	प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH** **MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421** ई-मेल/ E-Mail: adj-mundra@gov.in	
A	फा. सं./ FILE NO.	GEN/ADJ/ADC/806/2026-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/402/2026-27
C	द्वारा पारित किया गया PASSED BY	**Dipak Zala,** Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	15-10-2026
E	जारी करने की तिथि DATE OF ISSUE	15-10-2026
F	कारण बताओ नोटिस संएवं तिथि SCN NO. & DATE	61/2026-27/ADC/ZDC/MCH dated 01.06.2026
G	नोटिसी/पार्टी / आयातक NOTICEE/PARTY/ IMPORTER	**1.** M/s Premium Petro and Infra Projects Private Limited (IEC: AAOCP5368F) **2.** Shri Vishal Bohra, Director of M/s Premium Petro and Infra Projects Private Limited

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 वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128A 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 128A 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

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 'Distillate Oil'. Intelligence further suggested that M/s. Premium Petro and Infra Projects Private Limited (hereinafter also referred to as "the Importer"), (IEC No. AAOCP5368F) having business address at 1/3, Hathroi Market, Ajmer Road, Jaipur, Rajasthan-302001 has imported 'Restricted Goods' under Bill of Entry No. 7746721 dated 25.02.2026, filed at Mundra Port (INMUN1), and declared the same as 'Distillate Oil'. Details of the said import consignment is as under:

Table-I

Bill of Entry No.	7746721 dated 25.02.2026 (INMUN1)
Declared Goods in BE	Distillate Oil (Only for Industrial Use), CTH: 27101961
Declared Quantity	4000.00 MTS (4000000 in KGS)
Total Assessable Value (INR)	17,46,10,113/-
Customs Broker	M/s. Shivam Seatrans Private Limited
Country of Origin	United Arab Emirates
Port of Loading	Hamriya
Supplier	Ecofuel Nexus FZC, Sharjah, UAE

2. Accordingly, the above said consignment was put on hold by the DRI and further examination and sampling of goods covered under the aforesaid consignment was carried out by the DRI under panchnama dated 14.03.2026. During the said proceedings, representative samples of the imported goods were drawn for testing purpose to ascertain the exact nature of the import goods in the said consignment.

3. TESTING AND SEIZURE:

3.1 The representative samples were sent to CRCL, Visakhapatnam for testing of the same. CRCL, Visakhapatnam submitted their test report dated 01.04.2026 in respect of the imported goods. The said test report, on the basis of the tested parameters by the CRCL, Visakhapatnam, indicated that ***"The sample does not confirming to Distillate Marine Fuel of IS 16731, with respect to Cloud Point, up to the extent of parameters tested. The sample meets all the stringent parameters of HFHSD (IS 16861) except Flash point (6.5 ° C less than the required 66°C), and Distillation Recovery at 370° C (which is 4% less than required 95%). The sample meets all the parameters of Automotive Diesel Fuel not containing bio-diesel (IS 1460) except Distillation Recovery at 360° C (which is 6% less than required 95%). The sample is most akin to Automotive Diesel Fuel not containing bio-diesel (IS 1460). As per the GCMS studies & above tested parameters the sample is Automotive Diesel Fuel admixed/adulterated with Higher carbon distillate/Light base Oil."***

3.2 The representative samples were also sent to IOCL, Haldia for testing of the same. IOCL, Haldia submitted their test report bearing Sample ID: DRI/JRU/INQ-11/2025-26/1829 dated 16.03.2026 in respect of the imported goods. The said test report, on the basis of the tested parameters by the IOCL, Haldia, indicated that ***"The sample is meeting with the specification, IS 1460 HSD BS-VI, except water content."***

3.3 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

3.4 And whereas on analysis of the parameters detailed in the Test Reports vis-a-visthe 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	Product description as per the analysis of the Test report
01	7746721	25.02.2026	Automotive Diesel Fuel conforming to standard

			IS:1460

Thus, it appeared that the samples drawn from consignment pertaining to BoE no: 7746721 dated 25.02.2026 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.

3.5 In the light of the parameters of the Test Report of the CRCL Visakhapatnam, the goods imported under BE no. 7746721 dated 25.02.2026, appear to be liable to be classified under CTH 2710 1944 under the description of Automotive Diesel Fuel conforming to standard IS 1460. The relevant description of CTH 2710 1944 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	--- 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

3.6 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 "Distillate 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 **06.04.2026**.

4. STATEMENTS OF DIRECTOR WAS RECORDED UNDER SECTION 108 OF THE CUSTOMS ACT, 1962. THE STATEMENT IS DISCUSSED IN BRIEF HEREUNDER:

During the course of investigation, statement of director was recorded under Section 108 of the Customs Act, 1962 as given below:

4.1. Statement of Shri Vishal Bohra, Director of M/s. Premium Petro and Infra Projects Private Limited, 1/3, Hathroi Market, Ajmer Road, Jaipur, Rajasthan-302001 was recorded on 13.04.2026, during which he interalia, stated that:

- On being asked, Shri Vishal Bohra stated that he is one of the Directors of M/s Premium Petro and Infra Projects Pvt. Ltd., Jaipur, Rajasthan – 302001. The

company was established in the year 2024 and has its registered office at 1/3, Hathroi Market, Ajmer Road, Jaipur. He is aged about 49 years and resides at Plot No. 15, Dwarkapuri, Opp. Raj Mahal Palace, C-Scheme, Jaipur.

- On being asked, he stated that he has been associated with the company since its incorporation in 2024 and is primarily responsible for supervisory functions including sales, purchase, and strategic decision-making. He further stated that day-to-day operations such as procurement, logistics, and compliance are handled by designated executives and operational staff.
- On being asked about the company profile, he stated that M/s Premium Petro and Infra Projects Pvt. Ltd. is a private limited company having CIN No. U46610RJ2024PTC093059 and was incorporated on 02.03.2024. He further stated that apart from himself, the company has other directors namely Shri Anuj Jain, Shri Manish Bohra, Shri Ujjawal Bhandari, Shri Nitin Shah, and Shri Naman Naredi, who have been acting as directors since the date of incorporation.
- On being asked about the roles of other directors, he stated that Shri Ujjawal Bhandari is responsible for purchase and finance, Shri Nitin Shah oversees manufacturing, Shri Naman Naredi handles logistics, Shri Anuj Jain looks after sales, and Shri Manish Bohra acts as a silent director.
- On being asked regarding procurement authority, he stated that he, along with Shri Ujjawal Bhandari, is responsible for procurement/purchase of goods after obtaining financial approval from Shri Ujjawal Bhandari.
- On being asked about the business activities, he stated that the company is engaged in import of petroleum and bituminous products such as bitumen and distillate oil. He further stated that the company undertakes processing and trading of distillate oil and is also engaged in manufacturing products such as Polymer Modified Bitumen (PMB), Cutback Bitumen, Emulsion, VG Grade Bitumen, and CRMB Bitumen.
- On being asked about the use of distillate oil, he stated that cutback bitumen is manufactured using bitumen (approximately 60–80%) blended with distillate oil (approximately 20–40%) at a temperature of around 130°C using agitators. He stated that distillate oil is mixed to reduce viscosity and improve adhesiveness, and that viscosity requirements vary depending on climatic conditions (lower viscosity in colder regions and higher viscosity in hotter regions).
- On being asked about procurement process, he stated that the company contacted its overseas supplier M/s Eco Fuel Nexus FZC, UAE, through phone to finalize price and quality. He stated that a proforma invoice was received via WhatsApp, and payment for the consignment was made through banking channels. Upon receipt of payment, the supplier loaded the goods and provided Certificate of Analysis (COA) and Certificate of Quantity. He further stated that similar transactions were carried out earlier also and that written agreements/purchase orders were executed with the supplier.

- On being asked about suppliers, he stated that for the impugned goods i.e. distillate oil, the overseas supplier is M/s Eco Fuel Nexus FZC, UAE, which is both a manufacturer and trader.
- On being asked regarding verification of goods, he stated that Certificate of Analysis (COA) reports issued by the supplier and third-party inspection agency (Spectrum Inspection and Testing Services LLC, UAE) were relied upon. He stated that samples were tested and verified before approval of the consignment.
- On being asked about details of imported goods, he stated that the company imported 4000 MT of Distillate Oil (HSN 27101961) under Bill of Entry No. 7746721 dated 25.02.2026 filed at Mundra Port.
- On being asked about the use of imported goods, he stated that the principal use of distillate oil is in manufacturing bituminous products such as cutback bitumen and that the company also engages in trading activities. He stated that the end use of goods by buyers is not within the company's scope.
- On being asked regarding agreement documents, he stated that a copy of the Sale and Purchase Agreement dated 05.02.2026 executed with the supplier has been submitted.
- On being asked about specifications of goods, he stated that parameters and specifications are mentioned in the Certificate of Analysis and Certificate of Quality issued by the supplier and third-party inspection agency, and based on these documents, correctness and authenticity of the goods are ensured.
- On being asked regarding the CRCL test report, he stated that he has perused the test report dated 01.04.2026 issued by CRCL, Visakhapatnam. He stated that while the company agrees with the tested parameters, it does not agree with the inference and interpretation drawn in the report.
- On being asked regarding the IOCL Haldia test report, he stated that he has perused the report and agrees with the tested parameters but does not agree with the inference and interpretation provided therein.

5. FINDINGS OF THE INVESTIGATION & EVIDENCES COLLECTED:

5.1 Specific intelligence gathered by the Directorate of Revenue Intelligence indicated that M/s. Premium Petro and Infra Projects Private Limited is indulged in import of 'Restricted Goods' through mis-declaration by declaring the same as 'Distillate Oil'. Accordingly, the consignment covered under Bill of Entry No. 7746721 dated 25.02.2026 was put on hold by the DRI and further examination and sampling of goods covered under the aforesaid consignment was carried out by the DRI under Panchnama dated 14.03.2026 in presence of the representative of the Customs Broker at M/ s. Adani Ports & SEZ Ltd., Liquid Terminal, 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 01.04.2026 and in respect of samples, on the basis of the tested parameters by the CRCL Visakhapatnam,

stated that ***"The sample does not confirming to Distillate Marine Fuel of IS 16731, with respect to Cloud Point, up to the extent of parameters tested. The sample meets all the stringent parameters of HFHSD (IS 16861) except Flash point (6.5 ° C less than the required 66°C), and Distillation Recovery at 370° C (which is 4% less than required 95%). The sample meets all the parameters of Automotive Diesel Fuel not containing bio-diesel (IS 1460) except Distillation Recovery at 360° C (which is 6% less than required 95%). The sample is most akin to Automotive Diesel Fuel not containing bio-diesel (IS 1460). As per the GCMS studies & above tested parameters the sample is Automotive Diesel Fuel admixed/adulterated with Higher carbon distillate/Light base Oil."***

5.2 To ensure comprehensive testing of all 21 parameters mandated by the Hon'ble Supreme Court in ***Gastrade International v. Commissioner of Customs, Kandla***, additional samples were also sent to IOCL, Haldia. The combined reports from CRCL Visakhapatnam and IOCL, Haldia conclusively established that the imported goods were in fact Automotive Diesel Fuel conforming to IS 1460, and not Distillate Oil as declared.

5.3 The sample Test reports (CRCL Visakhapatnam, Lab No. 803-DRI, Test Memo No. 43/2025-26) and (IOCL, Haldia, Sample ID: DRI/JRU/INQ-11/2025-26/1829, Test Memo No. 42/2025-26) in respect of Bill of Entry No. 7746721 dated 25.02.2026 is reproduced below:

भारत सरकार
वित्त मन्त्रालय, राजस्व विभाग
सीमा शुल्क प्रयोगशाला
5वींमंजिल, सीमा शुल्ककार्यालय
पोर्टएरिया,विशाखापत्तनम– 530 001

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

TEST REPORT **Date:** 01.04.2026

Lab No: 803/DRI **Date:** 23.03.2026
Test Memo No: 43/2025-26
F. No.: DRI/JRU/INQ-11/2025-26/1830 **Date:** 16.03.2026
B. E. No: 7746721 **Date:** 25.02.2026
Sample Marked as: T-58/APSEZ/X
Tank No.: T-58
Sample Received from: Senior Intelligence officer, (DRI), Regional Unit, Jamnagar.
Description of Sample: Distillate Oil (Only for Industrial Use) CTH 27101961
Date of Receipt: 23.03.2026
Sample Plan: Sample not Drawn by this laboratory
Report: The sample is in the form of pale yellow coloured, free flowing oily liquid. It is mainly composed of petroleum hydrocarbons, having mineral oil content more than 70% by wt. It is having following characteristics.

1.	Appearance	= Clear & bright
2.	Total Acid Number (mg of KOH/gr)	= less than 0.2%
3.	Ash content	= Nil
4.	Carbon residue on 10% Residue	= Less than 0.30% by wt.
5.	Flash Point (Abel),°C	= 59.5°C
6.	Density at 15°C	= 0.833 g/ml
7.	Kinematic Viscosity at 40°C	= 4.02cSt
8.	Sulphur Content	= 8.4 ppm
9.	Distillation-IBP, °C	= 184.1°C
	Temperature at 50% recovery	= 294.9°C
	% Recovery at 350°C	= More than 85% by vol.
	% Recovery at 360°C	= 89% by vol.
	% Recovery at 370°C	= 91% by vol.
10.	Cetane Index	= 61.1
11.	Cetane Number	= To be done at refinery end
12.	Pour point	= Less than 15°C
13.	Copper strip corrosion	= Class 1
14.	Cold Filter Plugging Point	= -5°C
15.	Cloud point	= -2°C
16.	Oxidation stability	= Parameter is to be determined at manufacturers end only (Refer to IS 1460)
17.	Oxidation stability (for diesel fuel having FAME above 2%)	= Not applicable as sample is free from FAME
18.	Lubricity	= 380
19.	FAME content	= Absent
20.	PAH % by max	= Less than 8% by mass
21.	Water	= Less than 200ppm

Point wise reply to queries raised is as the following:

A. The sample does not confirming to Distillate Marine Fuel of IS 16731, with respect to Cloud point, up to the extent of parameters tested.

B. The sample meets all the stringent parameters of HFHSD (IS 16861) except Flash Point (6.5°C less than the required 66°C) and Distillation Recovery at 370 °C (which is 4% less than required 95%).

C. The sample meets all the parameters of Automotive Diesel Fuel not containing bio-diesel (IS 1460) except Distillation Recovery at 360 °C (which is 6% less than required 95%). The sample is most akin to Automotive Diesel Fuel not containing bio-diesel (IS 1460).

D. As per the GCMS studies & above tested parameters the sample is Automotive Diesel Fuel admixed/adulterated with Higher carbon distillate/Light base oil.

E. It is non-hazardous.

Sealed remnant sample returned herewith.

