कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:
CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421.
PHONE : 02838-271426/271163 FAX :02838-271425
E-mail id- adj-mundra@gov.in

A	FILE NO. फ़ाइल संख्या	GEN/ADJ/ADC/812/2026-Adjn-O/o Pr. Commr-Cus-Mundra
B	OIO NO. आदेश संख्या	MCH/ZDC/ADC/326/2026-27
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	23.09.2026
E	DATE OF ISSUE जारी करने की तिथि	23.09.2026
F	SCN No. & Date कारण बताओ नोटिस क्रमांक	48/2026-27/ADC/ZDC/MCH dated 20.05.2026
G	NOTICEE/ PARTY/ IMPORTER नोटिसकर्ता/पार्टी/आयातक	M/s. Shree Shyam Enterprises (IEC: AHFPG6372F)

1. यह अपील आदेश 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 अपील आदेश से असंतुष्ट है तो व–ह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:
"सीमा शुल्क आयुक्त (अपील), चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"
"The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009."

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within three months from the date of communication of this order.

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

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं॰-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।
The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

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

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.

8. 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 (Appeals) 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. Specific intelligence gathered by the Directorate of Revenue Intelligence (hereinafter referred to as 'DRI') indicated that some importers are indulged in import of 'Restricted Goods' through mis-declaration by declaring the same as 'Industrial Oil/Distillate Oil'. Acting upon the said intelligence, scrutiny of import documents revealed that M/s Shree Shyam Enterprises, (*hereinafter also referred to as "the Importer"*), **(IEC: AHFPG6372F)** and having address at 'Plot No. 26, Industrial Area Phase III, Sirsa, Haryana – 125055' has imported 'Restricted Goods' under Bill of Entry No. 5007325 dated 09.10.2025 (at Mundra Port and declared the same as 'Industrial Oil. Details of the said consignment is as under:

Table-I

Bill of Entry No.	5007325 dated 09.10.2025 (INMUN1)
Bill of Lading No.	RST/JEAMUN/25/000165
Declared Goods in BE	Industrial Oil, CTH: 27101990
Declared Quantity	202.990 MTS
Total Assessable Value (INR)	93,98,094/-
Customs Broker	M/s. JMC Logistics Services
Country of Origin	United Arab Emirates
Supplier	M/s. Relevance Trading FZ LLC, UAE

2. Accordingly, the above said consignment was put on hold by the DRI and further examination and sampling of goods contained in 10 containers covered under the aforesaid consignment was carried out by the DRI under Panchnama dated 15.10.2025 in presence of the representative of the Customs Broker at Saurashtra CFS, Mundra. During the said examination proceedings, representative samples, in triplet 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 AND SEIZURE:

3.1 The 10 representative samples were sent to Custom House Laboratory (CRCL), Visakhapatnam for testing of the same. The Custom House Laboratory (CRCL), Visakhapatnam submitted their test reports dated 19.11.2025 in respect of the said 10 samples. The said test reports in respect of all of the 10 samples, on the basis of the tested parameters by the CRCL Visakhapatnam, indicated that "***On the basis of above tested parameters, the sample meets all the stringent parameter of Automotive diesel fuel as mentioned in IS: 1460:2025 except distillation recovery at 360°C (which is 93% & 2% less than 95%). The sample also meets the specification of HFHSD (IS 16861) up to the extent of parameter tested above. The sample is most akin to Automotive Diesel Fuel.***"

3.2 The test reports were analyzed in detail and whereas the parameters of the Test Report suggested that the goods being imported in the said containers was Automotive Diesel Fuel Conforming to IS: 1460. Further, the specifications of Automotive Diesel Fuel 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 *and* 3.2)

Sl No.	Characteristic	Requirement		Method of Test, Ref to [P :] of IS 1448/ASTM/IP/ISO Annex
		Bharat Stage IV	Bharat Stage VI	
(1)	(2)	(3)	(4)	(5)
i)	Appearance	Clear, bright and free from sediments, suspended matter and undissolved water at normal ambient fuel temperature	clear, bright and free from sediments, suspended matter and undissolved water at normal ambient fuel temperature	Visual
ii)	Acidity, inorganic, mg of KOH/g	Nil	Nil	ISO 6618/ASTM D9749)/ IP 139
iii)	Acidity, total, mg of KOH/g, *Max*	0.20	0.20	[P : 2] 9)/ASTM D664/ ASTM D974 / IP 139
iv)	Ash, percent by mass, *Max*	0.01	0.01	[P : 4] 9)/ASTM D 482/IP 4
v)	Carbon residue (Ramsbottom or micro) on 10 percent residue[1], percent by mass, *Max*	0.30	0.30	[P : 8] 9) /ISO 10370/ASTM D 524/IP 14/ASTM D 4530
vi)	Cetane number, *Min*	51[2]	51[2]	[P : 9] 9)/ASTM D 613
vii)	Cetane index, *Min*	46[2]	46[2]	ISO 42649)/ASTM D4737/ IP 380
viii)	Pour point[3], *Max*:			[P : 10] 9)/ASTM D 5949/
	a) Winter	3°C	3°C	ASTM D 5950/ ASTM D
	b) Summer	15°C	15°C	5985/ASTM D97/ASTM D7346/IP 15
ix)	Copper strip corrosion for 3 h at 50°C	Not worse than No. 1	Not worse than No. 1	[P : 15] 9)/ASTM D 130/IP 154
x)	Distillation, 95 percent *v/v*, recovery, °C, *Max*	360	360	[P : 18] 9)/ISO 3405/ASTM D 86/ASTM D 7345/IP 123
xi)	Flash point, Abel[4], °C, *Min*	35	35	[P : 20] 9)/ISO 3679/ IP170/ IP523/ EN13736
xii)	Kinematic viscosity, cSt, at 40°C	2.0 to 4.5	2.0 to 4.5	[P : 25] 9)/ISO 3104/ASTM D 445/ASTM D 7042/IP 71
xiii)	Total contamination, mg/kg, *Max*	24	24	EN 126629)/IP 440
xiv)	Density at 15°C, kg/m^3	815–845[5]	810–845[5]	[P : 16] 9) /[P : 32] / ISO 12185/ ASTM D 4052/ ASTM D 1298/IP 160
xv)	Total sulphur, mg/kg, *Max*	50	10	ISO 13032 9)/ ISO 20884/ISO 208469)/ASTM D 5453/ASTM D 2622/ASTM D 7220/[P : 34] For Bharat Stage IVgrade only
xvi)	Water content, mg/kg, *Max*	200	200	[P : 153] 9)/ASTM D 4294 ISO 12937/ASTM D 6304
xvii)	Cold Filter Plugging Point (CFPP)[3], *Max*:			[P : 110] 9)/ASTM D 6371/ IP 309
	a) Winter	6°C	6°C	
	b) Summer	18°C	18°C	
xviii)	a) Oxidation stability[6], g/m^3, *Max*	25	25	[P : 154] 9)/ASTM D 2274/ IP 388
	b) Oxidation stability by Rancidity meter[7], hours, *Min*	20	20	EN 15751
xix)	Polycyclic Aromatic Hydrocarbon (PAH), percent by mass, *Max*	8	8	EN 129169)/IP 391 /ASTM D 6591
xx)	Lubricity corrected wear scar diameter (wsd 1.4) at 60°C, microns, *Max*	460	460	P 149/ ISO 12156-I/Cor 1
xxi)	FAME content[8], % *v/v*, *Max*	7.0	7.0	Annex A9)/ASTM D7371/ EN14078

