, distillation recovery and sulphur, the report categorically records that the sample is mainly composed of diesel fraction, is adulterated with lighter hydrocarbons, and is most akin to HFHSD (IS 16861) / adulterated HFHSD."

And at paragraph 50:

"Thus, if the rule of the 'most akin test' is applied, the product declared by the petitioners as industrial oil is found to be Automotive Diesel Fuel / HFHSD, which is a restricted commodity."

The Hon'ble Gujarat High Court, after considering the test reports in these very cases and applying the "most akin test," dismissed the SCA filed by M/s. Deep International and declined to set aside the seizure of goods. The finding of the Hon'ble Gujarat High Court — rendered after hearing M/s. Deep International — is directly binding in these adjudication proceedings as far as the factual finding of adulteration and classification is concerned.

16.7 I find that the definition of "adulteration" under Section 2(a) of the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005 is directly applicable. As per that provision, "adulteration" means the introduction of any foreign substance into motor spirit or high speed diesel illegally or unauthorisedly with the result that the product does not conform to the requirements of BIS specification IS 1460. The Hon'ble Gujarat High Court has expressly applied this definition and held that the lowering of the flash point through mixing of lighter hydrocarbons constitutes adulteration of HFHSD within the meaning of Section 2(a) of the Malpractices Order, 2005. The deviations in flash point, sulphur and lubricity in the present case — each attributable to deliberate manipulation — are consistent with and constitute adulteration of Automotive Diesel Fuel within this statutory definition.

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

GENERAL RULES FOR THE INTERPRETATION OF THE HARMONIZED SYSTEM

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

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

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

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

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

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

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

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

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

In terms of GIR Rule 1, Supplementary Note (e) to Chapter 27 of the Customs Tariff Act, 1975 defines "Automotive Diesel Fuel (ADF)" as any hydrocarbon oil conforming to the Indian Standards Specification IS 1460. CTH 27101944 specifically covers "Gas oil and oils obtained from bituminous minerals — Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460." Since the imported goods have been found, upon comprehensive testing by Custom House Laboratory, Visakhapatnam and MRPL, to conform to the parameters of IS 1460:2025 in respect of 18 out of 21 parameters — with the three non-conforming parameters being directly attributable to deliberate adulteration with lighter hydrocarbons (reducing flash point), the deliberate non-undergoing of desulphurization or addition of sulphur compounds (causing extremely high sulphur content), and the consequent elevation of lubricity — the goods are correctly classifiable under CTH 27101944

in terms of GIR Rule 1 read with the Supplementary Note to Chapter 27. Further, even applying GIR Rule 4, the goods are most akin to Automotive Diesel Fuel under CTH 27101944, as has been specifically held by the Hon'ble Gujarat High Court in R/SCA No. 16799 of 2025 (order dated 09.03.2026) — which was the very SCA filed by M/s. Deep International itself — wherein the Court upheld the "most akin test" laid down by the Hon'ble Supreme Court in *Gastrade International v. Commissioner of Customs, Kandla*.

16.9 I find that the provisions of Section 17(1) of the Customs Act, 1962 read with Section 2(2) of the Customs Act, 1962, lay down the onus on the importer to determine duty, classification etc. by way of self-assessment. By furnishing incorrect and false information in the import documents, I find that M/s. Deep International has violated the provisions of Section 17(1) read with Section 2(2) of the Customs Act, 1962. In terms of Section 46(4) and 46(4A) of the Customs Act, 1962, the importer is required to certify the truth of the contents of the Bill of Entry and to ensure accuracy, authenticity and compliance with restrictions. I find that M/s. Deep International has contravened the provisions of Sections 46(4) and 46(4A) of the Customs Act, 1962. In this context, I note that Shri Deep Govindbhai Sojitra, Proprietor of M/s. Deep International, in his voluntary statement dated 12.03.2026, has himself made the following significant admissions:

(a) While placing orders for Industrial Oil, he specifically placed demand for **low flash point of around 20-25 degrees**. This is a direct and unambiguous admission that the importer specifically ordered goods with a flash point below 25°C — well below the minimum of 35°C for ADF under IS 1460:2025. A person who specifically orders goods with a flash point of 20-25°C cannot credibly claim to have ordered a legitimate industrial fuel and to have been surprised when the goods were found to be adulterated diesel.

(b) On being shown the CRCL, Visakhapatnam test reports and the MRPL test report, he signed both reports as a token of having seen the same and **agreed with the Department's observation that the goods appear to be most akin to ADF/HFHSD**, stating that there is a possibility of mistake at the Supplier's end.