01/04/26

End of the Report

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

Note 1: The results relate only to the items tested.
Note 2: Sample not Drawn by this laboratory.
Note 3: The report shall not be reproduced except in full without approval of this laboratory.
Note 4: Remnant sample should be collected within 30 days otherwise it will be disposed off.

इंडियन ऑयल कॉर्पोरेशन लिमिटेड
हल्दिया रिफाइनरी, डाकघर : हल्दिया ऑयल रिफाइनरी -721606
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Indian Oil Corporation Limited
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रिफाइनरीज प्रभाग
Refineries Division
IndianOil

Sample ID: DRI/JRU/INQ-11/2025-26/1829 dated 16.03.2026

TEST RESULTS

Sl No	Parameter	IS 16861 HFHSD	IS 1460 HSD BS-VI	Test Result
1	Appearance	Clear & Bright	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
2	Acid No, mgKOH /g	0.5	-	0.03
3	Acidity, Inorganic, mgKOH/g	-	-	0.0
4	Acidity, Total, mgKOH/g	-	Max 0.2	0.03
5	Ash Content, mass %	Max 0.01	Max 0.01	0.05
6	Cetane Index	Min 45	Min 46	61
7	Cetane Number	-	Min 51	59.5
8	Carbon Residue on 10% residue	Max 0.3	Max 0.3	0.005
9	Cloud Point	-	-	-2
10	Density, kg/m^3	Max 860	810-845	833.3
11	KV at 40 °C, cSt	-	2.0-4.5	4.04
12	**Total sulfur,mass %**	**Max 0.2**	**Max 0.001**	**0.0006**
13	**Flash Point, °C**	**Min 66**	**Min 35**	**55.5**
14	Pour Point, °C	Max 15	Max 15	-6
15	Distillation			
	IBP, °C	-	-	182
	10% Recovery, °C	-	-	240

पंजीकृत कार्यालय : जी-9, अली यावर जंग मार्ग, बान्द्रा (पूर्व) मुंबई, महाराष्ट्र - 400 051
Regd. Office : G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai, Maharastra-400 051
CIN - L 23201 MH 1959 GOI 011388

इंडियन ऑयल कॉर्पोरेशन लिमिटेड
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Refineries Division

	50% Recovery, °C	-	-	295
	90% Recovery, °C	-	-	361
	95% Recovery, °C	-	Max 360	393
	FBP, °C	-	-	396
	Vol% recovered at 370 °C	Min 95	-	91.6
	Vol% recovered at 350 °C , Vol%	Min 85	-	86.8
16	Water Content , mass%	-	Max 0.02	0.031
17	Sediment (%mass)	-		0.0015
18	Cu strip Corr for 3 h at 100 °C	-	Class 1	Not Worse than 1
19	Total Contamination , mg/kg	-	Max 24	12
20	Oxidation stability, g/m^3	Max 25	Max 25	10
21	Oxygen Content	-	-	Facility is not Available
22	Lubricity corrected , WSD at 60 °C, mm	Max 520	Max 460	440
23	FAME content	-	Max 7	Facility is not Available

Remarks: This sample is meeting with the specification , IS 1460 HSD BS-VI, except water content.

Test results released by:

अनुपम आश, मुख्य प्रबंधक (गुणवत्ता नियंत्रण)
Anupam Aash, Chief Manager (Quality Control)
इंडियन ऑयल कॉर्पोरेशन लिमिटेड, हल्दिया रिफाइनरी
Indian Oil Corporation Limited, Haldia Refinery

पंजीकृत कार्यालय : जी-9, अली यावर जंग मार्ग, बान्द्रा (पूर्व) मुंबई, महाराष्ट्र - 400 051
Regd. Office : G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai, Maharastra-400 051
CIN - L 23201 MH 1959 GOI 011388

The above test reports in respect of Bill of Entry No. 7746721 dated 25.02.2026 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.**

5.4 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 2710 1944 rather than 2710 1961. 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 'Distillate 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 **06.04.2026.**

5.5 The importer claimed that **'Distillate Oil'** was imported for the principal use in manufacturing bituminous products such as cutback bitumen and that the company also engages in trading activities. Furthermore, the importer has not provided any supporting documents to substantiate the claimed end use of the product.

5.6 From the investigation carried out by the DRI, it has been revealed that the imported goods covered under Bill of Entry No. 7746721 dated 25.02.2026 filed at Mundra, were mis-declared by M/s. Premium Petro and Infra Projects Private Limited to circumvent import restrictions.

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 **Distillate Oil**, which was declared by the importer under CTH **2710 1961**.

As discussed in detail in the forgoing paras, the representative samples of the import consignment were drawn and sent for testing to Custom House Laboratory (CRCL), Visakhapatnam and IOCL, Haldia. CRCL Visakhapatnam on testing the samples gave opinion that ***"The sample does not confirming to Distillate Marine Fuel of IS 16731, with respect to Cloud Point, up to the extent of parameters tested. The sample meets all the stringent parameters of HFHSD (IS 16861) except Flash point (6.5 ° C less than the required 66°C), and Distillation Recovery at 370° C (which is 4% less than required 95%). The sample meets all the parameters of Automotive Diesel Fuel not containing bio-diesel (IS 1460) except Distillation Recovery at 360° C (which is 6% less than required 95%). The sample is most akin to Automotive Diesel Fuel not containing bio-diesel (IS 1460). As per the GCMS studies & above tested parameters the sample is Automotive Diesel Fuel***

admixed/adulterated with Higher carbon distillate/Light base Oil." Thus, the goods imported by M/s Premium Petro and Infra Projects Private Limited were Automative Diesel Fuel, classifiable under CTH 2710 1944 and not Distillate Oil, mis-declared by the importer in the import documents, as under CTH 2710 1961.

IOCL, Haldia on testing the samples gave opinion that ***"The sample is meeting with the specification, IS 1460 HSD BS-VI, except water content."***

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.

M/s. Premium Petro and Infra Projects Private Limited have imported diesel by mis declaring it as distillate 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. Premium Petro and Infra Projects Private Limited, 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. Premium Petro and Infra Projects Private Limited 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 March-2026 were taken, such as invoices generated by M/s Nayara Energy Limited, ADF-**Rs 54006.17/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 "Distillate Oil" in the consignment.

8.3 As discussed above, the consignment covered under Bill of Entry No. 7746721 dated 25.02.2026 was reported as "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***" by the Custom Laboratory, Vishakhapatnam and IOCL Haldia. 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 Bill of Entry, the declared assessable value of **Rs.17,46,10,113/-** 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 14.03.2026 from the M/s Nayara Energy Limited was referred. The base price was noted as **Rs. 54006.17/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 **4000000** KGs equivalent to **4801.92 KL** (using average density of 0.833 g/ml as reported by Custom House Laboratory, Visakhapatnam), is **Rs. 25,93,33,307/-**, 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 IOCL Haldia, 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.	7746721 dated 25.02.2026	Automotive Diesel Fuel (ADF)	Distillate Oil	4000000	17,46,10,113/-	25,93,33,307/-
Total					**17,46,10,113/-**	**25,93,33,307/-**

Therefore, the said goods having declared value of Rs. **17,46,10,113/-**and re-determined value of Rs. **25,93,33,307/-** 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 they mis-declared the imported goods as Distillate Oil and accordingly classified the goods under CTH 2710 1961 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 Premium Petro and Infra Projects Private Limited 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 Premium Petro and Infra Projects Private Limited, 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 Distillate Oil-others under CTH 2710 1961.

9.3 In view of the facts discussed in foregoing paras and the material evidences available on record, M/s Premium Petro and Infra Projects Private Limited made a deliberate attempt to illicitly smuggle 4000.00 MTS Automotive Diesel Fuel having declared assessable Value of Rs. 17,46,10,113/-, under the cover of Bill of Entry No. 7746721 dated 25.02.2026 in the guise of Distillate Oil.

9.4 The Automotive Diesel Fuel was imported by resorting to mis declaration of the same as Distillate Oil in the Bill of Entry No. 7746721 dated 25.02.2026 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. Rs. 17,46,10,113/-, 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 Premium Petro and Infra Projects Private Limited 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. 7746721 dated 25.02.2026 for clearance of 4000.00 MTS of declared imported goods, namely, distillate oil CTH 27101961 valued at Rs. 17,46,10,113/-, which appears Automotive Diesel Fuel as per the test reports of CRCL, Visakhapatnam and IOCL, Haldia. '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, they have 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, they have committed offences of the nature as described under

the Section 114AA of the Customs Act, 1962 and have consequentially rendered themselves liable to penalty under Section 114AA of the Customs Act, 1962.

10. <u>CONTRAVENTION OF PROVISIONS OF THE CUSTOMS ACT, 1962 AND OTHER ALLIED ACT</u>:

10.1 From the above, it is apparent that the importer indulged themselves in smuggling of 4000.00 MTS of imported goods i.e. Automotive Diesel Fuel as per IS 1460 valued at Rs. 17,46,10,113/-in the guise of some other product which they declared as Distillate Oil in the name of M/s. Premium Petro and Infra Projects Private Limited .'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, they 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, they have committed offences of the nature as described under the Section 114AA of the Customs Act, 1962 and have consequentially rendered themselves liable to penalty under the said Section 114AA of the Customs Act, 1962.

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 Premium Petro and Infra Projects Private Limited 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 Premium Petro and Infra Projects Private Limited imported a consignment, covered under Bill of Entry No. 7746721 dated 25.02.2026 filed at Mundra, which was declared as "Distillate Oil," classified under CTH 2710 1961. 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.** 17,46,10,113**/-** and re-determined value of **Rs. 25,93,33,307/-** 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 "Distillate Oil" under the said consignment, Therefore the said goods having declared value of **Rs. 17,46,10,113/-** and re-determined value of **Rs. 25,93,33,307/-**, appear to be liable for confiscation under Section 111(d) of the Customs Act, 1962.

12. ROLE PLAYED BY M/S PREMIUM PETRO AND INFRA PROJECTS PRIVATE LIMITED (IEC: AAOCP5368F) 1/3, HATHROI MARKET, AJMER ROAD, JAIPUR, RAJASTHAN-302001 (IMPORTER) AND SHRI VISHAL BOHRA, DIRECTOR OF M/S PREMIUM PETRO AND INFRA PROJECTS PRIVATE LIMITED:

12.1 M/s Premium Petro and Infra Projects Private Limited imported a consignment, covered under Bill of Entry No. 7746721 dated 25.02.2026 filed at Mundra, by mis-declaring the import goods as "Distillate Oil" classified under HS Code 2710 1961. 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. 7746721 dated 25.02.2026 filed at Mundra, were mis-declared by M/s. Premium Petro and Infra Projects Private Limited to circumvent import restrictions. Therefore, it appears that M/s. Premium Petro and Infra Projects Private Limited, 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 Premium Petro and Infra Projects Private Limited have made themselves liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962. Furthermore, M/s Premium Petro and Infra Projects Private Limited 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 Premium Petro and Infra Projects Private Limited are also liable for penalty under Section 114AA of the Customs Act, 1962.

12.3 Shri Vishal Bohra, Director of M/s. Premium Petro and Infra Projects Private Limited, in his statement recorded on 13.04.2026, deposed that he was looking after the sales, purchase and strategic decisions of the company. From the facts discussed hereinabove, it appears that Shri Vishal Bohra was fully aware that the import of Automotive Diesel Fuel conforming to IS 1460 is 'Restricted' for import and can be imported only through State Trading Enterprises, as per the prevailing Foreign Trade Policy provisions. Further, it appears that the import was attempted/carried out by way of misdeclaration and by use of import documents/declarations which did not correctly declare the true nature and specification of the goods before Customs authorities, with an intention to evade the applicable legal restrictions and to facilitate clearance of the goods. By his active involvement in the preparation, submission and/or use of such false and incorrect declarations and documents in the course of Customs proceedings, Shri Vishal Bohra appears to have knowingly and intentionally signed, used and caused to be used declarations, statements and documents which were false and incorrect in material particulars. Therefore, Shri Vishal Bohra appears liable to penal action under Section 114AA of the Customs Act, 1962.Further, by his acts of omission and commission, he rendered the impugned goods liable to confiscation under Section 111(d) of the Customs Act, 1962 and therefore also appears liable to penalty under Section 112(a) and/or 112(b) of the Customs Act, 1962.

13.1 Accordingly, Show Cause Notice No. 61/2026-27/ADC/ZDC/MCH dated 01.06.2026 was issued to M/s Premium Petro and Infra Projects Private Limited (IEC: AAOCP5368F), located at 1/3, Hathroi Market, Ajmer Road, Jaipur, Rajasthan-302001, calling upon it to show cause as to why:

(i) The classification of goods covered under Bill of Entry No. 7746721 dated 25.02.2026 filed at Mundra Port, declared as 'Distillate Oil' under CTH 27101961, should

not be rejected and the same should not be re-classified as 'Automotive Diesel Fuel, not containing biodiesel, conforming to standard IS 1460' under CTH 27101944;

(ii) The declared assessable value of **Rs. 17,46,10,113/-** (Rupees Seventeen Crore Forty Six Lakh Ten Thousand One Hundred and Thirteen only) should not be rejected in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and the same should not be re-determined as **Rs. 25,93,33,307/-** (Rupees Twenty Five Crore Ninety Three Lakh Thirty Three Thousand Three Hundred and Seven only) in terms of Rule 9 of the said Rules, as discussed in Table-III in the foregoing paras;

(iii) The goods declared as 'Distillate Oil' under Bill of Entry No. 7746721 dated 25.02.2026 filed at Mundra Port, should not be held liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962;

(iv) Penalties should not be imposed upon them under Sections 112(a), 112(b), 117 and 114AA of the Customs Acts, 1962, separately.

13.2 The Show Cause Notice was also issued to Shri Vishal Bohra, Director of M/s Premium Petro and Infra Projects Private Limited, calling upon it to show cause as to why

(i) Penalties under Sections 112(a) and/or 112(b) and/or 114AA of the Customs Act, 1962 should not be imposed upon him.

14. PERSONAL HEARING

14.1 Personal Hearing in the matter was held on 24.06.2026. Shri Anuj Jain, Director, and Shri Mandaviya Jay Nileshbhai, Authorised Representative, of M/s Premium Petro and Infra Projects Private Limited, appeared before me and presented the facts of the case.

They submitted a written submission dated 23.06.2026 at the time of the hearing and reiterated the same during the hearing. Further, they requested that the proposals contained in the Show Cause Notice, i.e., reclassification of the goods under CTH 27101944, confiscation under Sections 111(d) and 111(m), enhancement of the declared value, and imposition of penalties under Sections 112(a), 112(b), 114AA and 117 of the Customs Act, 1962, may be dropped.

They also requested cross-examination of the Chemical Examiner, CRCL, Visakhapatnam, at the earliest, as the shipment is live and incurring heavy warehouse storage charges.