3.3 And whereas on analysis of the parameters detailed in the Test Report vis-a-vis
the parameters stipulated in the BIS standards of Automotive diesel fuel conforming to standard IS:1460, it appeared in accordance with the intelligence, that goods being imported appeared to be mis-declared and following conclusion appeared to flow from the analysis:

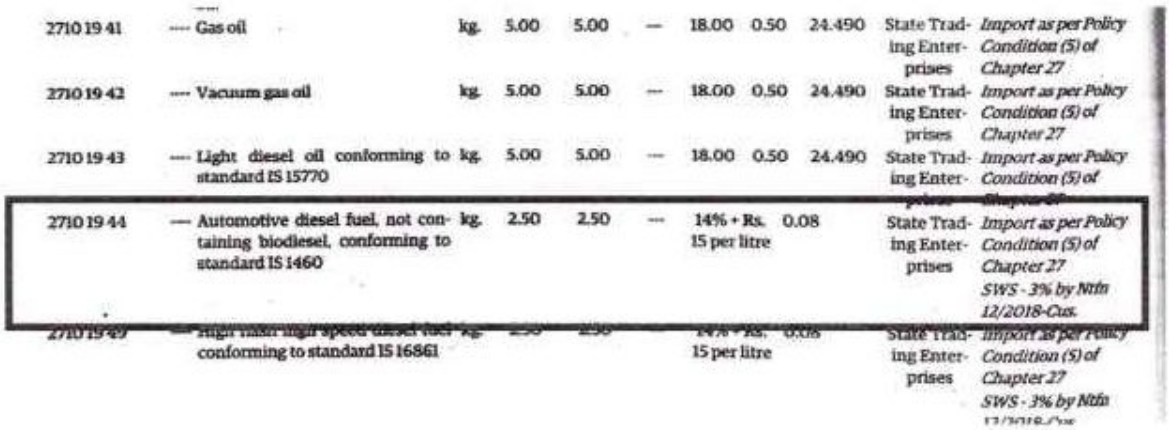
Table-II

Sl. No.	Bill of Entry No.	Date of Bill of Entry	No. of containers	Product description as per the analysis of the Test report

01	5007325	09.10.2025	10	Automotive Diesel Fuel conforming to standard IS:1460

Thus, it appeared that the samples drawn from consignment pertaining to BoE no: 5007325 dated 09.10.2025 appear to conform to limits stipulated in IS: 1460 specifications which pertains to the Indian Standard of Automotive Diesel Fuel. The items Automotive Diesel Fuel are restricted and can be imported by the State Trading Enterprises (STEs) only.

3.4 In the light of the parameters of the Test Report of the CRCL Visakhapatnam, the goods imported under BE no. 5007325 dated 09.10.2025, appear to be liable to be classified under CTH 27101944 under the description of Automotive Diesel Fuel conforming to standard IS 1460. The relevant description of CTH 27101944 as per
Customs Tariff Act 1975 are as below:



2710 19 41	--- Gas oil	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 42	--- Vacuum gas oil	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 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.*
2710 19 49	--- Light [illegible] high speed diesel fuel conforming to standard IS 16861	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*

Chapter Heading 27101944

3.5 Further, as per ITC (HS), 2022, Schedule 1: Import Policy, Section V: Mineral
Products, Chapter 27: Mineral Fuels, Mineral Oils and Products of Their Distillation; Bituminous Substances; Mineral Waxes: Goods falling under the description of "Gas oil and oils obtained from gas oil: -- Automotive diesel fuel, not containing biodiesel, 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&NG Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date". The screenshots of the relevant extracts are as below:

Product Description and Import Policy

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.

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

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

As per Schedule 1 Import Policy under ITC (HS), 2022 for Chapter-27 (Mineral Fuels, Mineral Oils, etc.), import of "***Gas oil and oils obtained from gas oil: ---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460***" covered under HS Code 27101944, is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27.

Therefore, it appeared that said importer has imported restricted goods i.e. "***Automotive Diesel Fuel conforming to standard IS: 1460***" by mis-declaring the same as "Industrial Oil" under the said consignment. 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, vide Seizure Memo dated **26.11.2025**.

4. STATEMENTS OF KEY PERSONS WERE RECORDED UNDER SECTION 108 OF THE CUSTOMS ACT, 1962. THE STATEMENTS ARE DISCUSSED IN BRIEF HEREUNDER:

During the course of investigation, statements of concerned persons were recorded under Section 108 of the Customs Act, 1962 as given below:

4.1. Statement of Shri Atin Goyal, Proprietor of M/s. Shree Shyam Enterprises was recorded on 16.12.2025, during which he interalia, stated that:

- He is the sole proprietor of the firm and the key decision-maker responsible for all import-related activities.

- He stated that he himself placed the order for the subject goods described as "Industrial Oil" from M/s Relevance Trading FZ LLC and had personally instructed the Customs House Agent to declare the goods as "Industrial Oil" in the Bill of Entry.
- He further admitted that such declaration was made solely on the basis of the Certificate of Analysis provided by the supplier, without any independent verification of the actual chemical composition or end-use characteristics of the goods.
- He acknowledged that neither he nor his firm undertook any pre-import testing or due diligence to ascertain the correctness of the declared description.
- On being shown test reports dated 19.11.2025 from the CRCL Visakhapatnam, he perused the findings of the laboratory tested samples from the imported consignment under BoE no. 5007325 dated 09.10.2025 and admitted that the imported goods conform to the specifications of Automotive Diesel Fuel and not Industrial Oil, thereby rendering the declaration made in the import documents false and misleading.
- He further conceded that import of Automotive Diesel Fuel is a restricted activity requiring specific authorization, and that his firm did not possess any such license or permission at the time of import.
- He also acknowledged that mis-declaration of restricted goods as freely importable goods constitutes an offence under the provisions of the Customs Act, 1962.