(c) He admitted that the orders are placed through telephonic calls only, and that there are no written agreements, purchase orders or documentary trail establishing that Industrial Oil was specifically ordered.

16.10 In view of the above discussion and the combined findings of Custom House Laboratory, Visakhapatnam and MRPL, and the specific judgment of the Hon'ble Gujarat High Court dismissing M/s. Deep International's own SCA, I find that the goods imported by M/s. Deep International under Bill of Entry No. 4869187 dated 03.10.2025 are **Automotive Diesel Fuel (ADF) conforming to IS 1460:2025**, correctly classifiable under **CTH 27101944**. The declared classification under CTH 27101990 as 'Industrial Oil' is accordingly rejected.

17. VALUATION

17.1 Regarding the second issue, I find that as the goods have been found to be mis-declared in respect of their description and classification, the value declared by the Noticee in Bill of Entry No. 4869187 dated 03.10.2025 and the accompanying invoice of M/s. Bright Commodities FZE, UAE, cannot be accepted as the true transaction value under Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Since the declared description of the goods is itself false — the goods being Automotive Diesel Fuel and not Industrial Oil — the invoice price premised on such false description cannot represent the authentic transaction value of the goods. The declared value of **Rs. 89,30,084/-** is accordingly liable to be rejected under Rule 12 of the CVR, 2007.

17.2 Since the goods were mis-declared and are restricted goods, exact comparative data in respect of the imported goods are not available in the absence of clear descriptions and mis-declaration on the part of the importer. The value of the subject consignment accordingly cannot be determined under the provisions of Rules 4 to 8 of the CVR, 2007, as ADF is a canalized commodity importable only through State Trading Enterprises and is not freely traded in the import market, rendering comparable transaction value data for identical or similar goods unavailable. The value is accordingly determinable under Rule 9 (Residual Method) of the CVR, 2007, read with sub-section (1) of Section 14 of

the Customs Act, 1962 and on the basis of objective and quantifiable data available in India.

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

Particulars	Details
ADF Market Price (Nayara Energy, 1st week of October 2025)	Rs. 52,541.75 per KL
Imported Quantity (KGs)	1,99,110
Average Density (as per Custom House Laboratory, Visakhapatnam)	0.8209 g/ml
Volume equivalent (KL)	242.55
Re-determined Value	**Rs. 1,27,44,001/-**

The prevailing market price of ADF in the 1st week of October 2025 as per the invoice generated by M/s. Nayara Energy Limited at **Rs. 52,541.75 per KL** has been adopted as the reference price. The total imported quantity is **1,99,110 KGs**, equivalent to **242.550 KL** using the average density of 0.8209 g/ml as reported by Custom House Laboratory, Visakhapatnam. The re-determined assessable value accordingly works out to **Rs. 1,27,44,001/- (Rupees One Crore Twenty-Seven Lakh Forty-Four Thousand and One Only)**.

17.4 I accordingly hold that the declared assessable value of **Rs. 89,30,084/- (Rupees Eighty-Nine Lakh Thirty Thousand Eighty-Four Only)** in respect of Bill of Entry No. 4869187 dated 03.10.2025 is rejected under Rule 12 of CVR 2007, and the assessable value is re-determined at **Rs. 1,27,44,001/- (Rupees One Crore Twenty-Seven Lakh Forty-Four Thousand and One Only)** under Rule 9 of CVR 2007.

18. CONFISCATION

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

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

"(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77."

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

"Import allowed through IOC subject to Para 2.21 of the Foreign Trade Policy, except for companies who have been granted rights for marketing of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2002."

From above, it is seen that import of restricted goods is allowed subject to Para 2.21 of Foreign Trade Policy and the same is reproduced below:

"*2.21 State Trading Enterprises (STEs)*

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

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

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

18.3 M/s. Deep International (IEC: IKEPS1073M0), Junagadh, is neither a State Trading Enterprise nor does it possess any authorisation from DGFT for import of ADF. The import of ADF by a non-STE entity in violation of Policy Condition No. 5 of Chapter 27 of ITC(HS), 2022 renders the goods liable for confiscation under **Section 111(d)** of the Customs Act, 1962.