15. SUBMISSIONS OF THE NOTICEE

15.1 The Noticee, vide their written submissions dated 23.06.2026, filed at the time of the personal hearing, have inter alia submitted as under:

"1. Preliminary Submissions

1.1 The present reply is being submitted against the Show Cause Notice proposing reclassification of the imported goods declared as "Distillate Oil (Only for Industrial Use)" under CTH 27101961 as "Automotive Diesel Fuel conforming to IS 1460" under CTH 27101944 and consequential proposals for confiscation, valuation enhancement and penalties.

1.2 At the outset, the Noticee denies each and every allegation, assumption, inference, conclusion and proposal contained in the Show Cause Notice except those specifically admitted herein.

1.3 The imported goods were correctly declared as Distillate Oil under CTH 27101961 and there was neither misdeclaration nor suppression of facts nor any intention to import restricted goods.

1.4 The entire case of the Department proceeds on an erroneous assumption that because certain laboratory parameters overlap with IS 1460 specifications, the imported product automatically becomes Automotive Diesel Fuel. Such an approach is contrary to law, Customs Tariff principles and established technical standards.

2. Factual Background

2.1 The Noticee imported goods described as "Distillate Oil (Only for Industrial Use)" under Bill of Entry No. 7746721 dated 25.02.2026.

2.2 The goods were procured from an overseas supplier under valid commercial contracts and were supported by: (a) Commercial Invoice; (b) Certificate of Analysis (COA); (c) Certificate of Quality; (d) Third Party Inspection Certificate; and (e) Other relevant commercial documents.

2.3 All documents consistently identified the imported goods as Distillate Oil.

2.4 The goods were imported for industrial applications, including use in manufacture of Cutback Bitumen and other bituminous products.

2.5 During investigation, the Noticee fully cooperated with authorities and supplied all documents and information sought.

3. Issue for Determination

The sole issue requiring determination is: Whether goods correctly declared as Distillate Oil under CTH 27101961 can be reclassified as Automotive Diesel Fuel under CTH 27101944 merely because certain laboratory parameters overlap with IS 1460. The answer is emphatically NO.

4. Distillate Oil is a Specific Tariff Entry

4.1 The Customs Tariff Act, 1975 specifically provides: 2710 – Petroleum Oils and Oils Obtained from Bituminous Minerals; 271019 – Fuels (Class F) or Marine Fuels; 27101961 – Distillate Oil; 27101969 – Residual Oil.

4.2 Therefore, Distillate Oil is not a trade description invented by the importer but a specific statutory tariff entry.

4.3 Once a specific tariff entry exists, the Department cannot disregard it and substitute another tariff entry merely because some physical parameters resemble another petroleum product.

4.4 There is no statutory condition in the tariff requiring Distillate Oil to exclusively conform to IS 16731.

5. Incorrect Interpretation of "Fuels (Class F)"

5.1 The Department has wrongly assumed that Distillate Oil under Fuels (Class F) necessarily means Marine Fuel conforming only to IS 16731.

5.2 BIS has framed multiple standards under Fuels (Class F), namely: (a) IS 16737-1:2017 – Petroleum Products – Fuels (Class F) – General Classification; (b) IS 16737-2:2018 – Petroleum Products – Fuels (Class F) – Gas Turbine Fuels for Industrial and Marine Applications; (c) IS 16731:2019 – Petroleum Products – Fuels (Class F) – Marine Fuel Specification.

5.3 Therefore, Fuels (Class F) is a broad category and IS 16731 is only one specification within that category.

5.4 Failure to satisfy one specification cannot automatically transform the product into Automotive Diesel Fuel.

6. The CRCL Report Does Not Certify Automotive Diesel Fuel

6.1 The entire case of the Department rests upon the CRCL report.

6.2 However, the CRCL report nowhere certifies that "The sample conforms to IS 1460."

6.3 Instead, the CRCL report records: (a) The sample meets Automotive Diesel Fuel parameters except Distillation Recovery at 360°C; (b) The sample is "most akin to Automotive Diesel Fuel"; (c) The sample is Automotive Diesel Fuel admixed/adulterated with Higher Carbon Distillate/Light Base Oil.

6.4 The expression "most akin to" is not equivalent to "conforming to IS 1460."

6.5 Similarity is not conformity.

6.6 Approximation is not classification.

6.7 Therefore, the CRCL report itself demolishes the Department's allegation.

7. Failure of Mandatory IS 1460 Requirements

7.1 The CRCL report itself admits that Distillation Recovery at 360°C is below the prescribed requirement.

7.2 If mandatory parameters are not satisfied, the product cannot be classified as Automotive Diesel Fuel conforming to IS 1460.

7.3 A product either conforms or does not conform. There is no statutory category called "most akin to IS 1460."

8. Laboratory Report Cannot Override Tariff Classification

8.1 Laboratories determine physical and chemical characteristics.

8.2 Laboratories are not empowered to determine Customs Tariff classification.

8.3 Classification is a legal exercise governed by: (a) Customs Tariff Act, 1975; (b) Section Notes; (c) Chapter Notes; (d) HSN Explanatory Notes; and (e) Commercial identity and trade understanding.

8.4 Therefore, laboratory opinion cannot replace tariff interpretation.

9. Overlapping Parameters are Common in Petroleum Products

9.1 Petroleum products frequently possess overlapping characteristics such as: (a) Density; (b) Viscosity; (c) Sulphur Content; (d) Flash Point; (e) Distillation Characteristics; (f) Cetane Index.

9.2 Such overlapping characteristics do not alter tariff identity.

9.3 If this principle were accepted, numerous petroleum products would automatically become Automotive Diesel Fuel, which is legally and technically absurd.

10. Director CRCL Clarifications Support the Noticee

10.1 Director CRCL, New Delhi clarified that Automotive Diesel Fuel, Gas Oil, Distillate Oil and other diesel fractions are all middle distillate products derived from crude oil distillation and may possess overlapping characteristics.

10.2 It was further clarified that deliberate mixing cannot be presumed solely because certain specifications overlap.

10.3 It was also clarified that where a sample does not fully satisfy IS 1460, the question whether such diesel fraction is Automotive Diesel Fuel or another middle distillate fraction cannot be answered solely on the basis of carbon chain or distillation range because these characteristics are common to several diesel fractions.

11. Precedent of M/s Silver Petrochemicals Private Limited

11.1 The Commissioner of Customs, Kandla, in Provisional Release Order dated 09.11.2025 observed that: (a) "Most akin to" cannot be treated as conclusive classification; (b) Distillate Marine Fuel and HFHSD may possess overlapping properties; (c) Automotive Diesel Fuel, HFHSD and Distillate Oil are all diesel fractions; (d) Laboratory reports cannot be mechanically used for tariff reclassification.

11.2 These observations directly support the Noticee's case.

12. Commercial Identity Test Supports the Noticee

12.1 The goods were: Purchased as Distillate Oil; Invoiced as Distillate Oil; Certified as Distillate Oil; Declared as Distillate Oil; Imported as Distillate Oil.

12.2 There is not a single commercial document describing the goods as Automotive Diesel Fuel.

12.3 The Department has failed to produce any contrary commercial evidence.

13. Industrial Use of the Goods

13.1 During investigation, the Director explained that Distillate Oil is used in manufacture of Cutback Bitumen and related bituminous products.

13.2 The Department has not produced any evidence showing: (a) Retail sale; (b) Transportation fuel marketing; (c) Supply to fuel stations; (d) Use in motor vehicles.

13.3 Therefore, the allegation that the goods are Automotive Diesel Fuel is unsupported.

14. Burden of Proof Lies on the Department

14.1 The burden to establish misclassification, misdeclaration and import of restricted goods lies entirely on the Department.

14.2 Mere suspicion cannot replace evidence.

14.3 Mere resemblance cannot replace tariff classification.

14.4 The Department has failed to discharge its burden.

15. Valuation Allegations are Unsustainable

15.1 The declared value is supported by commercial documents and banking records.

15.2 Since the goods are Distillate Oil, comparison with market value of Automotive Diesel Fuel is legally impermissible.

15.3 Therefore, the proposed rejection of transaction value and enhancement under Rule 12 and Rule 9 are liable to be dropped.

16. Principles of Natural Justice

16.1 The Noticee seeks: (a) Cross-examination of the Chemical Examiner, CRCL Visakhapatnam; (b) Complete GCMS raw data; (c) Chromatograms; (d) Calibration records; (e) Test worksheets; (f) Validation documents; and (g) All relied-upon documents.

16.2 Any adverse order without providing these materials would violate principles of natural justice.

17. Prayer

In view of the facts and submissions made hereinabove, the Noticee respectfully prays that:

(a) Classification under CTH 27101944 be dropped;

(b) Classification under CTH 27101961 as Distillate Oil be accepted;

(c) Allegations of import of restricted goods be dropped;

(d) Allegations of misdeclaration be dropped;

(e) Confiscation proposed under Sections 111(d) and 111(m) be dropped;

(f) Proposed valuation enhancement be dropped;

(g) Proposed penalties under Sections 112 and 114AA be dropped;

(h) Seized goods be released forthwith;

(i) Personal hearing be granted; and

(j) The Show Cause Notice be dropped in its entirety."

15.2 After completion of cross-examinations, the Noticee filed further written submissions/rejoinder dated 11.09.2026, wherein they have *inter alia* submitted as under:

"1.1 The Noticee reiterates the earlier SCN Reply dated 23.06.2026. The imported goods were declared as "Distillate Oil (Only for Industrial Use)" under CTH 27101961, on the basis of the commercial documents and product identity furnished by the overseas supplier, including the Commercial Invoice, Certificate of Analysis, Certificate of Quality, Third Party Inspection Certificate and other relevant documents.

1.2 There was no concealment of the description, quantity, value or nature of the goods. The declaration was made transparently and consistently with the commercial documentation. The dispute raised by the Department is essentially a dispute as to the correct tariff classification and not a case where the Noticee manufactured or fabricated a false description.

1.3 The Noticee specifically denies any allegation of deliberate misdeclaration, suppression, fraudulent importation, intentional use of false documents, or conscious attempt to import restricted Automotive Diesel Fuel.

1.4 The cross-examination now forms an important part of the evidentiary record and must be considered together with the laboratory reports and the documentary record. The admissions made by the departmental/technical witnesses demonstrate that the sample was not tested against the very standard which the Department seeks to use as the basis for re-classification in the manner alleged.

2. Core Issue for Determination

The real question is not whether some physical/chemical parameters of the sample overlap with parameters found in Automotive Diesel Fuel. The legal question is whether the imported goods, as presented and objectively identified, satisfy the tariff description of CTH 27101944 – Automotive Diesel Fuel, not containing biodiesel, conforming to IS 1460 – and whether the Department has established that the Noticee knowingly or intentionally made any false or incorrect declaration.

3. Customs Classification Must Begin with the Customs Tariff Act and GIR

3.1 Classification under the First Schedule to the Customs Tariff Act, 1975 is governed by the General Rules for the Interpretation (GRI). GRI 1 gives primacy to the terms of the headings and the relevant Section/Chapter Notes; the subsequent rules are applied sequentially where required.

3.2 The Supreme Court has recently reaffirmed that customs classification must proceed through the GRIs, with GRI 1 as the starting point, and that statutory tariff language, Section/Chapter Notes and HSN Explanatory Notes take priority where the statute provides guidance. The common/trade parlance test is not a first resort where statutory or technical guidance exists. See Commissioner of Customs (Import) v. M/s Welkin Foods, Civil Appeal No. 5531 of 2025, judgment dated 06.01.2026.

3.3 Accordingly, the Department cannot re-classify a product merely because selected laboratory parameters resemble those of another tariff item. The proposed classification must be demonstrated from the tariff entry and the legally relevant characteristics of the goods.

3.4 The Noticee's classification was made by applying the Customs Tariff framework to the goods actually purchased and imported. The Department cannot replace that statutory exercise by an assumption that a product becomes Automotive Diesel Fuel merely because it is "most akin" to IS 1460.

4. CTH 27101961 Was a Specific Tariff-Based Declaration, Not an Invented Trade Description

4.1 The Noticee declared "Distillate Oil (Only for Industrial Use)" under CTH 27101961. The earlier SCN Reply specifically pointed out that Distillate Oil appears as a tariff item and was not a description invented after commencement of investigation.

4.2 The commercial identity was consistent across the import documents. The goods were purchased, invoiced, certified and declared as Distillate Oil. The earlier reply records that no commercial document described the goods as Automotive Diesel Fuel.

4.3 The Department has not produced a contemporaneous commercial document from the supplier describing the goods as Automotive Diesel Fuel conforming to IS 1460.

4.4 Therefore, even if a technical classification dispute exists, that does not by itself establish a knowingly false declaration.

5. Class F / Marine Fuel Standards Demonstrate That "Class F" Is a Broad Category

5.1 The Department's approach appears to treat "Fuels (Class F) or Marine Fuels" as if it were synonymous only with one particular marine-fuel specification. The cross-examination shows why that approach is technically unsafe.

5.2 The CRCL cross-examination records that the witness was aware of IS 16737 (Part 99) and IS 16737 (Part 2), but maintained that the particular product was to be considered only against IS 16731 because it was a "distillate product."

5.3 BIS material confirms that IS 16737 (Part 99):2017 is "Petroleum products – Fuels (Class F) – Classification: Part 99 General"; IS 16737 (Part 2):2018 concerns "Categories of Gas Turbine Fuels for Industrial and Marine Applications"; and IS 16731:2019 concerns "Specifications of marine fuels." Thus, Class F is a broader classification framework and IS 16731 is one marine-fuel specification, not a definition of every Class F fuel.

5.4 The CRCL cross-examination also contains the clear answer at Q16 that fuels ranging from methane gas to petroleum coke are covered under Class F Fuel. This supports the Noticee's submission that "Class F" cannot be mechanically equated with a single product such as Automotive Diesel Fuel.

5.5 The correct technical proposition is therefore that the existence of Class F standards and categories cannot, without more, convert an industrial distillate product into Automotive Diesel Fuel.

6. Critical Admissions in Cross-Examination of IOCL Haldia

The following admissions are material:

1. At Q3, the IOCL witness was asked why the sample was not compared with IS 16731. The answer was: "There is no specific reason." The witness stated that the appearance matched more closely with HSD BS-VI (IS 16861), and accordingly it was compared with IS 16861 and IS 1460.

2. At Q4, the witness accepted that the declared product was Distillate Oil, whereas the report had compared appearance with residual marine fuel; the witness explained that the residual marine fuel produced at the refinery was black and did not match the sample.

3. At Q5, the witness expressly confirmed that ISO 8217 was not checked/tested and that the sample was tested only on the basis of IS 16861 and IS 1460.

4. At Q6, the witness defined Distillate Oil as a product/yield obtained through atmospheric or vacuum distillation within a defined distillation cut/range and gave examples of naphtha, kerosene and diesel fractions.