4.2 Statement of Shri Ranjit Behera, an authorized representative of Customs Broker M/s. JMC Logistics Services, was recorded under Section 108 of the Customs Act, 1962 on 22.12.2025, during which he interalia, stated that:

- He handled the customs clearance of a consignment imported by M/s Shree Shyam Enterprises and filed Bill of Entry No. 5007325 dated 09.10.2025 for goods declared as "Industrial Oil" under tariff heading 27101990.
- He stated that the declaration and classification were based entirely on documents provided by the importer, and he did not independently verify the product's technical specifications or conduct any test before filing the Bill of Entry.
- He also perused the test reports from the CRCL laboratory, Vizag which stated that "***On the basis of above tested parameters, the sample meets all the stringent parameter of Automotive diesel fuel as mentioned in IS: 1460:2025 except distillation recovery at 360°C (which is 93% & 2% less than 95%). The sample also meets the specification of HFHSD (IS 16861) up to the extent of parameter tested above. The sample is most akin to Automotive Diesel Fuel.***"
- He acknowledged that the test parameters reported therein meet the specifications of Automotive Diesel Fuel not the Industrial Oil, indicating that the goods had been mis-declared.
- He acknowledged that the mis-declaration came to light only after test results and admitted that the CHA relied fully on importer documents without due diligence, though he denied any intentional involvement in wrongdoing.

4.3. Statement of Shri Atin Goyal, Proprietor of M/s. Shree Shyam Enterprises was recorded on 22.04.2026, during which he interalia, stated that:

- He is the proprietor of M/s. Shree Shyam Enterprises and was responsible for business decisions, including import decisions; however, declarations were made based on documents provided by the supplier.
- He accepted the CRCL, Visakhapatnam test report dated 19.11.2025, which concluded that the imported goods meet the parameters of Automotive Diesel Fuel (IS: 1460).
- He admitted that although the goods were declared as **"Industrial Oil"** at the time of import, they appear to be **"Automotive Diesel Fuel"** as per the test report.
- He did not possess any contrary test report or technical evidence to dispute the CRCL findings.
- He stated that the description in the Bill of Entry was based on supplier documents and any discrepancy may be due to incorrect information from the supplier.
- He claimed lack of technical expertise in classification and relied on the supplier and Customs House Agent (CHA) for the same.
- He acknowledged that goods falling under CTH **27101944** (Automotive Diesel Fuel) are restricted and can be imported only through authorized entities, and admitted that he did not possess such authorization.
- He admitted that his firm is not eligible to import such restricted goods.
- He accepted that there was a discrepancy between the supplier's Certificate of Analysis (COA) and the CRCL report and admitted that he did not independently verify the COA.
- He could not provide any supporting evidence (emails/messages) showing that he contacted the supplier regarding the discrepancy or mis-declaration.
- He failed to provide documentary evidence supporting the claimed industrial use of the goods.
- He accepted the CRCL findings and admitted non-compliance with the provisions of the Customs Act, 1962 and the applicable Import Policy.
- He left the issue of confiscation to the competent authority and expressed willingness to cooperate with the investigation.
- He requested permission to re-export the goods.

5. FINDINGS OF THE INVESTIGATION & EVIDENCES COLLECTED:

5.1 Specific intelligence gathered by the Directorate of Revenue Intelligence indicated that M/s. Shree Shyam Enterprises is indulged in import of 'Restricted Goods' through mis-declaration by declaring the same as 'Industrial Oil'. Accordingly, the consignment covered under Bill of Entry No. 5007325 dated 09.10.2025 was put on hold by the DRI and further examination and sampling of goods contained in 10 containers covered under the aforesaid consignment was carried out by the DRI under Panchnama dated 15.10.2025 in presence of the representative of the Customs Broker at Saurashtra CFS, Mundra. The representative samples were sent to The Custom House Laboratory (CRCL), Visakhapatnam for testing of the same. The Custom House Laboratory (CRCL),

Visakhapatnam submitted their test reports dated 19.11.2025 and in respect of all the samples, on the basis of the tested parameters by the CRCL Visakhapatnam, stated that "***On the basis of above tested parameters, the sample meets all the stringent parameter of Automotive diesel fuel as mentioned in IS: 1460:2025 except distillation recovery at 360°C (which is 93% & 2% less than 95%). The sample also meets the specification of HFHSD (IS 16861) up to the extent of parameter tested above. The sample is most akin to Automotive Diesel Fuel.***" As mentioned above in para 3.2, the parameters of imported goods very much align to ***IS: 1460 i.e. "Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460"*** and imported goods are actually classifiable under HS Code 27101944 rather than 27101990. As per Schedule 1 Import Policy under ITC (HS), 2022 for Chapter-27 (Mineral Fuels, Mineral Oils, etc.), import of "***Gas oil and oils obtained from gas oil: ---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460***" covered under HS Code 27101944, is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27. Therefore, it appeared that said importer has imported restricted goods i.e. "***Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460***" by mis-declaring the same as 'Industrial Oil' under the said consignment. 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, vide Seizure Memo dated **26.11.2025.**

5.2 The Custom House Laboratory (CRCL), Visakhapatnam test results revealed significant discrepancies between the declared and actual declared specifications of the imported goods. In the said case, the test reports were matched with the 'Certificate of Analysis' provided by the supplier and it was noticed that the reported properties as per 'Certificate of Analysis' are not matching/in-line with the test reports received from the CRCL, Visakhapatnam.

5.3 The importer claimed that **'Industrial Oil'** was imported for applications in Industries like rubber manufacturing, machinery cleaning and spraying. Furthermore, the importer has not provided any supporting documents to substantiate the claimed end use of the product.

5.4 During the course of the investigation, statements from key individuals involved in the imports were recorded. Upon being presented with the CRCL test results, Shri Atin Goyal, Proprietor of M/s. Shree Shyam Enterprises acknowledged the laboratory's findings. However, when asked to provide any supporting evidence—such as emails, chat records, or messages—confirming that M/s Shree Shyam Enterprises had contacted the supplier upon discovering the mis-declaration or invalid HS Code, they failed to present any proof. This indicates that the importer was fully aware of the nature of the 'Restricted' goods and had deliberately imported them in collusion with supplier. Had the DRI not intervened, these 'Restricted' goods could have been cleared for consumption within Indian Territory.

5.5 From the investigation carried out by the DRI, it has been revealed that the imported goods covered under Bill of Entry No. 5007325 dated 09.10.2025 filed

at Mundra, were mis-declared by M/s. Shree Shyam Enterprises to circumvent import restrictions. No other supporting evidence—such as emails, chat records, or messages—confirming that M/s Shree Shyam Enterprises had contacted the supplier upon discovering the mis-declaration or invalid HS Code were provided.

6. RELEVANT LEGAL PROVISIONS:

6.1 Policy Condition No. 5 of Chapter 27 of the Customs Tariff is reproduced as below:

"*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.*"

6.2 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.

6.3 Relevant Sections of the Customs Act, 1962:

SECTION 111. Confiscation of improperly imported goods, etc. –

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

(a) …

(b) …

(c) …

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

…

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an 1 [arrival manifest or import manifest] or import report which are not so mentioned;

…

…

…

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

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

SECTION 112 of the Customs Acts*.* ***Penalty for improper importation of goods, etc.*** *- Any person, -*

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

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

shall be liable, -

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

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

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

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

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

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

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.*

SECTION 2(23), 2(25), 2(33) & 2(39) OF THE CUSTOMS ACT, 1962:

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

- *Section 2(39) – "**smuggling**", in relation to any good, means any act or omission which will render such goods liable to confiscation under Section 111 or Section 113;*

6.4 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.*

6.5 Import of "***Automotive Diesel Fuel conforming to standard IS:1460***" into India is subject to Policy Condition No. 5 of Chapter 27 of Customs Tariff, which is produced above, therefore, the importer has violated the provisions of import of the said imported goods, since the importer is not an STE and neither possesses a license to import the same. Therefore, it appears that the importer has violated the provisions of the Customs Act, 1962, by importing restricted import goods, as discussed in foregoing paras, and rendered the said goods liable for confiscation under the Customs Act, 1962.