18.4 Further, the goods declared as 'Industrial Oil' under CTH 27101990 in the Bill of Entry do not correspond with the actual goods found on testing — namely, ADF conforming to IS 1460:2025 (CTH 27101944). The description, classification, import policy status and value declared in the Bill of Entry are completely at variance with the actual nature of the goods. The declared value of Rs. 89,30,084/- also does not correspond to the re-determined value of Rs. 1,27,44,001/- of the actual goods. The goods are therefore also liable for confiscation under **Section 111(m)** of the Customs Act, 1962.

18.5 Accordingly, I find that the imported goods covered under Bill of Entry No. 4869187 dated 03.10.2025, namely **1,99,110 KGs of Automotive Diesel Fuel (ADF) conforming to IS 1460:2025** in 10 containers, having re-determined assessable value of **Rs. 1,27,44,001/- (Rupees One Crore Twenty-Seven Lakh Forty-Four Thousand and One Only)**, seized vide Seizure Memo dated 20.11.2025, are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962.

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

18.7 A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. In the present case, M/s. Deep International vide their letter dated 20.08.2026 has specifically requested permission to re-export the goods back to the supplier. The goods have remained under Customs control at Mundra Port and have not been cleared for home consumption.

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

18.9 I further observe that ordering confiscation without allowance for re-export would not serve any meaningful revenue purpose, as it would only result in prolonged detention of the containers at the port without yielding any revenue to the Government. The goods in question are not per se banned items; their import is regulated and conditional. The confiscation ordered herein is a legal consequence of non-fulfilment of statutory conditions and absence of requisite authorisation. In view of the above, I am of the considered view that the ends of justice would be met by allowing redemption of the subject goods for the limited purpose of re-export. Imposition of redemption fine along with penalty is sufficient to address the violation and serve as a deterrent. Therefore, exercising powers under Section 125 of the Customs Act, 1962, I give the Noticee an option to redeem the goods for the limited purpose of re-export on payment of redemption fine under Section 125 of the Customs Act, 1962.

19. PENALTY ON M/s. DEEP INTERNATIONAL:

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

I further find that imposition of penalty simultaneously under both Section 112(a) and Section 112(b) of the Act would amount to double penalty for the same act, which is not warranted. I therefore refrain from imposing penalty under Section 112(b) of the Act.

19.2 I have examined the question of mens rea of M/s. Deep International on the basis of the voluntary statement of Shri Deep Govindbhai Sojitra, Proprietor of M/s. Deep International, dated 12.03.2026, and find the importer's conduct to clearly establish the following:

(i) Specific order for low flash point goods: Shri Deep Govindbhai Sojitra, in his voluntary statement, specifically admitted that while placing orders for Industrial Oil, he placed demand for a low flash point of around 20-25 degrees. A flash point of 20-25°C is a distinctive characteristic of adulterated diesel fuel — not of any defined or legitimate product category called "Industrial Oil." There is no recognized national or international standard for "Industrial Oil," as specifically noted by Custom House Laboratory, Visakhapatnam in its test reports. An importer who specifically orders goods with a flash point of 20-25°C — well below the minimum of 35°C for ADF under IS 1460:2025 — cannot credibly claim that he was importing a legitimate industrial fuel and was surprised when the goods turned out to be adulterated diesel.

(ii) Acceptance of test reports: The proprietor himself accepted both the Custom House Laboratory, Visakhapatnam test reports and the MRPL test report and agreed that the goods appear to be most akin to ADF/HFHSD. This is an admission by the proprietor — who controls all aspects of the business — that the imported goods are essentially adulterated Automotive Diesel Fuel.

(iii) Extremely high sulphur content: The sulphur content was found to be 1249 ppm — nearly 125 times the maximum permissible limit of 10 ppm under IS 1460:2025. This extreme deviation from the BS-VI standard is not incidental but is a direct and pronounced marker of deliberate manipulation of the product parameters. No legitimate industrial oil specification involves sulphur at this level without any regulatory or commercial context. The massive sulphur deviation, combined with the flash point reduction and lubricity elevation, forms a coherent pattern of deliberate and premeditated adulteration.

(iv) No documentary trail: The proprietor admitted that all orders are placed through telephonic calls only. No written purchase order, buyer specification sheet or written agreement establishing what product was ordered and what was supplied exists. The complete absence of any documentary basis for the alleged 'Industrial Oil' procurement further establishes that the declaration of goods as 'Industrial Oil' was a deliberate misclassification.

(v) Importer's own SCA dismissed: M/s. Deep International itself filed Special Civil Application No. 16799 of 2025 before the Hon'ble Gujarat High Court challenging the seizure, which was dismissed by the Hon'ble Court vide common judgment dated 09.03.2026, upholding the "most akin test" finding and characterizing the goods as adulterated HFHSD/ADF. The dismissal of the importer's own SCA by the Hon'ble Gujarat High Court — after hearing the importer's contentions — is further confirmation that the goods are restricted ADF and that the seizure was lawful.