5. At Q8, the witness confirmed that the sample had a distillation recovery of 393°C against the maximum 360°C under IS 1460 and stated that the sample did not meet the IS 1460 specification in respect of distillation recovery and water content.

6. At Q9, the witness confirmed total acidity of 0.03 was within the limit, while ash content was beyond the specified limit.

7. At Q10, the witness finally confirmed that the sample was not meeting the specification of IS 1460.

These answers are decisive against the Department's proposed classification under CTH 27101944 because the very witness whose report is relied upon ultimately confirmed that the sample did not meet IS 1460.

7. The IOCL Test Was Not a Conformity Test for IS 16731 / ISO 8217

7.1 The Department's evidence cannot simultaneously rely upon a marine-fuel/Distillate Oil dispute and then disregard the relevant marine-fuel standards without technical justification.

7.2 The IOCL witness expressly admitted that IS 16731 was not applied because there was "no specific reason" for not comparing the sample with it. ISO 8217 was also not tested.

7.3 This is especially significant because the Department's case requires a reliable technical basis to move the goods from the declared Distillate Oil category to Automotive Diesel Fuel. The evidence instead establishes that the testing was directed to IS 16861 and IS 1460, with no full conformity to IS 1460 established.

7.4 The test methodology therefore cannot support the sweeping conclusion that the imported goods were legally Automotive Diesel Fuel.

8. CRCL Cross-Examination Further Weakens the Department's Case

8.1 In the cross-examination of Shri Pradeep Maroo, Chemical Examiner, CRCL Visakhapatnam, Q3 records that the sample contained more than 70% by weight of mineral hydrocarbon oils and that it falls within Chapter 2710. This only establishes the broad petroleum classification under Heading 2710; it does not establish CTH 27101944.

8.2 At Q4, the CRCL witness referred to IS 4639 and explained three categories of distillate oil, including middle distillate boiling between 150°C and 400°C at normal atmospheric pressure and heavy distillate above 350°C in normal/vacuum distillation. This evidence is consistent with the existence of broad distillate fractions and demonstrates why mere overlap in distillation characteristics cannot automatically identify a product as Automotive Diesel Fuel.

8.3 At Q6, the witness confirmed awareness of IS 16737 (Part 99) and IS 16737 (Part 2), but stated that the product was being considered only against IS 16731. At Q7, the witness stated that the queries answered in the report were confined to the queries raised in the test memo.

8.4 At Q8, the witness accepted that distillation range and flash point are important parameters for petroleum products. At Q9, the report terminology "most akin to Automotive Diesel Fuel" was specifically put in issue. The phrase "most akin to" is plainly not the same as "conforms to IS 1460."

8.5 At Q10, the witness confirmed that sulphur is a quality parameter as well as a characteristic parameter for characterization. At Q12, when asked about alleged adulteration, the witness stated that the added material was also a petroleum-origin product. Thus, the cross-examination does not establish a non-petroleum adulterant or a deliberate substitution with a prohibited commodity.

8.6 At Q13, the witness described the Director, CRCL clarification dated 16.01.2026 as an internal communication addressed to laboratory heads and not a document available in the public domain. Any attempt to treat such an internal clarification as an undisclosed binding standard against the Noticee would be contrary to fairness and natural justice unless it is supplied and properly relied upon.

9. "Most Akin To" Is Not "Conforming To IS 1460"

9.1 This distinction is central. The tariff entry proposed by the Department is not merely "a petroleum product resembling diesel." It specifically describes Automotive Diesel Fuel, not containing biodiesel, conforming to IS 1460.

9.2 The IOCL witness confirmed at Q10 that the sample does not meet IS 1460. The CRCL report, as recorded in the earlier SCN Reply, used the expression "most akin to Automotive Diesel Fuel" and also recorded a deficiency in distillation recovery.

9.3 Therefore, the Department cannot convert a non-conforming sample into a conforming product by using the expression "most akin." Similarity is not conformity, and approximation is not a statutory tariff description.

9.4 If conformity to IS 1460 is an express element of the tariff entry, failure to establish conformity defeats the proposed CTH 27101944 classification.

10. The Allegation of Adulteration Is Not Established

10.1 The Department's allegation of adulteration must be supported by reliable scientific evidence identifying what was added, in what proportion, by what method, and how such addition changes the legal identity of the goods.

10.2 During cross-examination, when the CRCL witness was asked to produce the GCMS methodology/scientific test representing that the sample was adulterated, the answer was that the soft version of the file could be sent. No such scientific finding is established by the cross-examination record itself.

10.3 More importantly, at Q12 the witness stated that the added material was also a petroleum-origin product. That answer does not establish that the Noticee deliberately mixed Automotive Diesel Fuel or any prohibited product.

10.4 The Department therefore cannot infer deliberate adulteration merely from overlapping hydrocarbon characteristics.

11. No Evidence of Deliberate Misdeclaration

11.1 The Noticee's declaration was supported by contemporaneous commercial documents. The goods were described consistently as Distillate Oil.

11.2 There is no evidence in the material presently relied upon showing that the Noticee had a contemporaneous document identifying the goods as Automotive Diesel Fuel conforming to IS 1460 and nevertheless intentionally declared them as Distillate Oil.

11.3 A bona fide classification adopted on the basis of commercial documents, tariff wording and available technical understanding cannot automatically be characterised as fraudulent misdeclaration.

11.4 The Department must distinguish between (a) a legal classification dispute and (b) a knowingly false factual declaration. The evidence establishes the former, not the latter.

12. Section 111(d): No Foundation Once Restricted Automotive Diesel Fuel Is Not Established

12.1 Section 111(d) can operate only where the goods are imported contrary to a prohibition/restriction applicable to those goods.

12.2 The Department's Section 111(d) case depends upon first establishing that the goods are Automotive Diesel Fuel falling under the restricted tariff/import-policy entry.

12.3 The cross-examination instead establishes that the sample did not conform to IS 1460 and was not comprehensively tested against the relevant alternative Class F/marine-fuel standards.

12.4 Once the factual premise for treating the goods as restricted Automotive Diesel Fuel fails, the consequential allegation under Section 111(d) must also fail.

13. Section 111(m): No False Particular Has Been Established

13.1 The declared description "Distillate Oil (Only for Industrial Use)" corresponded with the commercial documents supplied by the overseas supplier.

13.2 The Department has not demonstrated that the Noticee fabricated the description, quantity, country of origin, invoice or other factual particulars.

13.3 The dispute is fundamentally about the legal classification of a petroleum distillate. In these circumstances, Section 111(m) should not be converted into a penalty mechanism for a bona fide tariff-classification dispute without proof that the entry contained a materially false factual particular.

13.4 The cross-examination supports the bona fide nature of the declaration because even the technical witnesses did not establish a clean, complete and undisputed identification of the goods as IS 1460 Automotive Diesel Fuel.

14. Penalty Under Section 114AA Is Wholly Unsustainable

14.1 Section 114AA requires that a person knowingly or intentionally makes, signs, uses or causes to be made/signed/used a declaration, statement or document which is false or incorrect in a material particular.

14.2 The provision therefore requires proof directed to the person's knowledge and intention. A mere classification disagreement does not satisfy those ingredients.

14.3 No specific document has been identified as fabricated or knowingly false. The Bill of Entry was supported by the supplier's commercial documents, and the declared description was consistent with those documents.

14.4 Recent Tribunal authorities continue to recognise that Section 114AA cannot be sustained without evidence of knowing or intentional use of a false/incorrect material declaration. The same principle was applied in M/s Shri Balaji Logistics v. C.C. Noida (CESTAT, 16.04.2026) and M/s Zeniak Innovation India Limited v. Kolkata-Port (CESTAT, 02.07.2026).

14.5 In the present case, there is an additional difficulty for the Department: the technical evidence itself is internally insufficient to establish that the goods were Automotive Diesel Fuel conforming to IS 1460. A person cannot be treated as knowingly making a false declaration when the underlying product classification itself is technically and legally disputed.

15. Personal Penalty / Allegations Against Directors, Authorised Representatives or Other Individuals

15.1 To the extent the SCN proposes personal penalty against any director, authorised representative, employee or other individual, the Noticee respectfully submits that individual liability must be separately established against that particular person and cannot follow automatically from an allegation against the company.

15.2 The Department must identify the specific act, omission, knowledge, reason to believe, abetment or intentional use of a false document attributable to each individual.

15.3 In particular, where an authorised representative has participated in adjudication/cross-examination or assisted the company in presenting its case, such participation cannot itself constitute evidence of an earlier deliberate misdeclaration.

15.4 There is no basis to impose Section 114AA merely because an individual signed or represented the company where the underlying declaration was made on the basis of genuine commercial documents and a bona fide classification.

15.5 Accordingly, all personal allegations and proposed penalties against the concerned individuals deserve to be dropped in the absence of independent, cogent evidence of conscious involvement.

16. Valuation Enhancement Also Fails

16.1 The earlier SCN Reply recorded that the declared value was supported by commercial documents and banking records.

16.2 Under the Customs Valuation Rules, 2007, the transaction value is the starting point, subject to the statutory conditions. Rule 12 is a mechanism for rejection where the proper officer has reasonable doubt about the truth or accuracy of the declared value; once rejected, valuation must proceed sequentially under the prescribed rules.

16.3 The Department cannot enhance value merely by comparing the goods with Automotive Diesel Fuel when the Department has not established that the imported goods are Automotive Diesel Fuel.

16.4 A valuation enhancement founded upon an unproven reclassification necessarily fails with that reclassification. The Department is therefore requested to drop the proposed rejection/enhancement of transaction value.

17. Natural Justice and Evidentiary Weight of Cross-Examination

17.1 The Noticee specifically sought cross-examination because the laboratory reports were being relied upon as substantive evidence. The application for cross-examination identified, among other matters, the qualifications of the analyst, methodology, standards followed, chain of custody, representativeness, tariff implications, IS 16731 applicability, comparative testing, and whether the report established Automotive Diesel Fuel.

17.2 Cross-examination was accordingly not a formality. It exposed material limitations: IS 16731 was not applied; ISO 8217 was not tested; the sample did not meet IS 1460; the test was influenced by appearance-based comparison; and "most akin to" was used rather than a clear finding of conformity.

17.3 The adjudicating authority is respectfully requested to consider these admissions as part of the evidentiary record and not rely selectively upon isolated lines of the laboratory reports while ignoring the answers given by their authors.

19. Relief Sought

In view of the foregoing facts, documentary evidence, laboratory reports, cross-examination answers and the applicable principles of tariff interpretation, the Noticee respectfully prays that the Adjudicating Authority may be pleased to:

drop the proposed re-classification of the goods under CTH 27101944;

accept the declared classification under CTH 27101961 as Distillate Oil, subject to the applicable tariff law;

hold that the Department has failed to establish that the goods were Automotive Diesel Fuel conforming to IS 1460;

hold that the allegation of import of restricted/prohibited goods is not established and consequently drop the proposal under Section 111(d);

drop the allegation of deliberate or intentional misdeclaration and the proposed confiscation under Section 111(m), there being no established false factual particular and the declaration being supported by contemporaneous commercial documents;

drop the proposed rejection of transaction value and valuation enhancement under the Customs Valuation Rules, 2007;

drop all penalties proposed under Sections 112 and 114AA of the Customs Act, 1962, for want of the necessary factual and legal foundation;

drop all personal penalties/allegations against directors, authorised representatives, employees or other individuals in the absence of independent evidence establishing their conscious and intentional involvement;

release the goods forthwith, or pass such consequential order as may be permissible in law; and

drop the Show Cause Notice in its entirety and grant all consequential reliefs.

20. Without Prejudice

Without prejudice to the above, if the Adjudicating Authority is inclined to rely upon any laboratory material, internal CRCL communication, raw analytical data, GCMS data, chromatograms, worksheets, calibration records, chain-of-custody records or any other technical material not already supplied to the Noticee, the Noticee respectfully requests that complete copies be supplied and a reasonable opportunity be granted to make further submissions and, where necessary, further cross-examination be permitted.

21. Final Submission

The present case, after cross-examination, is no longer a case where the Department can rely on an untested assumption that similarity to diesel parameters equals Automotive Diesel Fuel. The technical evidence itself records non-conformity with IS 1460. The relevant marine/Class F standards were not properly tested. The CRCL evidence establishes the broad petroleum character of the sample, not its legal identity as Automotive Diesel Fuel. The commercial documents consistently identify the goods as Distillate Oil. There is no demonstrated false document, no demonstrated

intentional misdescription, and no reliable evidence establishing conscious importation of restricted Automotive Diesel Fuel.

The Noticee therefore respectfully submits that the entire foundation for re-classification, confiscation, valuation enhancement and personal/company penalties fails. The Show Cause Notice deserves to be dropped in full"

15.3 The Noticee filed additional written submissions dated 14.09.2026, in continuation of their earlier submissions dated 23.06.2026 and 11.09.2026, wherein they have submitted as under:

"…….
……..

2. *The Department's own pleaded case, at para 3.1 of the Show Cause Notice, records the CRCL finding that the sample "does not confirming to Distillate Marine Fuel of IS 16731, with respect to Cloud Point, up to the extent of parameters tested." This is, on its own terms, a concession that the sample fails IS 16731 on Cloud Point alone, and no other tested parameter. Since this admission appears in the Department's own notice, it is not a matter the Noticee is called upon to independently establish; the Department is bound by its own pleaded facts.*

3. *The Department's classification case rests wholly on the four principal conclusions in the CRCL Visakhapatnam report of 01.04.2026 that respond to DRI Test Memo No. 43/2025-26. Each of those conclusions must be weighed independently. The report first records that the sample fails Distillate Marine Fuel under IS 16731 only on Cloud Point and on no other tested parameter. Cloud Point, however, is expressly treated by the standard itself as a characteristic whose relevance turns on intended use and climatic conditions. Note 'f' to Table 1 of IS 16731:2019 states:*

> *"Pour point cannot guarantee operability for all ships in all climates. The purchaser should confirm that the cold flow characteristics (pour point, cloud point, cold filter plugging point) are suitable for the ship's design and intended voyage."*

The Director, CRCL, New Delhi, in the letter of 28.10.2025, confirms the same position in the following clear terms:

> *"if the intended use of the sample under reference is as marine fuel in ships in the colder weather conditions, the cloud point requirement becomes significant. For other usage the cloud point is not a significant parameter. Hence, the end use of the sample under reference may be ascertained at your end."*

In cross-examination the CRCL examiner himself accepted that the product meets every other parameter and that whether Cloud Point is mandatory "depends on the authorities who want to decide it." The Noticee's declared and demonstrated end-use is the manufacture of Cutback Bitumen at approximately 130°C — an industrial, land-based process having no connection with marine navigation in cold waters. The

solitary Cloud Point deviation therefore supplies no basis for discarding the declared classification.