7. MISDECLARATION AND MISCLASSIFICATION OF THE IMPORTED GOODS:

7.1 From the foregoing paras it appears that **'Automotive Diesel Fuel as per IS: 1460'** classifiable under CTH **2710 1944** have been imported by mis-

declaring the description of goods as **Industrial Oil**, which was declared by the importer under CTH **2710 1990**.

As discussed in detail in the forgoing paras, the samples of the import consignment were drawn and sent for testing to Custom House Laboratory (CRCL), Visakhapatnam, who on testing the samples gave opinion that '**the sample meets all the stringent parameter of Automotive diesel fuel as mentioned in IS: 1460:2025 except distillation recovery at 360°C (which is 93% & 2% less than 95%). The sample also meets the specification of HFHSD (IS 16861) up to the extent of parameter tested above. The sample is most akin to Automotive Diesel Fuel**. Thus, the goods imported by M/s Shree Shyam Enterprises were Automotive Diesel Fuel, classifiable under CTH 2710 1944 and not Industrial Oil, mis-declared by the importer in the import documents, as under CTH 2710 1990.

7.2 As per Schedule I –Import Policy ITC (HS), 2017, pertaining to Section V Chapter 27, Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460 can only be imported by state trading enterprises. Further, import of the said goods is subject to policy condition 5, which is reproduced below:

(5) Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NG's Resolution No. P23015/1/2001-MKT dated 08.03.2002 including HPCL, BPCL & IBP who have been marketing transportation fuels before this date.

7.3 Thus it appears that the Automotive Diesel Fuel as per IS-1460 covered under EXIM Code 27101944, is allowed to be imported only by the State Trading Enterprises. Further the policy conditions stipulate that import is allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P & NG's Resolution No. P 23015/1/2001-MKT dated 08.03.2002 including HPCL, BPCL & IBP who have been marketing transportation fuels before this date.

Shri Atin Goyal, Proprietor of M/s. Shree Shyam Enterprises knew that they cannot import diesel by declaring it as diesel. Therefore, they imported diesel by mis declaring it as Industrial oil. Thus, they have violated the provisions of Foreign Trade Policy and Customs Act, 1962.

7.4 In terms of Para 2.20 of the Foreign Trade Policy 2015-2020, State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and/or import. M/s Shree Shyam Enterprises, the instant importer has not advanced any evidence indicating that they qualify in terms of the above statutory provision for import of Automotive Diesel Fuel as per IS 1460. Thus the goods in the instant case appear to have been imported in gross violation of the Policy notified vide Notification No. 36/2015-2020 dated 17/01/2017 issued under Section 5 of the Foreign Trade (Development &Regulation) Act, 1992 read with Para 2.01 of the Foreign Trade Policy, 2015-2020.

7.5 The Policy Conditions are also stipulated under Section 3 of the Foreign Trade (Development and Regulation) Act, 1992. Further in terms of Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992, 'All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 and all the provisions of that Act shall have effect accordingly'.

7.6 Also, in terms of Section 2 (33) of the Customs Act, 1962 "**prohibited goods**" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

8. VALUATION:

8.1 From the foregoing paras, it is evident that M/s. Shree Shyam Enterprises 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 3rd week of October-2025 were taken, such as invoices generated by M/s Nayara Energy Limited, ADF-**Rs 52541.79/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.

8.2 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.

8.3 As discussed above, the consignment covered under Bill of Entry No. 5007325 dated 09.10.2025 was reported as "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***" by the Custom Laboratory, Vishakhapatnam. The outcome of the test report 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 Bill of Entry, the declared assessable value of **Rs. 93,98,094/-**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.

8.4 Accordingly, for valuation purpose, to arrive at a fair and reasonable value within the framework of law and procedures under the Valuation Rules, ADF data dated 15.10.2025 from the M/s Nayara Energy Limited was referred. The base price was noted as **Rs. 52541.79/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 **202990** KGs equivalent to **242.405 KL** (using average density of 0.8374 g/ml as reported by Custom House Laboratory, Visakhapatnam), is **Rs. 1,27,36,392.60/-**, in terms of provisions of Rule 9 of the CVR, 2007.

Thus, the value of the goods, as per the test report of the Custom Laboratory Visakhapatnam, is determined accordingly, are as below:

Table-III

Sl. No.	Bill of Entry No. & date	Sample Test Result	Declared Description	Quantity (in KGs)	Declared value as per BoE	Approx. Market Value (In Rs.)
01.	5007325 dated 09.10.2025	Automotive Diesel Fuel (ADF)	Industrial Oil	202990	93,98,094/-	1,27,36,392/-
Total					93,98,094/-	1,27,36,392/-

Therefore, the said goods having declared value of Rs. **93,98,094/-** and re-determined value of Rs. **1,27,36,392/-** as per Table-III, appear to be liable for confiscation under Section 111(d) and 111 (m) of the Customs Act, 1962.

9. ROLE AND LIABILITY OF PERSONS INVOLVED:

9.1 In terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bills Entry. In the instant case the importer was fully aware of the actual goods imported by them in as much as Shri Atin Goyal mis-declared the imported goods as Industrial Oil and accordingly classified the goods under CTH 2710 1990 in the Bill of Entry filed before the Customs authorities instead of declaring it as 'Automotive Diesel Fuel' and classified it under CTH 2710 1944. Thus, in view of the facts discussed in the foregoing paras and material evidences available on records, it appears that M/s Shree Shyam Enterprises have contravened the provisions of Section 46(4) of the Customs Act, 1962, in as much as they had intentionally mis-declared the description of the goods imported by them.

9.2 In terms of Section 17 of the Customs Act, 1962, an importer entering any imported goods under Section 46, shall, self-assess the duty leviable on such goods. The importer M/s Shree Shyam Enterprises Sirsa, Haryana – 125055, in the instant case has failed to assess the true duty leviable on Automotive Diesel Fuel under CTH 2710 1944 by resorting to mis-declaration of the import goods as Industrial Oil-others under CTH 2710 1990.

9.3 In view of the facts discussed in foregoing paras and the material evidences available on record, M/s Shree Shyam Enterprises Sirsa, Haryana – 125055 made a deliberate attempt to illicitly smuggle 202.990 MTS Automotive Diesel Fuel having declared assessable Value of Rs. 93,98,094/-, under the cover of Bill of Entry No. 5007325 dated 09.10.2025 in the guise of Industrial Oil-others.