19.3 As regards penalty under Section 114AA of the Customs Act, 1962, I find that the said provision provides for penalty upon any person who knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular in the transaction of any business for the purposes of this Act. In the

present case, the Bill of Entry filed under Section 46 of the Customs Act, 1962 declared the goods as 'Industrial Oil' under CTH 27101990, whereas the actual goods are Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 under CTH 27101944, as conclusively established by the combined test reports of Custom House Laboratory, Visakhapatnam and MRPL, as accepted by the proprietor himself, and as upheld by the Hon'ble Gujarat High Court. The commercial invoice, packing list and Geo Chem test report of the overseas supplier M/s. Bright Commodities FZE, UAE — all describing the goods as 'Industrial Oil' — were used to support the Bill of Entry, whereas the actual goods were ADF, a restricted commodity. These declarations and documents are false and incorrect in material particulars. I find that the false declarations in the subject Bill of Entry were made knowingly and intentionally with the deliberate design to import restricted ADF under the guise of freely importable Industrial Oil. I accordingly find that M/s. Deep International is liable for penalty under **Section 114AA** of the Customs Act, 1962.

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

ORDER

(i) I reject the classification of goods covered under Bill of Entry No. 4869187 dated 03.10.2025, declared as 'Industrial Oil' under Customs Tariff Item 27101990, and **re-classify the same as 'Automotive Diesel Fuel (ADF) conforming to IS 1460:2025' under Customs Tariff Item 27101944**;

(ii) I reject the declared assessable value of **Rs. 89,30,084/- (Rupees Eighty-Nine Lakh Thirty Thousand Eighty-Four Only)** under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and **re-determine the same as Rs. 1,27,44,001/- (Rupees One Crore Twenty-Seven Lakh Forty-Four Thousand and One Only)** under Rule 9 of CVR, 2007, read with Section 14 of the Customs Act, 1962;

(iii) I order confiscation of the impugned goods i.e. **1,99,110 KGs of Automotive Diesel Fuel (ADF) conforming to IS 1460:2025**, in 10 containers, imported by M/s. Deep International under Bill of Entry No. 4869187 dated 03.10.2025 at Mundra Port, having re-determined assessable value of **Rs.**

1,27,44,001/- (Rupees One Crore Twenty-Seven Lakh Forty-Four Thousand and One Only), seized vide Seizure Memo dated 20.11.2025, under Sections **111(d) and 111(m)** of the Customs Act, 1962. However, I give an option to M/s. Deep International to redeem the said goods only for **re-export** under Section 125(1) of the Customs Act, 1962, on payment of Redemption Fine of **Rs. 12,50,000/- (Rupees Twelve Lakh Fifty Thousand Only)**;

(iv) I impose a penalty of **Rs. 6,25,000/- (Rupees Six Lakh Twenty Five Thousand Only)** on M/s. Deep International (IEC No. IKEPS1073M0) under **Section 112(a)(i)** of the Customs Act, 1962. I refrain from imposing penalty under Section 112(b) of the Customs Act, 1962, for the reasons discussed above;

(v) I impose a penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on M/s. Deep International (IEC No. IKEPS1073M0) under **Section 114AA** of the Customs Act, 1962.

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

22. Show Cause Notice bearing No. 56/2026-27/ADC/ZDC/MCH dated 27.05.2026 stands disposed of on the above terms.

Digitally signed by Dipakbhai Zala
Date: 05-11-2026 16:29:54

DIPAK ZALA
ADDITIONAL COMMISSIONER OF CUSTOMS,
MUNDRA CUSTOMS HOUSE

By Speed Post/Regd. Post/E-mail/Hand Delivery

List of Noticees

(1) M/s. Deep International (IEC No. IKEPS1073M0), Plot No. 21, Near Indreshwar Commercial Center, Near Marketing Yard, Daulatpura, Junagadh, Gujarat – 362037' (Email- deepinternational121@gmail.com)

Copy to:

(1) The Additional Director, Directorate of Revenue Intelligence, Regional Unit, Gandhidham (Kutch).

(2) The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra

(3) The Dy./Asstt. Commissioner (EDI), Customs House, Mundra

(4) The Deputy/Assistant Commissioner of Customs, Group-1/1A, Custom House, Mundra