4. *The Hon'ble Gujarat High Court in Noya Infrastructure LLP v. Union of India, 2026 (395) E.L.T. 177 (Guj.), examined an identical factual matrix and held as under in paragraphs 25 and 26:*

> *"25. In the present case, if the 'most akin' test is applied, the same would, in fact, be in favour of the petitioners, as the respondents have not definitively concluded that the Distillate Oil imported by the petitioners is, in fact, High Flame High Speed Diesel or a Diesel to an extent that it would change the nature of classification from Distillate Oil to Diesel. The petitioners cannot be discriminated in view of the communication dated 28.10.2025 written by the CRCL, Delhi, to the Assistant Commissioners of Kandla authorities relating to the similar parameters/characteristics which were found in the tests of the samples of Distillate Oil. However, at this stage, we may clarify that so far as the parameters/characteristics of Distillate Oil relating to cloud point are concerned, the Director of CRCL has already clarified that the relevance of cloud point would depend upon the climatic conditions of the area in which the same is used. Ultimately, it is clarified that if the Distillate Oil is a marine fuel used in ships operating in colder weather conditions, the cloud point becomes relevant, and for other usages, the Cloud Point is not a significant parameter, and hence, it is further informed that the end use of the sample under reference may be ascertained.*
>
> *26. Thus, there is no definite conclusion with regard to the cloud point, and it depends upon the vessel being operated in specific areas. At this stage, we may also refer to the characteristics of Indian Standards for petroleum products relating to Marine Fuel. The table annexed to the pour point/cloud point/cold filter plugging point for vessels operated by Distillate Marine Fuel stipulates that 'Pour point cannot guarantee operability for all ships in all climates,' and the purchaser should confirm that the cold flow characteristics (pour point, cloud point, cold filter plugging point) are suitable for the design of the ship and the intended voyage. Thus, the cargo imported by the petitioner cannot be ordered to be seized on the basis of the parameter of cloud point, as it will be relevant only at the place, vessel, and time of use, and will depend on the end user."*

The ratio of the said judgment is binding on this Authority. The Cloud Point deviation, taken alone, cannot justify rejection of the declared classification under CTH 27101961.

5. *The same CRCL report next records that the sample meets every stringent requirement of HFHSD under IS 16861 except Flash Point (6.5°C short of 66°C) and Distillation Recovery at 370°C (4% short of 95%). CRCL did not, on account of those shortfalls, describe the product as "most akin to" HFHSD; it simply abandoned that standard and proceeded to test against IS 1460. That course of conduct itself demonstrates that CRCL regards deficiencies in Flash Point and Distillation*

Recovery as sufficient to take a product outside a claimed description – a markedly stricter approach than the one applied to Cloud Point. The same examiner later confirmed without qualification that distillation range and flash point are important parameters for any petroleum product. That admission governs the weight to be attached to the identical parameters when they reappear against IS 1460. The Noticee submits that if shortfalls on Flash Point and Distillation Recovery were considered sufficient by CRCL itself to take the sample outside HFHSD, the same parameters cannot be treated as minor or peripheral when they appear against the proposed standard IS 1460.

6. *Against IS 1460 the report states that the sample meets all parameters except Distillation Recovery at 360°C (6% short of 95%) and is therefore "most akin to" Automotive Diesel Fuel not containing bio-diesel. Distillation Recovery is not a discretionary or peripheral test; the Department's own witness has described it as important for every petroleum product. A shortfall of that magnitude cannot be reconciled with the assertion that the sample meets "all the parameters." More fundamentally, the statutory entry CTH 27101944 demands goods "conforming to standard IS 1460." The phrase "most akin to" is language of resemblance, not of conformity, and the report's choice of words accurately reflects the fact that actual conformity was not established. The Hon'ble Supreme Court in Gastrade International v. Commissioner of Customs, Kandla, 2025 (392) E.L.T. 529 (S.C.), at Para 80(iv), held that where samples did not conform to IS 1460 on flash point and distillation range, "it cannot be said there is substantial compliance with the parameters of IS 1460:2005." The same principle applies with full force to the present shortfall of 6% on Distillation Recovery.*

7. *The report's further assertion that the sample is Automotive Diesel Fuel adulterated with Higher carbon distillate/Light base oil cannot stand with the preceding finding. Under Section 2(a) of the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005, adulteration means the introduction of a foreign substance that results in the product failing to conform to IS 1460. The said Order regulates the supply and distribution of these products within India and does not govern goods at the stage of import. It is referred to here only to understand what the word "adulteration", as used in Conclusion D, means. Non-conformity is therefore an essential element of the statutory concept. The same report cannot simultaneously declare that the sample meets all but one parameter of IS 1460 and that it is adulterated within the meaning of a definition that presupposes non-conformity. The two statements are mutually exclusive. Even apart from that internal contradiction, the adulteration finding is deficient in every other respect. It is submitted that Conclusion D of the CRCL Test Report does not identify the alleged adulterant beyond the general description "Higher carbon distillate/Light base oil", nor does it state its proportion in the sample. At Q.12, the Chemical Examiner further stated that "What has been added is also a petroleum origin product." Distillation behaviour, density, kinematic viscosity and flash point are correlated properties; the introduction of a heavier fraction in any material quantity would be expected to elevate density, viscosity and flash point. The*

report's own figures — density 0.833 g/ml, kinematic viscosity 4.02 cSt, flash point 59.5°C — lie comfortably inside the IS 1460 ranges and display no upward movement whatever. The underlying GCMS methodology and raw data have also not been placed on record despite the examiner's undertaking in cross-examination. A finding of such gravity, carrying confiscatory and penal consequences, cannot rest on incomplete material. The Hon'ble Supreme Court in Gastrade International (Para 80(vii)) has held:

"In view of the ambiguity and lack of clarity in the expert opinion/laboratory test results, it would be unsafe to draw the inference that the Department had been able to prove their case even by applying the test of preponderance of probability merely because the samples conform to certain parameters."

The settled principle that the view favourable to the Noticee must be preferred when technical evidence admits of two readings applies with particular force when the contradiction resides inside a single report of the very officer whose testimony is relied upon. It would therefore be unsafe to treat the CRCL conclusions regarding Automotive Diesel Fuel as having established that the goods conform to IS 1460.

8. *The IOCL report, obtained expressly to place the Department's case beyond doubt by testing all twenty-one parameters mandated by the Supreme Court, itself collapses under the cross-examination of its own signatory. The test-result table records 95% Distillation Recovery at 393°C against the IS 1460 ceiling of 360°C and Ash Content at 0.05% against the ceiling of 0.01%. Yet the Remarks claim compliance with IS 1460 HSD BS-VI except only for water content. The signing officer admitted that both Distillation Recovery and Ash Content had been missed during screening and, in unambiguous terms, that the sample does not meet the specification of IS 1460. He further admitted that the sample was never tested against the declared standard IS 16731 and that there was "no specific reason" for this omission; the comparison was made only on the basis of appearance with IS 16861 and IS 1460. The report the Department regarded as conclusive therefore establishes the opposite of what is claimed for it. The Show Cause Notice itself records that the combined reports from CRCL Visakhapatnam and IOCL Haldia "conclusively established" that the imported goods were Automotive Diesel Fuel conforming to IS 1460. Once the IOCL report is shown by its own author to be incorrect on three parameters and to have never tested the declared standard, the Department's claim of conclusive establishment also fails.*

9. *Once both laboratory reports are read together with the cross-examination record, the only position that remains is that the goods fail the declared classification of Distillate Oil under IS 16731 on a single parameter, namely Cloud Point. By contrast, they fail the alleged classification of Automotive Diesel Fuel under IS 1460 on Distillation Recovery (CRCL) and, according to the IOCL Chief Manager on cross-examination, also on water content and ash content. That officer ultimately conceded that the goods do not conform to IS 1460 at all.*

The Hon'ble Supreme Court in Gastrade International v. Commissioner of Customs, Kandla, 2025 (392) E.L.T. 529 (S.C.) has laid down the correct approach for competing classification founded on partial or ambiguous technical results. At para 78 the Court held:

"What the aforesaid decisions postulate is that there may be varying range in the degree of probabilities. Certainly, where the proceedings involve requirement of fulfilment of technical/scientific parameters with confiscatory and penal consequences, the degree of probability would be of a higher order and not mere probability."

The present proceedings propose confiscation under Section 111 and penalties under Sections 112, 114AA and 117, and rest entirely on whether the goods satisfy the parameters of IS 1460 and IS 16731.

The same ambiguity that proved fatal to the Revenue in Gastrade exists here. The Court held at para 80(vii):

"In view of the ambiguity and lack of clarity in the expert opinion/laboratory test results, it would be unsafe to draw the inference that the Department had been able to prove their case even by applying the test of preponderance of probability merely because the samples conform to certain parameters."

The CRCL report records the sample as meeting all IS 1460 parameters except one, yet simultaneously characterises it as "adulterated" — a term which, on its statutory meaning, denotes non-conformity with IS 1460. The IOCL report, relied upon to cure this difficulty, has been shown on cross-examination of its own signatory to be incorrect on three parameters, and the Chief Manager conceded that the goods do not meet IS 1460 at all.

It is in this context that the Court laid down the "most akin" test. At paras 82 and 83 it held:

> *"82. The real test for classification, according to us, would be as to whether any goods or substance in question is 'most akin' or bears the closest resemblance or similarity to any of the specified goods mentioned under the Headings and relative Section or Chapter Notes under the Tariff Act, and not by applying the test of preponderance of probability.*
>
> *83…..it has to be shown by the Customs Authority that the imported goods bear the most affinity or resemblance or similarity to be 'most akin' to the specified goods and not mere similarity or akinness."*

Applying that test requires weighing the parameter that defeats each classification, not merely counting shortfalls. The goods fail the declared classification on one parameter — Cloud Point. They fail the alleged classification on three — Distillation Recovery, Water Content and Ash Content.

Cloud Point carries little weight. On the express text of IS 16731 (Note (f) to Table 1) it is a voyage/climate-suitability parameter, not a marker of compositional identity. CRCL's own examiner treated its importance as discretionary, and binding precedent (Noya Infrastructure, following the CRCL Director's clarificatory letters) confines its significance to marine fuel used in cold climates. The goods are used for industrial manufacture of cutback bitumen; the qualified relevance of Cloud Point is therefore absent on the facts.

By contrast, Distillation Recovery, Water Content and Ash Content carry full weight. CRCL's examiner conceded without qualification that these are "important parameters for any petroleum product." IS 1460 contains no end-use qualification. The Department itself relied on the IOCL report at para 5.2 of the Show Cause Notice to "conclusively establish" the Automotive Diesel Fuel classification; that report has now been discredited by its own author.

Thus the goods depart from the declared classification only on a parameter that the standard itself treats as end-use/climate-dependent and that is inapplicable on the present facts. They depart from the alleged classification on parameters conceded to be important without qualification. Applying the "most akin" test mandated by Gastrade, the imported goods are most akin to Distillate Oil under IS 16731 and not to Automotive Diesel Fuel under IS 1460. The proposed reclassification under CTH 27101944, and the consequential demand, confiscation and penalties, cannot be sustained. The burden of proof rests throughout on the Customs authority and remains undischarged.

Further, the heavy detention and demurrage charges are being incurred on the seized goods on a continuing basis. In view of the clear legal and factual position emerging from the laboratory reports and the cross-examination of the Department's own witnesses, the Noticee prays for immediate and unconditional release of the goods so that further accumulation of detention and demurrage may be avoided.

10. *Commercial reality points in the same direction. The Department's own re-determined value is more than eight crores higher than the price actually paid. No importer deliberately acquires a costlier, restricted product while declaring a cheaper, freely importable one without some demonstrated economic advantage. No such advantage has been shown, nor has any under-payment to the foreign supplier been alleged. The absence of motive is a material circumstance against the charge of deliberate mis-declaration and the mens rea required for penalty under Section 114AA.*

11. *The proposal to reject the declared assessable value under Rule 12 of the Customs Valuation Rules, 2007 and to re-determine the same under Rule 9 is founded entirely on the premise that the goods are Automotive Diesel Fuel and not Distillate Oil. When the classification allegation itself does not stand established, the foundation for rejecting the transaction value disappears. The declared value of Rs. 17,46,10,113/-, fully supported by commercial invoices and banking records, must therefore be accepted, and the proposed enhancement to Rs. 25,93,33,307/- under Rule 9 must be dropped. Policy Condition No. 5 imposing the STE restriction has no application to Distillate Oil falling under CTH 27101961. The declared description matches every commercial document on record, so the charge under Section 111(m) cannot stand. Penalty under Section 112 cannot survive once the goods are not rendered liable to confiscation under Section 111. Section 114AA requires proof of knowing and intentional use of a false or incorrect document. A bona fide classification position consistently maintained from the investigation stage, supported by genuine commercial documentation, unaccompanied by any demonstrated economic motive, and further weakened by the admissions of the Department's own witnesses, cannot sustain this penalty. The same approach has been adopted in recent decisions of the Tribunal. No penalty is attracted under Section 117 either. No independent evidence establishes any conscious or deliberate personal involvement of Shri Vishal Bohra, Director, distinct from the company's own bona fide position that he has articulated consistently since his first statement. All proposals for personal penalty under Sections 112 and 114AA against him must therefore be dropped.*

12. *In light of the foregoing submissions, and read together with the earlier comprehensive reply dated 23.06.2026 and the written submissions dated 11.09.2026, the Noticee respectfully prays that the Adjudicating Authority may be pleased to:*

- *drop the proposed re-classification under CTH 27101944;*
- *accept the declared classification under CTH 27101961 as Distillate Oil by applying Rule 4 of the General Rules for Interpretation;*
- *hold that the Department has failed to establish, even on its own witnesses' testimony and its own pleaded case, that the goods conform to IS 1460 as Automotive Diesel Fuel;*
- *hold that the adulteration finding in the CRCL report is unreliable and cannot be acted upon;*
- *hold that the allegation of import of restricted or prohibited goods is not established and consequently drop the proposal under Section 111(d);*
- *drop the allegation of deliberate or intentional misdeclaration and the proposed confiscation under Section 111(m), there being no established false factual particular and the declaration being fully supported by contemporaneous commercial documents;*
- *drop the proposed rejection of transaction value and the valuation enhancement under Rules 9 and 12 of the Customs Valuation Rules, 2007;*
- *drop all penalties proposed under Sections 112(a), 112(b), 114AA and 117 against the Noticee company for want of the necessary factual and legal foundation;*

- *drop all proposed personal penalties and allegations against Shri Vishal Bohra, Director, and any other authorised representatives or individuals, in the absence of independent evidence establishing their conscious and intentional involvement;*
- *order immediate and unconditional release of the seized goods, or pass such consequential order as may be permissible in law; and*
- *drop the Show Cause Notice in its entirety and grant all consequential reliefs."*

DISCUSSION AND FINDINGS

16. I have carefully gone through the Show Cause Notice No. 61/2026-27/ADC/ZDC/MCH dated 01.06.2026, the relied upon documents, the written submissions dated 23.06.2026, 11.09.2026 and 14.09.2026, the record of personal hearing held on 24.06.2026, and the other relevant records. Since the Noticee has been afforded a personal hearing, an opportunity of cross-examination as sought, and a further opportunity to file submissions after such cross-examination, I find that the principles of natural justice as provided in Section 122A of the Customs Act, 1962 have been duly complied with. I find that the following issues are involved in this case, which are required to be decided:

(i) Whether the classification of goods covered under Bill of Entry No. 7746721 dated 25.02.2026 filed at Mundra Port, declared as 'Distillate Oil' under CTH 27101961, should be rejected and re-classified as 'Automotive Diesel Fuel, not containing biodiesel, conforming to standard IS 1460' under CTH 27101944;

(ii) Whether the declared assessable value of **Rs. 17,46,10,113/-** should be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and re-determined as **Rs. 25,93,33,307/-** under Rule 9 of the said Rules;

(iii) Whether the goods are liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962;

(iv) Whether penalties are imposable on M/s Premium Petro and Infra Projects Private Limited under Sections 112(a), 112(b), 117 and 114AA, and on Shri Vishal Bohra, Director, under Sections 112(a), 112(b) and/or 114AA of the Customs Act, 1962.