9.4 The Automotive Diesel Fuel was imported by resorting to mis declaration of the same as Industrial Oil in the Bill of Entry No. 5007325 dated 09.10.2025 filed under Section 46 of the Customs Act, 1962 and accordingly the Automotive Diesel Fuel imported in the guise of Industrial Oil-others having declared assessable Value of Rs. 93,98,094/-, is liable to confiscation under the provisions of Section 111 (d) and 111 (m) of the Customs Act, 1962 in as much as the goods have been imported in gross violation of restriction/prohibition imposed under the Import Policy as discussed supra and by mis-declaring the description of the goods with a view to evade detection. Such an act of import in gross violation to the provisions of Customs Act has rendered the goods liable to confiscation under Section 111 and constitutes "Smuggling" as defined under Section 2 (39) ibid. Accordingly M/s Shree Shyam Enterprises Sirsa, Haryana – 125055 have rendered themselves liable to penalty under Section 112 (a) and (b) of the Customs Act, 1962.

9.5 The importer filed Bill of Entry No. 5007325 dated 09.10.2025 for clearance of 202.990 MTS imported goods i.e. Automotive Diesel Fuel as per IS 1460 valued at Rs. 93,98,094/-in the guise of some other product which they declared as Industrial Oil in the name of M/s Shree Shyam Enterprises Sirsa, Haryana – 125055. 'Automotive Diesel Fuel as per IS 1460' is restricted for import and is allowed to be imported only by the State Trading Enterprises as discussed in foregoing paras. Thus, The importer have done various acts of commission and omission which have rendered the goods liable to confiscation under Section 111 of the Customs Act, 1962 and consequentially they are liable to penalty under Section 112 (a) and (b) of the Customs Act 1962. Further, the importer appears to have indulged in presenting documents falsifying the true identity of the goods, before the Customs authorities for import of the goods. Thus, the importer knowingly and intentionally made a declaration in the Bill of Entry filed under Section 46 of the Customs Act, 1962, which is false and incorrect. Hence, the importer committed offences of the nature as described under the Section 114AA of the Customs Act, 1962 and have consequentially rendered themselves liable to penalty under Section 114AA of the Customs Act, 1962.

10. CONTRAVENTION OF PROVISIONS OF THE CUSTOMS ACT, 1962 AND OTHER ALLIED ACT:

10.1 From the above, it is apparent that the importer indulged themselves in smuggling of 202.990 MTS of imported goods i.e. Automotive Diesel Fuel as per IS 1460 valued at Rs. 93,98,094/-in the guise of some other product which they declared as Industrial Oil in the name of M/s. Shree Shyam Enterprises Sirsa, Haryana – 125055. 'Automotive Diesel Fuel as per IS 1460' is restricted for import and is allowed to be imported only by the State Trading Enterprises as discussed in foregoing paras. Thereby, the importer in their individual capacity had committed an offence punishable under Section 135 of the Customs Act 1962. The importer have done various acts of commission and omission which have rendered the goods liable to confiscation under Section 111 of the Customs Act, 1962 and consequentially they are liable to penalty under Section 112 (a) and (b) of the Customs Act, 1962. Further, the importer appears to have indulged in presenting documents falsifying the true identity of the goods, before the Customs authorities for import of the goods. Thus, the importer have knowingly and intentionally made a declaration under the Bill of Entry filed under Section 46 of the Customs Act, 1962, which is false and incorrect. Hence, the importer have committed offences of the nature as described under the Section 114AA of the Customs Act, 1962 and have consequentially rendered themselves liable to penalty under the said Section 114AA of the Customs Act, 1962.

10.2 Vide Finance Act, 2011, "Self-Assessment" has been introduced w.e.f. from 08.04.2011 under the Customs Act, 1962. **Section 17** of the said Act provides for self-assessment of duty on import and export goods by the importer or exporter himself by filing a Bill of Entry or Shipping Bill, as the case may be, in the electronic form, as per Section 46 or 50, respectively. Thus, under self-assessment, it is the responsibility of the importer or exporter to ensure that he declares the correct classification, applicable rate of duty, value, benefit or exemption notification claimed, if any, in respect of the imported/exported goods while presenting Bills of Entry or Shipping Bill.

10.3 In the present case, it appears that the importer, have deliberately contravened the above said provisions with a malafide intention to circumvent from the RESTRICTION imposed on the said goods and to clear the said goods on the basis of merely an incorrect declaration in the Commercial Invoice, Certificate of Analysis (COA) & Bill of Lading made available by the Supplier.

10.4 In view of the above, it appears that the importer viz. M/s Shree Shyam Enterprises, Haryana, have violated the provisions of Sections 17 and 46 of the Customs Act, 1962 which was their duty to comply correctly and properly, but for which no express penalty is elsewhere provided for such contravention or failure, they shall also be liable to penalty under Section 117 of Customs Act, 1962 which reads as under:

> ***SECTION 117. Penalties for contravention, etc., not expressly mentioned****. - Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees.*

11. CONFISCATION OF SEIZED GOODS U/S 111 OF THE CUSTOMS ACT, 1962:

11.1 M/s Shree Shyam Enterprises, Haryana imported a consignment, covered under Bill of Entry No. 5007325 dated 09.10.2025 filed at Mundra, which was declared as "Industrial Oil," classified under CTH 2710 1990. On testing of the samples drawn from the said consignment, the import goods were found to be "***Automotive Diesel Fuel, not containing biodiesel, conforming to standard IS 1460***", falling under CTH 2710 1944. Therefore, the said mis-declared goods having declared value of **Rs. 93,98,094/-** and re-determined value of **Rs. 1,27,36,392/-** appear to be liable for confiscation under Section 111(d), and 111(m) of the Customs Act, 1962.

11.2 Further, import of "***Automotive Diesel Fuel, not containing biodiesel, conforming to standard IS 1460***", 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. Therefore, it appeared that said importer has imported restricted goods i.e. "***Automotive Diesel Fuel, not containing biodiesel, conforming to standard IS 1460***" by mis-declaring the same as "Industrial Oil" under the said consignment, Therefore the said goods having declared value of **Rs. 93,98,094/-** and re-determined value of **Rs. 1,27,36,392/-**, appear to be liable for confiscation under Section 111(d) of the Customs Act, 1962.

12. ROLE PLAYED BY M/S SHREE SHYAM ENTERPRISES (IEC: AHFPG6372F) 'PLOT NO. 26, INDUSTRIAL AREA PHASE III, SIRSA, HARYANA – 125055 (IMPORTER):

12.1 M/s Shree Shyam Enterprises, Haryana imported a consignment, covered under Bill of Entry No. 5007325 dated 09.10.2025 filed at Mundra, by mis-declaring the import goods as "Industrial Oil" classified under HS Code 2710 1990. During investigation by the DRI, it was found that the actual goods covered under the said consignments was "***Automotive Diesel Fuel, not containing biodiesel, conforming to standard IS 1460***' for import into India and only allowed to be imported as per Policy Condition No. 5 of the Customs Tariff.