17. To begin with, I summarise the facts of the case as they emerge from the records:

(a) M/s Premium Petro and Infra Projects Private Limited (IEC: AAOCP5368F), Jaipur, filed Bill of Entry No. 7746721 dated 25.02.2026 at Mundra Port for clearance of 4000.00 MTS of goods declared as "Distillate Oil (Only for Industrial Use)" under CTH 27101961, with a declared assessable value of Rs. 17,46,10,113/-. The goods were supplied by M/s Ecofuel Nexus FZC, Sharjah, UAE.

(b) On the basis of specific intelligence that the Noticee had imported restricted goods by declaring them as Distillate Oil, the consignment was put on hold by the DRI, Jamnagar Regional Unit, and the goods were examined and representative samples drawn under Panchnama dated 14.03.2026.

(c) The representative samples were forwarded for testing to CRCL, Visakhapatnam and IOCL, Haldia Refinery under separate Test Memos, both dated 16.03.2026. Both Test Memos raised identical queries: whether the sample conforms to the declared standard, IS 16731; whether it conforms to IS 16861 or IS 1460; the fuel type to which the sample is "most akin"; whether it indicates any adulteration or blending; and whether it is hazardous.

(d) CRCL, Visakhapatnam, vide its test report dated 01.04.2026, reported that the sample does not conform to Distillate Marine Fuel of IS 16731 with respect to Cloud Point; that it meets the parameters of HFHSD (IS 16861) except Flash Point and Distillation Recovery; that it meets the parameters of Automotive Diesel Fuel (IS 1460) except Distillation Recovery, and is most akin to Automotive Diesel Fuel (IS 1460); and that, as per GCMS studies, it is Automotive Diesel Fuel admixed/adulterated with higher carbon distillate/light base oil.

(e) IOCL, Haldia compared the sample with IS 16861 and IS 1460, and reported vide Test Report bearing Sample ID DRI/JRU/INQ-11/2025-26/1829 against Test Memo No. 42/2025-26 dated 16.03.2026, that the sample meets the specification of IS 1460 HSD BS-VI, except water content.

(f) On the basis of the said test reports, the goods were seized under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 06.04.2026, on the reasonable belief that they were Automotive Diesel Fuel, restricted for import under Policy Condition No. 5 of Chapter 27 of the ITC (HS), mis-declared as Distillate Oil.

(g) The statement of Shri Vishal Bohra, Director, was recorded under Section 108 of the Customs Act, 1962 on 13.04.2026. He, inter alia, stated that the company uses distillate oil in the manufacture of Cutback Bitumen and other bituminous products and also engages in trading; that the goods were procured on the basis of the Certificate of Analysis and Certificate of Quality issued by the supplier and a third-party inspection agency; and that he agreed with the tested parameters in both test reports but not with the inference drawn therein.

(h) Thereafter, Show Cause Notice No. 61/2026-27/ADC/ZDC/MCH dated 01.06.2026 was issued to the Noticee and to Shri Vishal Bohra, Director. The notice proposed re-classification of the goods under CTH 27101944, rejection of the declared value and its re-determination at Rs. 25,93,33,307/- under Rule 9 of the CVR, 2007, confiscation of the goods under Sections 111(d) and 111(m), and imposition of penalties under Sections 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

(i) Personal hearing in the matter was held on 24.06.2026. The Noticee sought cross-examination of the officers who issued the test reports, the details of which are discussed below.

18. CROSS-EXAMINATION

18.1 The Noticee, vide their written submissions dated 23.06.2026 and during the personal hearing held on 24.06.2026, sought cross-examination of the Chemical Examiner, CRCL, Visakhapatnam. In their written submissions, the Noticee contended that the CRCL report nowhere states that the sample conforms to IS 1460, that the report itself records that the sample does not meet the requirement of Distillation Recovery at 360°C, and that describing the sample as "most akin" to Automotive Diesel Fuel is not the same as holding that it conforms to IS 1460. Considering that the CRCL report has been relied upon in the Show Cause Notice as the principal evidence for the proposed re-classification, and following the principles of natural justice, the request was allowed. The cross-examination of Shri Pradeep Maroo, Chemical Examiner Grade-I, CRCL, Visakhapatnam was conducted before me on 03.07.2026 at 03:30 PM. The questions were put by Shri Mandaviya Jay Nileshbhai, Authorised Representative of the Noticee. The signed record is reproduced below:

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS
CUSTOM HOUSE, MUNDRA, KUTCH
MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421
Phone No. 02838-271029/423 FAX No. 02838-271425
Email : adj-mundra@gov.in, *adjmundra@gmail.com*

क्रॉस एग्जामिनेशन का अभिलेख
RECORD OF CROSS EXAMINATION

File No.	GEN/ADJ/ADC/806/2026-Adjn-O/o Pr Commr-Cus-Mundra
SCN No. & Date	61/2026-27/ADC/ZDC/MCH dated 01.06.2026
Date of Cross Examination	03.07.2026 at 03:30 PM
Participant 1	Shri Mandaviya Jay Nileshbhai, Authorised Representative of M/s Premium Petro and Infra Projects Private Limited
Participant 2	Shri Pradeep Maroo, Chemical Examiner Grade-I, CRCL, Visakhapatnam

The cross examination was conducted before me, in which Shri Mandaviya Jay Nileshbhai, Authorised Representative of M/s Premium Petro and Infra Projects Private Limited, asked questions to Shri Pradeep Maroo, Chemical Examiner Grade-I, CRCL, Visakhapatnam, and the record of the same is reproduced below:

Q.1 : Please introduce yourself?

Ans : I am Pradeep Maroo, Chemical Examiner Gr.-I/Head, Custom House Laboratory, Custom House, Visakhapatnam.

Q.2 : Is it correct that the Test Report no. 803/DRI, against the Test memo no. 43/2025-26, were examined, concluded and signed by you? Please confirm.

Ans : Yes, I have signed this report. This report has been issued by me.

Q.3 : As per your test report, the samples comprises more than 70% by weight of Hydrocarbons and it merits classification under CTH 2710. Do you agree?

Ans : Yes, the sample contains more than 70 % of Mineral hydrocarbon oils .

Q.4 : Can you explain the definition of 'Distillate Oil' as per any available technical literature or standard?

Ans : You may refer to IS 4639. In IS 4639 Part 1, distillate oil are mentioned as any product obtained by condensation of vapors of petroleum product when it is distilled under atmospheric pressure or under reduced pressure. There are three different types of distillate oil – light distillate, boiling below 230 degree centigrade at atmospheric pressure; middle distillate, boiling between 150 to 400 degree centigrade at normal atmospheric pressure; and heavy distillate, above 350 degree centigrade normal/ vacuum distillation.

ANANDAN 17/7

Q.5 : In the report no. 803/DRI at conclusion A that says 'The sample does not confirming to Distillate marine Fuel of IS 16731, with respect to Cloud Point, up to the extent of parameters tested', it means the sample meet all the parameters of 'Distillate Marine Fuel' except cloud point. Is this correct?

Ans : We have mentioned it because we are confined to this IS 16731 only. So we have confirmed the product is not conforming to IS 16731 with respect to cloud point. Yes, except cloud point, other parameters are meeting to IS 16731, up to the extent of parameters tested.

Q.6 : Fuels (class F) at triple dash under 271019 (others) include 2 IS standards i.e IS 16737 (part-99) (Title-Petroleum Products-Fuels (Class-F)-Classification-Part 99 General) and IS 16737 (Part-2) (Title-Petroleum Products-Fuels (Class-F)-Classification-Part 2 Category of Gas turbine Fuels for Industrial and Marine applications). Are you aware of these IS standards?

Ans : I am aware of those, but this product particularly, distillate product, this product is confirmed to only the IS 16731 distillate fuels. It is not related to any IS 16737 or any other Indian Standard. The investigating agency also asked only whether the product is confirming to IS 16731 or any other IS like IS 1460. So IS 16737 is not relevant to this case.

Q.7 : You are aware of these standards and in your above answer you have mentioned that the IS standards not pertain to this particular case, so please explain whether it is not related because it is not mentioned in Test memo query given by Investigation agency?

Ans : The queries replied in test report pertains to the test queries raised in test memo.

Q.8 : Please refer to conclusion B of said Test report that says ' The sample meets all the stringent parameters of HFHSD (IS 16861) except Flash Point (6.5°C less than the required 66°C) and Distillation Recovery at 370°C (which is 4% less than required 95%)'. Now please inform whether Flash point and Distillation range are crucial parameters to determine any petroleum products?

Ans : Distillation range and flash point are important parameters for any petroleum product.

Q.9 : Please refer to conclusion C of that Test report that says 'The sample meets all the parameters of Automotive Diesel Fuel not containing bio-diesel (IS 1460) except Distillation Recovery at 360°C (which is 6% less than required 95%). The sample is most akin to Automotive Diesel Fuel not containing bio-diesel (IS 1460).' Can you please explain the terminology 'most akin' in said conclusion?

Ans : This sample is containing sulphur content below 10 ppm. Below 10 ppm always comes under any of the product which are automotive diesel fuel. Only this much of low sulphur comes in the automotive diesel fuel which are having less than 10 ppm of sulphur. So this product was confirming to all other parameters of automotive diesel fuel except distillation range. We have done the GCMS analysis of this sample and we found that it contains the higher distillates above 370 degree centigrade. That also we mentioned in our observations and in our reports, that the sample is admixed/ adulterated with the heavier distillate or base oil having higher carbon distillate. So it is admixed with this product so that the product can come out of IS 1460. Otherwise 10 ppm, this much of low sulphur is always only used in the automotive fuels. All other fuels, if you take any other like HSD, sulphur is always higher side.

Q.10 : Whether sulphur content is used as quality parameter or used as characteristic parameter for classification purpose. Can you explain?

Ans : Sulphur is a quality parameter as well as characteristic parameter for characterization. It has a quality parameter mainly. But if it is less than 10 ppm, then you have to see the regulation part also, how it has been lowered. The lower sulphur means high degree of refining has been taken place. Sulphur requires a lot of efforts to remove from any petroleum product. If sulphur is removed up to this much of level, it means there is a rigorous effort has been made to control the sulphur, to limit the sulphur. That is also one of the basis that the product is a refined one.

Q.11 : Can you please produce the GCMS methodology or scientific test that represent the sample is adulterated?

Ans : I can send the soft version of the file. I will send it on the mail id provided.

Q.12 : Regarding conclusion D, it mentioned in CTH 2710 that the product must be at least 70% by weight hydrocarbon and our goods are 100% petroleum oil/hydrocarbon. So as per your report that our goods are adulterated, please explain whether it is adulterated by goods of other heading that are restricted in nature?

Ans : That also is a petroleum origin product. What has been added is also a petroleum origin product.

Q.13 : Please refer to clarification dated 16.01.2026 issued by Director , CRCL, New Delhi to all the CRCL laboraties bearing subject 'Clarification in issuance of test reports pertaining to petroleum sample'. Please confirm whether the said clarification is binding on you?

Ans : The letter issued by the Director on 16.01.2026, as shown by you is an internal communication, addressed to all Heads of Laboratories. It is not an document, which is available in public domain.

MANDAVIYA

Q.14 : Is there any technical literature or Indian Standard that mention cloud point as mandatory/important parameter to determine classification of Distillate Oil?

Ans : As per the IS, it is a mandatory thing. If somebody assumes that it is not a mandatory thing, it depends on the authorities who want to decide it. As per Indian Standard, it is mandatory.

Q.15 : Please inform whether the goods meet all the requirements of Distillate oil except cloud point?

Ans : The product is confirming to all parameters except cloud point.

Q.16 : Please inform what is Fuel (class F) and what type of fuels covered under Fuel (class F)? Do you agree Distillate oil is also covered/classified under petroleum product classification of Fuel (class F)?

Ans : All fuels starting from methane gas to petroleum coke are covered under Class F fuel. Yes, it is for all products from methane gas to petroleum coke.

Questioned by,

MANDAVIYA

Shri Mandaviya Jay Nileshbhai
Authorised Representative
M/s Premium Petro and Infra Projects Pvt. Ltd.

Answered by,

Shri Pradeep Maroo
Chemical Examiner Grade-I,
CRCL, Visakhapatnam

Recorded before,

Additional Commissioner of Customs
Custom House, Mundra
दीपक झाला /
Dipak Zala
अपर आयुक्त /
Additional Commissioner
सीमा शुल्क आयुक्तालय, मुंद्रा
Custom Commissionerate, **Mundra**

18.2 The Noticee, vide their application dated 03.08.2026, further sought cross-examination of the officer of IOCL, Haldia Refinery who conducted and signed the test report against Test Memo No. 42/2025-26. In seeking this cross-examination, the Noticee

pointed out that the report merely stated that the sample meets IS 1460 HSD BS-VI "except water content", without examining the declared standard, IS 16731, or making any comparison with Distillate Oil, and that this required to be examined through cross-examination of the officer who had signed it. Considering that this went to the reliability of a report relied upon in the Show Cause Notice, and following the principles of natural justice, the request was allowed, and the cross-examination of Shri Anupam Aash, Chief Manager (Quality Control), IOCL, Haldia Refinery was conducted before me on 14.08.2026 at 04:00 PM. The signed record is reproduced below:

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS
CUSTOM HOUSE, MUNDRA, KUTCH
MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421
Phone No. 02838-271029/423 FAX No. 02838-271425
Email : adj-mundra@gov.in

क्रॉस एग्जामिनेशन का अभिलेख
RECORD OF CROSS EXAMINATION

File No.	GEN/ADJ/ADC/806/2026-Adjn-O/o Pr Commr-Cus-Mundra
SCN No. & Date	61/2026-27/ADC/ZDC/MCH dated 01.06.2026
Date of Cross Examination	14.08.2026 at 04:00 PM
Participant 1	Shri Mandaviya Jay Nileshbhai, Authorised Representative of M/s Premium Petro and Infra Projects Private Limited
Participant 2	Shri Anupam Aash, Chief Manager (Quality Control), Indian Oil Corporation Limited, Haldia Refinery

The cross examination was conducted before me, in which Shri Jay Nileshbhai Mandaviya, Authorised Representative of M/s Premium Petro and Infra Projects Private Limited, asked questions to Shri Anupam Aash, Chief Manager (Quality Control), Indian Oil Corporation Limited, Haldia Refinery, and the record of the same is reproduced below:

Q.1 : Please introduce yourself.

Ans : I am Anupam Aash, Chief Manager (Quality Control), Indian Oil Corporation Limited, Haldia Refinery. I am the officer who conducted and signed the subject test report.

Q.2 : Is it correct that the test report bearing Sample ID DRI/JRU/INQ-11/2025-26/1829 dated 16.03.2026, against Test Memo No. 42/2025-26 pertaining to M/s Premium Petro and Infra Projects Private Limited, Jaipur, was examined, concluded and signed by you? Please confirm.

Ans : Yes, this sample – DRI/JRU/INQ-11/2025-26 dated 16.03.2026, Test Memo No. 42/2025-26 – was examined, concluded and signed by me.

Q.3 : As per the Test Memo, the query was whether the sample conforms to the specification of IS 16731:2019, or to IS 16861 and IS 1460. In your test report, the comparison has been made with IS 16861 and IS 1460, but not with IS 16731. Is there any specific reason for not comparing the sample with IS 16731?

MANDAVIYA J.

Anupam Aash

Ans : There is no specific reason. The sample's appearance was matching more closely with HSD BS-VI (IS 16861), and it was accordingly compared with IS 16861 and IS 1460, and not with IS 16731.

Q.4 : The product declared by the Noticee is Distillate Oil, not residual fuel. However, your report appears to have compared the sample's appearance with residual marine fuel. Please clarify why a declared distillate product was compared with residual fuel parameters.

Ans : The comparison with IS 16861 and IS 1460 was made on the basis of appearance-wise matching. The residual marine fuel produced at our refinery is black in colour, and its appearance did not match the sample, hence it was not compared under that category.

Q.5 : ISO 8217 contains two tables — Table 1 for requirements of distillate fuel, and Table 2 for requirements of residual fuel. Was the sample tested against ISO 8217 at all, and if so, against which table?

Ans : We have not checked/tested the sample with ISO 8217. The sample was tested on the basis of IS 16861 and IS 1460 only.

Q.6 : Please explain the definition of 'Distillate Oil'.

Ans : Distillate oil is the product/yield obtained through distillation — either atmospheric or vacuum distillation — within a defined distillation cut/range. For example, naphtha is a cut up to about 160-170°C, kerosene is about 150-270°C, and diesel is about 140-370°C.

Q.7 : As per your test report, is 95% recovery at a maximum of 360°C a specification requirement under IS 1460?

Ans : Yes.

Q.8 : The distillation recovery value recorded for the sample is 393°C, which exceeds the maximum specified limit of 360°C. Your test report nevertheless concludes that the sample meets the specification of IS 1460 "except water content." Please explain this discrepancy.

Ans : The sample is also not meeting the specification with respect to distillation recovery, in addition to water content. This was missed during screening at the time the report was prepared. The sample is not meeting the specification of IS 1460 with respect to distillation recovery and water content.

Q.9 : Please confirm whether the parameters of total acidity and ash content, as tested, are within the specified limits.

18.3 Now, I proceed to discuss the issues framed at para 16 above, one by one. Since the proposals for rejection of the declared value, confiscation of the goods and imposition of penalties in the Show Cause Notice all rest on the proposed re-classification of the goods as Automotive Diesel Fuel, I first take up the issue of classification.

19. CLASSIFICATION

19.1 Regarding the first issue, I have carefully gone through the Show Cause Notice, the two test reports relied upon therein, the written submissions filed by the Noticee, the record of Personal Hearing, and the records of cross-examination of Shri Pradeep Maroo, Chemical Examiner, CRCL Visakhapatnam, and Shri Anupam Aash, Chief Manager (Quality Control), IOCL Haldia, both of whom were cross-examined at the specific request of the Noticee. The Show Cause Notice proposes to reject the declared classification of the goods as "Distillate Oil (Only for Industrial Use)" under CTH 27101961 and to re-classify them as "Automotive Diesel Fuel, not containing biodiesel, conforming to standard IS 1460" under the restricted tariff entry CTH 27101944, on the basis of the test reports of CRCL, Visakhapatnam and IOCL, Haldia, with consequential proposals for rejection and enhancement of the declared value, confiscation of the goods, and imposition of penalty.

19.2.1 The Noticee, in their written submissions dated 23.06.2026, has contended that Distillate Oil is not a trade description invented by the importer but a specific statutory tariff entry, and that the Department cannot disregard it and substitute another entry merely because some physical parameters resemble another petroleum product. According to the Noticee, there is no statutory condition in the tariff requiring Distillate Oil to exclusively conform to IS 16731. BIS has framed multiple standards under Fuels (Class F), namely IS 16737-1:2017, IS 16737-2:2018 and IS 16731:2019. Fuels (Class F) is therefore a broad category, and failure to satisfy one specification cannot automatically transform the product into Automotive Diesel Fuel.

19.2.2 They have further submitted that laboratories determine physical and chemical characteristics but are not empowered to determine tariff classification, which is a legal exercise governed by the Customs Tariff Act, 1975, the Section and Chapter Notes, the HSN Explanatory Notes and commercial identity. They have added that overlapping characteristics such as density, viscosity, sulphur content, flash point, distillation characteristics and cetane index, which are common to petroleum products, do not alter tariff identity. The Noticee has also stated that the goods were purchased, invoiced, certified, declared and imported as Distillate Oil, that not a single commercial document describes them as Automotive Diesel Fuel, and that they were imported for use in the manufacture of Cutback Bitumen.

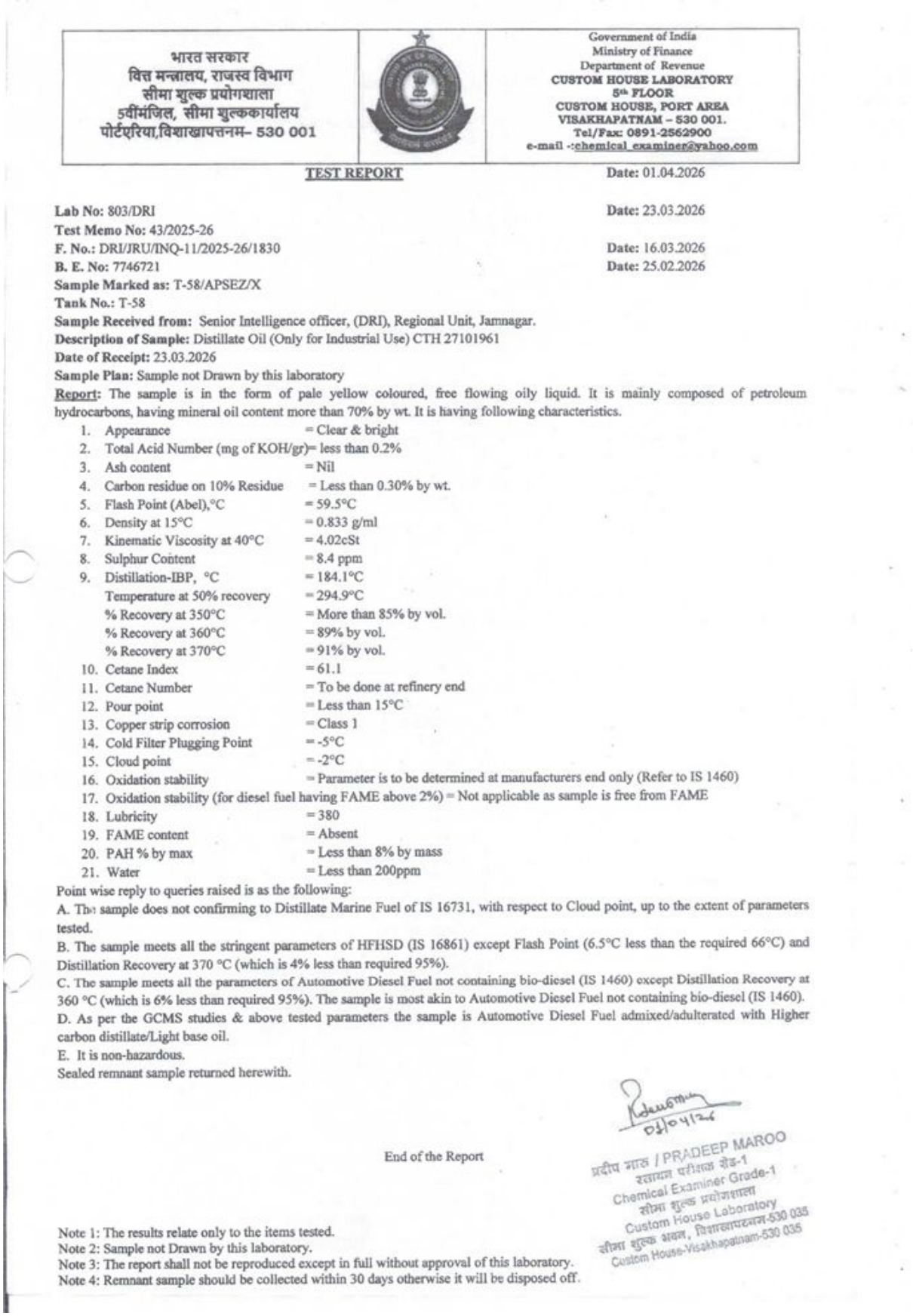
19.3 For ready reference, the relevant entries of the First Schedule to the Customs Tariff Act, 1975, Section V, Chapter 27, under which the classification declared (CTH 27101961) by the Noticee, and the classification proposed in the SCN (CTH 27101944), are reproduced below:

CTI	***Description***
2710	*Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils*
–	*Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, other than those containing biodiesel and other than waste oils*
2710 19	*-- Other*
–	*--- Gas oil and oils obtained from gas oil*
2710 19 41	*---- Gas oil*
2710 19 42	*---- Vacuum gas oil*
2710 19 43	*---- Light diesel oil conforming to standard IS 15770*
2710 19 44	***---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460***
2710 19 49	*---- High flash high speed diesel oil conforming to standard IS 16861*
–	*--- Fuels (Class F) or marine fuels conforming to standard IS 16731*
2710 19 61	***---- Distillate oil***
2710 19 69	*---- Residual oil*

19.4 Since the entire case rests on two test reports issued by CRCL, Visakhapatnam and Indian Oil Corporation Limited, Haldia, I consider it necessary to examine each of them in detail, along with the applicable Indian Standards and the evidence that emerged during the cross-examination of the officers who issued these reports, before recording my findings on the issue of classification. Now I proceed to examine both the reports one by one in following paragraphs.

19.5 The CRCL, Visakhapatnam report

Now I proceed to examine the CRCL Report dated 01.04.2026, which is reproduced below for ready reference:



भारत सरकार
वित्त मन्त्रालय, राजस्व विभाग
सीमा शुल्क प्रयोगशाला
5वींमंजिल, सीमा शुल्ककार्यालय
पोर्टएरिया,विशाखापत्तनम– 530 001

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

TEST REPORT **Date:** 01.04.2026

Lab No: 803/DRI **Date:** 23.03.2026
Test Memo No: 43/2025-26
F. No.: DRI/JRU/INQ-11/2025-26/1830 **Date:** 16.03.2026
B. E. No: 7746721 **Date:** 25.02.2026
Sample Marked as: T-58/APSEZ/X
Tank No.: T-58
Sample Received from: Senior Intelligence officer, (DRI), Regional Unit, Jamnagar.
Description of Sample: Distillate Oil (Only for Industrial Use) CTH 27101961
Date of Receipt: 23.03.2026
Sample Plan: Sample not Drawn by this laboratory
Report: The sample is in the form of pale yellow coloured, free flowing oily liquid. It is mainly composed of petroleum hydrocarbons, having mineral oil content more than 70% by wt. It is having following characteristics.

1.	Appearance	= Clear & bright
2.	Total Acid Number (mg of KOH/gr)	= less than 0.2%
3.	Ash content	= Nil
4.	Carbon residue on 10% Residue	= Less than 0.30% by wt.
5.	Flash Point (Abel),°C	= 59.5°C
6.	Density at 15°C	= 0.833 g/ml
7.	Kinematic Viscosity at 40°C	= 4.02cSt
8.	Sulphur Content	= 8.4 ppm
9.	Distillation-IBP, °C	= 184.1°C
	Temperature at 50% recovery	= 294.9°C
	% Recovery at 350°C	= More than 85% by vol.
	% Recovery at 360°C	= 89% by vol.
	% Recovery at 370°C	= 91% by vol.
10.	Cetane Index	= 61.1
11.	Cetane Number	= To be done at refinery end
12.	Pour point	= Less than 15°C
13.	Copper strip corrosion	= Class 1
14.	Cold Filter Plugging Point	= -5°C
15.	Cloud point	= -2°C
16.	Oxidation stability	= Parameter is to be determined at manufacturers end only (Refer to IS 1460)
17.	Oxidation stability (for diesel fuel having FAME above 2%)	= Not applicable as sample is free from FAME
18.	Lubricity	= 380
19.	FAME content	= Absent
20.	PAH % by max	= Less than 8% by mass
21.	Water	= Less than 200ppm

Point wise reply to queries raised is as the following:
A. The sample does not confirming to Distillate Marine Fuel of IS 16731, with respect to Cloud point, up to the extent of parameters tested.
B. The sample meets all the stringent parameters of HFHSD (IS 16861) except Flash Point (6.5°C less than the required 66°C) and Distillation Recovery at 370 °C (which is 4% less than required 95%).
C. The sample meets all the parameters of Automotive Diesel Fuel not containing bio-diesel (IS 1460) except Distillation Recovery at 360 °C (which is 6% less than required 95%). The sample is most akin to Automotive Diesel Fuel not containing bio-diesel (IS 1460).
D. As per the GCMS studies & above tested parameters the sample is Automotive Diesel Fuel admixed/adulterated with Higher carbon distillate/Light base oil.
E. It is non-hazardous.
Sealed remnant sample returned herewith.

05/04/26

End of the Report

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

Note 1: The results relate only to the items tested.
Note 2: Sample not Drawn by this laboratory.
Note 3: The report shall not be reproduced except in full without approval of this laboratory.
Note 4: Remnant sample should be collected within 30 days otherwise it will be disposed off.