12.2 From the investigation carried out by the DRI, it was revealed that the imported goods covered under Bill of Entry No. 5007325 dated 09.10.2025 filed at Mundra, were mis-declared by M/s. Shree Shyam Enterprises to circumvent import restrictions. No supporting evidence—such as emails, chat records, or messages—confirming that M/s Shree Shyam Enterprises had contacted the supplier upon discovering the mis-declaration or invalid HS Code were provided by any of the persons. Therefore, it appears that M/s. Shree Shyam Enterprises, by filing incorrect declarations and failing to ensure proper classification of the goods, violated several provisions concerning the importation of such restricted goods, and classification of the same, thus rendering the said goods liable for

confiscation under the provisions of the Section 111(d), and 111(m) of the Customs Act, 1962. Therefore, M/s Shree Shyam Enterprises have made themselves liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962. Furthermore, M/s Shree Shyam Enterprises 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 Shree Shyam Enterprises are also liable for penalty under Section 114AA of the Customs Act, 1962.

13 Accordingly, M/s. **Shree Shyam Enterprises (IEC: AHFPG6372F)** located at 'Plot No. 26, Industrial Area Phase III, Sirsa, Haryana – 125055', were hereby called upon to show cause in writing 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 the notice, as to why :-

(i) The classification of goods covered under Bill of Entry No. 5007325 dated 09.10.2025 filed at Mundra Port, declared as 'Industrial Oil', under CTH 2710 1990, should be rejected and the same should be re-classified as 'Automotive Diesel Fuel, not containing biodiesel, conforming to standard IS 1460' under CTH 2710 1944.

(ii) The declared value of the said goods declared as 'Industrial Oil', as Rs. 93,98,094/-should be rejected in terms of Rule 12 of the CVR, 2007 and the same should be re-determined as Rs. 1,27,36,392/-, as discussed in in Table-III in foregoing para.

(iii) The goods declared as 'Industrial Oil', under the Bill of Entry No. 5007325 dated 09.10.2025 filed at Mundra Port, should be held liable for confiscation under Section 111(d), and 111(m) of the Customs Act, 1962.

(iv) Penalty should be imposed upon them under Sections 112(a), 112(b), 117 and 114AA of the Customs Act, 1962, separately.

WRITTEN SUBMISSION AND PERSONAL HEARING

14. M/s. Shree Shyam Enterprises, Importer, vide their letter dated 06.08.2026 filed written submissions in response to the Show Cause Notice No. 48/2026-27/ADC/ZDC/MCH dated 20.05.2026. The contents of the said submissions are summarized as under:

14.1 The Noticee has stated that they have carefully gone through the contents of the Show Cause Notice and without prejudice to their legal rights and contentions, they do not intend to contest the Show Cause Notice and do not wish to seek clearance for home consumption of the subject goods.

14.2 The Noticee has requested that permission may be granted for re-export of the entire seized consignment covered under Bill of Entry No. 5007325 dated 09.10.2025, as the goods have not been cleared for home consumption and they do not wish to import or utilize the goods in India.

14.3 The Noticee has submitted that there was no intention to violate the provisions of the Customs Act, 1962 or the Foreign Trade Policy. The declaration

of goods in the Bill of Entry was made solely on the basis of the documents, Certificate of Analysis and specifications provided by the overseas supplier M/s. Relevance Trading FZ LLC, UAE. The Noticee has expressed sincere regret regarding the circumstances and assured that greater due diligence will be exercised in future imports.

14.4 The Noticee has submitted that considering their voluntary request for re-export, their cooperation during the investigation, their non-seeking of clearance for home consumption, and their bona fide conduct, a lenient and sympathetic view may be taken in the matter.

14.5 The Noticee has specifically requested that the Redemption Fine and penalties proposed under the Customs Act, 1962 may be reduced to the minimum possible extent, keeping in view the facts and circumstances of the case and their bona fide conduct.

14.6 The Noticee has specifically stated that they do not wish to avail the opportunity of Personal Hearing and have requested that the matter may be decided on the basis of their written submissions and the available records.

DISCUSSION AND FINDINGS

15. I have carefully gone through the Show Cause Notice No. 48/2026-27/ADC/ZDC/MCH dated 20.05.2026, the relied upon documents and the records available before me. I note that M/s. Shree Shyam Enterprises vide their letter dated 06.08.2026 have stated that they do not wish to avail the personal hearing opportunity, have not contested the Show Cause Notice, and have requested permission for re-export of the subject goods. 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:

(i) Whether the classification of goods covered under Bill of Entry No. 5007325 dated 09.10.2025 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), not containing biodiesel, conforming to standard IS 1460:2025' under CTH 27101944;

(ii) Whether the declared value of **Rs. 93,98,094/-** (Rupees Ninety-Three Lakh Ninety-Eight Thousand Ninety-Four Only) should be rejected in terms of Rule 12 of the CVR, 2007 and re-determined as **Rs. 1,27,36,392/-** (Rupees One Crore Twenty-Seven Lakh Thirty-Six Thousand Three Hundred and Ninety-Two Only);

(iii) Whether the goods covered under Bill of Entry No. 5007325 dated 09.10.2025, having re-determined value of **Rs. 1,27,36,392/-**, are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962; and

(iv) Whether penalty is imposable upon M/s. Shree Shyam Enterprises under Sections 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

16. I now take up the **first issue** regarding classification of the imported goods. I find that M/s. Shree Shyam Enterprises filed Bill of Entry No. 5007325 dated 09.10.2025 at Mundra Port declaring the goods as 'Industrial Oil' and classifying the same under CTH 27101990. The examination of the consignment was carried out by DRI under Panchnama dated 15.10.2025 at Saurashtra CFS, Mundra, and representative samples were drawn from each of the 10 containers and sent to Custom House Laboratory (CRCL), Visakhapatnam for testing.

16.1 I find that the CRCL, Visakhapatnam, vide test reports dated 19.11.2025 in respect of all 10 samples drawn from the consignment, categorically opined as under:

> *"On the basis of above tested parameters, the sample meets all the stringent parameter of Automotive diesel fuel as mentioned in IS: 1460:2025 except distillation recovery at 360°C (which is 93% and 2% less than 95%). The sample also meets the specification of HFHSD (IS 16861) up to the extent of parameter tested above. The sample is most akin to Automotive Diesel Fuel."*

16.2 I find that the test reports were analyzed in detail and whereas the parameters of the Test Report suggested that the goods being imported in the said containers was Automotive Diesel Fuel Conforming to IS: 1460. The items Automotive Diesel Fuel are restricted and can be imported by the State Trading Enterprises (STEs) only.

16.3 I note that the sole parameter found outside the IS 1460:2025 limit is the distillation recovery at 360°C (found to be 93% against the prescribed 95% — i.e., 2% below the limit). I find that this marginal deviation in distillation recovery does not alter the essential nature and character of the goods. CRCL, Visakhapatnam has itself, notwithstanding this single deviation, rendered the categorical opinion that the sample meets all stringent parameters of ADF under IS 1460:2025 and is "most akin to Automotive Diesel Fuel."

16.4 I further note that the said test reports were shown to Shri Atin Goyal, Proprietor of M/s. Shree Shyam Enterprises, in his voluntary statement dated 22.04.2026, and he himself admitted that the imported goods conform to the specifications of Automotive Diesel Fuel and not Industrial Oil, thereby rendering the declaration made in the import documents false and misleading. He further admitted that he did not possess any contrary test report or technical evidence to dispute the CRCL findings. This voluntary and unequivocal admission by the proprietor is conclusive and independently establishes the nature of the goods, over and above the laboratory test results.

16.5 I find that CRCL, Visakhapatnam has also specifically noted that there is no recognized specification for 'Industrial Oil' in any National or International Standard. This finding is itself of significance — the declared product 'Industrial Oil' has no defined technical parameters under any IS/ISO standard, whereas

the goods found conform to and are most akin to a well-defined restricted petroleum product (ADF, IS 1460:2025). Declaring restricted goods under an undefined and non-standardized product description is itself indicative of deliberate evasion.

16.6 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. Customs Tariff Heading (CTH) 27101944 specifically covers "Gas oil and oils obtained from gas oil: ---- Automotive diesel fuel, not containing biodiesel, conforming to standard *IS 1460"*. In the present case, the comprehensive chemical analysis and test reports dated 19.11.2025 furnished by the Custom House Laboratory (CRCL), Visakhapatnam for all 10 representative samples categorically establish that the sample meets all the stringent parameters of Automotive Diesel Fuel as mentioned in IS 1460:2025, with only a marginal deviation in distillation recovery at 360°C (93% against the requirement of 95%), and that the sample is "most akin to Automotive Diesel Fuel". As the goods substantially conform to the

specifications of IS 1460:2025 and possess the essential character of diesel fuel, they are correctly classifiable under CTH 27101944 in terms of GIR Rule 1 read with Supplementary Note (e) to Chapter 27. Furthermore, even if examined under GIR Rule 4, the goods being undisputedly "most akin" to Automotive Diesel Fuel as certified by the Chemical Examiner and admitted by Shri Atin Goyal, Proprietor of M/s Shree Shyam Enterprises in his statement dated 22.04.2026, merit classification under CTH 27101944. Applying the "most akin test" enunciated by the Hon'ble Supreme Court in *Gastrade International v. Commissioner of Customs, Kandla* and reiterated by the Hon'ble High Court of Gujarat in *R/Special Civil Application No. 16799 of 2025 and allied matters*, the subject imported goods are held to be classifiable under CTH 27101944.

16.7 In view of the above, I find that the goods imported by M/s. Shree Shyam Enterprises under Bill of Entry No. 5007325 dated 09.10.2025 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. I now take up the **second issue** regarding valuation. I find that the declared assessable value of **Rs. 93,98,094/-** in Bill of Entry No. 5007325 dated 09.10.2025 cannot be accepted as the true and correct transaction value of the subject goods, since the goods have been found to be mis-declared in respect of description and classification. The declared invoice value pertains to 'Industrial Oil' and not to the goods actually found to be Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 classifiable under CTH 27101944. The declared value is accordingly liable to be rejected under Rule 12 of the CVR, 2007.

17.1 Since the goods were mis-declared and are restricted goods, exact comparative import data for the actual goods i.e., ADF is not readily available for application of Rules 4 to 8 of the CVR, 2007. The value is accordingly determinable under Rule 9 (Residual Method) of the CVR, 2007, read with Section 14 of the Customs Act, 1962, on the basis of objective and quantifiable data available in India. For this purpose, the prevailing market rate of ADF in the 3rd week of October 2025 as per the invoice generated by M/s. Nayara Energy Limited, i.e., **Rs. 52,541.79/- per KL**, has been adopted as the reference price, being the best available objective data on record.

17.2 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, 3rd week of October 2025)	Rs. 52,541.79 per KL
Imported Quantity (KGs)	2,02,990
Average Density (as per CRCL, Visakhapatnam)	0.8374 g/ml
Volume equivalent (KL)	242.405
Re-determined Value	Rs. 1,27,36,392/-

The total quantity of the subject goods is **202,990 KGs**, equivalent to **242.405 KL** using the average density of 0.8374 g/ml as reported by CRCL, Visakhapatnam. The re-determined assessable value accordingly works out to **Rs. 1,27,36,392/- (Rupees One Crore Twenty-Seven Lakh Thirty-Six Thousand Three Hundred and Ninety-Two Only)**. I find that this re-determined value is fair, reasonable and based on objective data available on record, and is accordingly adopted as the assessable value for the purpose of this Order.

17.3 I accordingly reject the declared assessable value of **Rs. 93,98,094/-** under Rule 12 of CVR 2007 and re-determine the assessable value at **Rs. 1,27,36,392/-** under Rule 9 of CVR 2007, read with Section 14 of the Customs Act, 1962.

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 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."

18.2 I find that the goods imported by M/s. Shree Shyam Enterprises under Bill of Entry No. 5007325 dated 09.10.2025 — found to be ADF conforming to IS 1460:2025 — are restricted goods under Policy Condition No. 5 of Chapter 27, importable only by STEs. 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. Shree Shyam Enterprises, 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 do not correspond with the actual goods found on testing — namely ADF under 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. 93,98,094/- also does not correspond to the re-determined value of Rs. 1,27,36,392/-. 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 i.e., **202,990 KGs (202.990 MTs) of Automotive Diesel Fuel (ADF) conforming to IS 1460:2025**, imported vide Bill of Entry No. 5007325 dated 09.10.2025 in 10 containers, having re-determined assessable value of **Rs. 1,27,36,392/- (Rupees One Crore Twenty-Seven Lakh Thirty-Six Thousand Three Hundred and Ninety-Two Only)**, seized vide Seizure Memo dated 26.11.2025, are liable for confiscation under Sections **111(d) and 111(m)** of the Customs Act, 1962.

19. REDEMPTION FINE UNDER SECTION 125 of CUSTOMS ACT, 1962:

19.1 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."

19.2 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. Shree Shyam

Enterprises vide their letter dated 06.08.2026 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.

19.3 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. In the absence of fulfilment of these conditions, the goods cannot be permitted to be cleared into the domestic market.

19.4 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.

DISCUSSION ON IMPOSITION OF PENALTIES:

20. Penalty on M/s. Shree Shyam Enterprises under Section 112(a)(i) of the Customs Act, 1962:

20.1 I find that M/s. Shree Shyam Enterprises filed Bill of Entry No. 5007325 dated 09.10.2025 declaring the goods as 'Industrial Oil' under CTH 27101990, whereas the goods were found on testing to be Automotive Diesel Fuel (ADF) conforming to IS 1460:2025 under CTH 27101944 — a restricted item importable only by STEs. The Noticee, by importing restricted ADF under the guise of freely importable Industrial Oil, has done an act which rendered the goods liable to confiscation under Section 111 of the Customs Act, 1962. The goods being restricted goods (prohibited goods within the meaning of Section 2(33) read with Section 3(3) of the FTDR Act, 1992), the Noticee has rendered itself liable for penalty under **Section 112(a)(i)** of the Customs Act, 1962.

I find that imposition of penalty under Section 112(a) and Section 112(b) simultaneously amounts to imposition of double penalty for the same act; therefore, I refrain from imposition of penalty under Section 112(b) of the Customs Act, 1962.

20.2 I have carefully considered the written submission of M/s. Shree Shyam Enterprises dated 06.08.2026. The Noticee has submitted that:

(i) The declaration was made on the basis of the supplier's Certificate of Analysis, without any intention to violate the law.
(ii) The Noticee has not contested the Show Cause Notice, has cooperated during the investigation, and does not seek clearance for home consumption.
(iii) The Noticee has requested a lenient and sympathetic view and specifically sought reduction of RF and penalty to the minimum possible extent.

20.3 These submissions, while noted as mitigating factors, do not extinguish the legal liability that has been established. The following facts, as established during investigation, demonstrate mens rea on the part of the Noticee:

(i) Shri Atin Goyal, Proprietor, himself placed the order for the subject goods and personally instructed the Customs Broker to declare the goods as "Industrial Oil" in the Bill of Entry. He further admitted that such declaration was made solely on the basis of the supplier's COA without any independent verification, test or pre-import due diligence.

(ii) No emails, chat records or messages confirming that the importer contacted the supplier upon discovering the alleged mis-declaration were produced, despite specifically being asked for the same. This absence of any contemporaneous protest to the supplier conclusively establishes that the importer was fully aware of the nature of the goods being imported and acquiesced in the misdeclaration.

(iii) Shri Atin Goyal admitted in his statement dated 22.04.2026 that he was aware that goods classified as ADF under CTH 27101944 are restricted goods importable only by STEs, and that his firm did not possess any such authorization. Despite this awareness, he imported goods that conform to ADF specifications, under the cover of a freely importable, undefined product category.

(iv) The importer failed to produce any supporting evidence to substantiate the claimed industrial use of the goods — no purchase orders from industrial buyers, no end-use certificates and no technical specifications for 'Industrial Oil' were provided.

20.4 In view of the above, while I take note of the Noticee's cooperation and the request for leniency as mitigating factors in determining the quantum of penalty, the legal liability under Section 112(a)(i) is clearly established and the penalty is required to be imposed. I accordingly confirm that M/s. Shree Shyam Enterprises is liable for penalty under **Section 112(a)(i)** of the Customs Act, 1962.

21. Penalty on M/s. Shree Shyam Enterprises under Section 114AA of the Customs Act, 1962:

I find that M/s. Shree Shyam Enterprises knowingly and intentionally caused to be made, signed and used the Bill of Entry No. 5007325 dated 09.10.2025 and supporting documents — including the commercial invoice, packing list and Bill of Lading — all of which declared the goods as 'Industrial Oil' under CTH 27101990, whereas the goods were ADF conforming to IS 1460:2025 under CTH

27101944. The Bill of Entry and supporting documents are false and incorrect in material particulars — description, classification and value. The proprietor's own admission that he personally instructed the CHA to declare the goods as 'Industrial Oil', combined with his knowledge that ADF is restricted, establishes that these false declarations were made knowingly and intentionally for the purposes of the Customs Act, 1962. Accordingly, M/s. Shree Shyam Enterprises has rendered itself liable for penalty under **Section 114AA** of the Customs Act, 1962.

22. Penalty under Section 117 of the Customs Act, 1962:

Section 117 of the Customs Act, 1962 provides:

"Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees."

I find that M/s. Shree Shyam Enterprises has violated the provisions of Sections 17 and 46 of the Customs Act, 1962 in the manner discussed above. Since the express penalty provisions under Sections 112(a)(i) and 114AA have already been invoked and applied in respect of the same acts and omissions, imposition of a separate penalty under Section 117 for the same conduct would amount to double jeopardy. I accordingly find it appropriate not to impose penalty under Section 117 of the Customs Act, 1962, relying upon the principle enunciated by the Hon'ble High Court of Bombay in *Frigorifico Allana Pvt. Ltd.* [2024 (12) TMI 101] that Section 117 being a residuary provision is applicable only where no other express penalty provision is invoked. Since express penalty under Sections 112(a)(i) and 114AA has been imposed, Section 117 is not separately invoked.

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

ORDER

(i) I order to reject the declared classification of the impugned goods declared as 'Industrial Oil' under Customs Tariff Item **27101990** imported vide Bill of Entry No. 5007325 dated 09.10.2025, and **re-classify the same as 'Automotive Diesel Fuel (ADF) conforming to IS 1460:2025' under Customs Tariff Item 27101944**;

(ii) I order to reject the declared assessable value of **Rs. 93,98,094/- (Rupees Ninety-Three Lakh Ninety-Eight Thousand Ninety-Four Only)** in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determine the same as **Rs. 1,27,36,392/- (Rupees One Crore Twenty-Seven Lakh Thirty-Six Thousand Three Hundred and Ninety-Two 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. **202,990 KGs (202.990 MTs) of Automotive Diesel Fuel (ADF) conforming to IS 1460:2025**, in 10 containers imported by M/s. Shree Shyam Enterprises vide Bill of Entry No. 5007325 dated 09.10.2025 at Mundra Port, having re-determined assessable value of **Rs. 1,27,36,392/- (Rupees One Crore Twenty-Seven Lakh Thirty-Six Thousand Three Hundred and Ninety-Two Only)**, seized vide Seizure Memo dated 26.11.2025, under Sections **111(d) and 111(m)** of the Customs Act, 1962. However, I give an option to M/s. Shree Shyam Enterprises to redeem the goods only for **re-export purpose**, on payment of Redemption Fine of **Rs. 12,50,000/- (Rupees Twelve Lakh Fifty Thousand Only)** under Section 125(1) of the Customs Act, 1962;

(iv) I impose a penalty of **Rs. 6,25,000/- (Rupees Six Lakh Twenty Five Thousand Only)** on **M/s. Shree Shyam Enterprises (IEC: AHFPG6372F)**, Plot No. 26, Industrial Area Phase III, Sirsa, Haryana – 125055, 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. Shree Shyam Enterprises (IEC: AHFPG6372F)** under **Section 114AA** of the Customs Act, 1962;

(vi) No penalty is imposed on M/s. Shree Shyam Enterprises under Section 117 of the Customs Act, 1962, for the reasons discussed above.

24. 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.

25. Show Cause Notice No. 48/2026-27/ADC/ZDC/MCH dated 20.05.2026 stands disposed of on the above terms.

Digitally signed by Dipakbhai Zala
Date: 23-09-2026 18:22:11

(DIPAK ZALA)
Additional Commissioner of Customs,

Mundra Customs

To,

M/s. Shree Shyam Enterprises (IEC: AHFPG6372F)

Plot No. 26, Industrial Area Phase III, Sirsa, Haryana – 125055

Copy to:

1. The Deputy Director, DRI, Regional Unit, Jamnagar.
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