19.5.1 I find that CRCL, Visakhapatnam, in its test report No. 803/DRI dated 01.04.2026, has given a point-wise reply (A to E) to the queries raised in the Test Memo. Of these, replies A to D relate to the identity and characteristics of the goods, while reply E relates

only to the hazardous nature of the sample. The proposal for re-classification in the Show Cause Notice rests primarily on these replies. I therefore proceed to examine each of them, with reference to the tested parameters, the relevant Indian Standards and the evidence that emerged during cross-examination. The point-wise reply is reproduced below:

A. The sample does not confirming to Distillate Marine Fuel of IS 16731, with respect to Cloud point, up to the extent of parameters tested.
B. The sample meets all the stringent parameters of HFHSD (IS 16861) except Flash Point (6.5°C less than the required 66°C) and Distillation Recovery at 370 °C (which is 4% less than required 95%).
C. The sample meets all the parameters of Automotive Diesel Fuel not containing bio-diesel (IS 1460) except Distillation Recovery at 360 °C (which is 6% less than required 95%). The sample is most akin to Automotive Diesel Fuel not containing bio-diesel (IS 1460).
D. As per the GCMS studies & above tested parameters the sample is Automotive Diesel Fuel admixed/adulterated with Higher carbon distillate/Light base oil.
E. It is non-hazardous.

19.6 A: The sample does not confirming to Distillate Marine Fuel of IS 16731, with respect to Cloud point, up to the extent of parameters tested.

19.6.1 The Noticee, in their submissions dated 14.09.2026, has submitted as under:

"2. The Department's own pleaded case, at para 3.1 of the Show Cause Notice, records the CRCL finding that the sample "does not confirming to Distillate Marine Fuel of IS 16731, with respect to Cloud Point, up to the extent of parameters tested." This is, on its own terms, a concession that the sample fails IS 16731 on Cloud Point alone, and no other tested parameter. Since this admission appears in the Department's own notice, it is not a matter the Noticee is called upon to independently establish; the Department is bound by its own pleaded facts.

3. The Department's classification case rests wholly on the four principal conclusions in the CRCL Visakhapatnam report of 01.04.2026 that respond to DRI Test Memo No. 43/2025-26. Each of those conclusions must be weighed independently. The report first records that the sample fails Distillate Marine Fuel under IS 16731 only on Cloud Point and on no other tested parameter. Cloud Point, however, is expressly treated by the standard itself as a characteristic whose relevance turns on intended use and climatic conditions. Note 'f' to Table 1 of IS 16731:2019 states:

"Pour point cannot guarantee operability for all ships in all climates. The purchaser should confirm that the cold flow characteristics (pour point, cloud point, cold filter plugging point) are suitable for the ship's design and intended voyage."

The Director, CRCL, New Delhi, in the letter of 28.10.2025, confirms the same position in the following clear terms:

"if the intended use of the sample under reference is as marine fuel in ships in the colder weather conditions, the cloud point requirement becomes significant. For other usage the cloud point is not a significant parameter. Hence, the end use of the sample under reference may be ascertained at your end."

In cross-examination the CRCL examiner himself accepted that the product meets every other parameter and that whether Cloud Point is mandatory "depends on the authorities who want to decide it." The Noticee's declared and demonstrated end-use is the manufacture of Cutback Bitumen at approximately 130°C – an industrial, land-based process having no connection with marine navigation in cold waters. The solitary Cloud Point deviation therefore supplies no basis for discarding the declared classification.

4. The Hon'ble Gujarat High Court in Noya Infrastructure LLP v. Union of India, 2026 (395) E.L.T. 177 (Guj.), examined an identical factual matrix and held as under in paragraphs 25 and 26:

"25. In the present case, if the 'most akin' test is applied, the same would, in fact, be in favour of the petitioners, as the respondents have not definitively concluded that the Distillate Oil imported by the petitioners is, in fact, High Flame High Speed Diesel or a Diesel to an extent that it would change the nature of classification from Distillate Oil to Diesel. The petitioners cannot be discriminated in view of the communication dated 28.10.2025 written by the CRCL, Delhi, to the Assistant Commissioners of Kandla authorities relating to the similar parameters/characteristics which were found in the tests of the samples of Distillate Oil. However, at this stage, we may clarify that so far as the parameters/characteristics of Distillate Oil relating to cloud point are concerned, the Director of CRCL has already clarified that the relevance of cloud point would depend upon the climatic conditions of the area in which the same is used. Ultimately, it is clarified that if the Distillate Oil is a marine fuel used in ships operating in colder weather conditions, the cloud point becomes relevant, and for other usages, the Cloud Point is not a significant parameter, and hence, it is further informed that the end use of the sample under reference may be ascertained.

26. Thus, there is no definite conclusion with regard to the cloud point, and it depends upon the vessel being operated in specific areas. At this stage, we may also refer to the characteristics of Indian Standards for petroleum products relating to Marine Fuel. The table annexed to the pour point/cloud point/cold filter plugging point for vessels operated by Distillate Marine Fuel stipulates that 'Pour point cannot guarantee operability for all ships in all climates,' and the purchaser should confirm that the cold flow characteristics (pour point, cloud point, cold filter plugging point) are suitable for the design of the ship and the intended voyage. Thus, the cargo imported by the petitioner cannot be ordered to be seized on the basis of the parameter of cloud point, as it will be relevant only at the place, vessel, and time of use, and will depend on the end user."

The ratio of the said judgment is binding on this Authority. The Cloud Point deviation, taken alone, cannot justify rejection of the declared classification under CTH 27101961."

19.6.2 I have carefully considered the submissions of the Noticee as well as the material relied upon in the Show Cause Notice. I find that Cloud Point is the only parameter on

which CRCL, Visakhapatnam has reported non-conformity of the sample with IS 16731. The tested figure, set against the limit prescribed for the DMX category, is as under:

Parameter	**IS 16731 (DMX) Limit**	**CRCL Test Result**	**Outcome**
Cloud Point (winter/summer)	Max −16°C	−2°C	Does not meet

19.6.3 The Chemical Examiner replied at Q.5 and Q.15 of his cross-examination, stating that, except Cloud Point, the other parameters meet IS 16731, up to the extent of parameters tested. For ready reference, the relevant entries of Table 1 of IS 16731:2019 are reproduced below:

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Table 1 — Distillate marine fuels

Characteristics		Unit	Limit	Category ISO-F-							Test method(s) and references
				DMX	DMA	DFA	DMZ	DFZ	DMB	DFB	
Kinematic viscosity at 40 °C		mm^2/s[a]	Max	5,500	6,000		6,000		11,00		ISO 3104
			Min	1,400	2,000		3,000		2,000		
Density at 15 °C		kg/m^3	Max	—	890,0		890,0		900,0		ISO 3675 or ISO 12185; see 6.1
Cetane index			Min	45	40		40		35		ISO 4264
Sulfur[b]		mass %	Max	1,00	1,00		1,00		1,50		ISO 8754 or ISO 14596, ASTM D4294; see 6.3
Flash point		°C	Min	43,0	60,0		60,0		60,0		ISO 2719; see 6.4
Hydrogen sulfide		mg/kg	Max	2,00	2,00		2,00		2,00		IP 570; see 6.5
Acid number		mg KOH/g	Max	0,5	0,5		0,5		0,5		ASTM D664; see 6.6
Total sediment by hot filtration		mass %	Max	—	—		—		0,10[c]		ISO 10307-1; see 6.8
Oxidation stability		g/m^3	Max	25	25		25		25[d]		ISO 12205
Fatty acid methyl ester (FAME)[e]		volume %	Max	—	—	7,0	—	7,0	—	7,0	ASTM D7963 or IP 579; see 6.10
Carbon residue – Micro method on the 10 % volume distillation residue		mass %	Max	0,30	0,30		0,30		—		ISO 10370
Carbon residue – Micro method		mass %	Max	—	—		—		0,30		ISO 10370
Cloud point[f]	winter	°C	Max	-16	report		report		—		ISO 3015; see 6.11
	summer	°C	Max	-16	—		—		—		
Cold filter plugging point[f]	winter	°C	Max	—	report		report		—		IP 309 or IP 612; see 6.11
	summer	°C	Max	—	—		—		—		

[a] $mm^2/s = 1$ cSt.

[b] Notwithstanding the limits given, the purchaser shall define the maximum sulfur content in accordance with relevant statutory limitations. See Introduction.

[c] If the sample is not clear and bright, the total sediment by hot filtration and water tests shall be required. See 6.8 and 6.12.

[d] If the sample is not clear and bright, the test cannot be undertaken and therefore, compliance with this limit cannot be shown.

[e] See 5.1 and Annex A.

[f] Pour point cannot guarantee operability for all ships in all climates. The purchaser should confirm that the cold flow characteristics (pour point, cloud point, cold filter plugging point) are suitable for the ship's design and intended voyage. See 6.11.

[g] If the sample is dyed and not transparent, then the water limit and test method as given in 6.12 shall apply.

[h] This requirement is applicable to fuels with a sulfur content below 500 mg/kg (0,050 mass %).

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Table 1 *(continued)*

Characteristics		Unit	Limit	Category ISO-F-							Test method(s) and references
				DMX	DMA	DFA	DMZ	DFZ	DMB	DFB	
Pour point (upper)[f]	winter	°C	Max	—	−6		−6		0		ISO 3016; see 6.11
	summer	°C	Max	—	0		0		6		
Appearance				Clear & Bright[g]					[c]		see 6.12
Water		volume %	Max	—	—		—		0,30[c]		ISO 3733
Ash		mass %	Max	0,010	0,010		0,010		0,010		ISO 6245
Lubricity, corrected wear scar diameter (WSD) at 60 °C[h]		µm	Max	520	520		520		520[d]		ISO 12156-1

[a] $mm^2/s = 1$ cSt.

[b] Notwithstanding the limits given, the purchaser shall define the maximum sulfur content in accordance with relevant statutory limitations. See Introduction.

[c] If the sample is not clear and bright, the total sediment by hot filtration and water tests shall be required. See 6.8 and 6.12.

[d] If the sample is not clear and bright, the test cannot be undertaken and therefore, compliance with this limit cannot be shown.

[e] See 5.1 and Annex A.

[f] Pour point cannot guarantee operability for all ships in all climates. The purchaser should confirm that the cold flow characteristics (pour point, cloud point, cold filter plugging point) are suitable for the ship's design and intended voyage. See 6.11.

[g] If the sample is dyed and not transparent, then the water limit and test method as given in 6.12 shall apply.

[h] This requirement is applicable to fuels with a sulfur content below 500 mg/kg (0,050 mass %).

19.6.4 I find that IS 16731:2019 prescribes a Cloud Point limit of −16°C (max) for the DMX category, and the sample, at −2°C, does not meet it. The Chemical Examiner, at Q.14 of his cross-examination, has also stated that Cloud Point is mandatory as per the Indian Standard. The question for determination, therefore, is what bearing this deviation has on the identity and classification of the goods.

19.6.5 In this regard, I find that Note 'f' to Table 1 of IS 16731:2019, reproduced above, forms part of the same standard. The Note links the suitability of cold flow characteristics, including Cloud Point, to the ship's design and intended voyage, that is, to the use for which the fuel is meant. I further find that the Director, CRCL, New Delhi, vide letter dated 28.10.2025, has clarified that the Cloud Point requirement becomes significant where the intended use is as marine fuel in ships in colder weather conditions, and that for other usage it is not a significant parameter. The standard, read with its Note and the said clarification, thus indicates that the significance of Cloud Point depends on the end use of the fuel.

19.6.6 I find that this aspect has been considered by the Hon'ble Gujarat High Court in *Noya Infrastructure LLP v. Union of India* [(2025) 37 Centax 338 (Guj.) = 2026 (395) E.L.T. 177 (Guj.)]. In that case, goods declared as Distillate Oil had been seized on the basis of a CRCL report which found that the sample did not meet IS 16731:2019 with respect to Cloud Point. Relying on the clarification of the Director, CRCL dated 28.10.2025, the Hon'ble High Court held, at paras 25 and 26, that there is no definite conclusion with regard to Cloud Point, since it will be relevant only at the place, vessel and time of use and will depend on the end user. The question arising from Reply A of the CRCL Test Report in the present case is the same. I therefore find that the ratio of the said judgment on the question of Cloud Point applies to the present case.

19.6.7 I have considered the answer of the Chemical Examiner at Q.14 in this light. He has stated that Cloud Point is mandatory as per the Indian Standard, and has also stated that

if it is treated otherwise, it depends on the authorities who decide the matter. His statement is correct to the extent that a limit is prescribed in the standard. However, it does not address Note 'f' or the clarification of the Director, CRCL dated 28.10.2025, both of which relate the significance of that limit to end use, and which have been accepted by the Hon'ble High Court. I, therefore, find that his answer does not take the present case outside the ratio of Noya Infrastructure.

19.6.8 As regards the end use of the goods, I find that Shri Vishal Bohra, Director, in his statement dated 13.04.2026 recorded under Section 108 of the Customs Act, 1962, stated that the principal use of distillate oil is in manufacturing Cutback Bitumen, which is made by blending bitumen (60–80%) with distillate oil (20–40%) at around 130°C to reduce viscosity and improve adhesiveness. I find that nothing has been brought on record to show that the goods were meant for use as marine fuel in cold-weather voyages, which, as per the clarification of the Director, CRCL, is the use for which Cloud Point becomes significant.

19.6.9 I further find that Reply A of the CRCL Test Report relates to conformity of the sample with IS 16731, the standard for distillate marine fuel. The classification proposed in the Show Cause Notice, however, is Automotive Diesel Fuel conforming to IS 1460. A deviation from IS 16731 in respect of Cloud Point does not, by itself, establish conformity with IS 1460, and that question has to be examined on the basis of the remaining replies of CRCL and the report of IOCL, which I proceed to do. On Reply A, following the ratio of *Noya Infrastructure*, I find that the Cloud Point deviation, taken alone, does not justify rejection of the declared classification of the goods as Distillate Oil.

19.7 B: The sample meets all the stringent parameters of HFHSD (IS 16861) except Flash Point (6.5°C less than the required 66°C) and Distillation Recovery at 370 °C (which is 4% less than required 95%)

19.7.1 The Noticee, in their submissions dated 14.09.2026, has submitted as under:

> *"5. The same CRCL report next records that the sample meets every stringent requirement of HFHSD under IS 16861 except Flash Point (6.5°C short of 66°C) and Distillation Recovery at 370°C (4% short of 95%). CRCL did not, on account of those shortfalls, describe the product as "most akin to" HFHSD; it simply abandoned that standard and proceeded to test against IS 1460. That course of conduct itself demonstrates that CRCL regards deficiencies in Flash Point and Distillation Recovery as sufficient to take a product outside a claimed description – a markedly stricter approach than the one applied to Cloud Point. The same examiner later confirmed without qualification that distillation range and flash point are important parameters for any petroleum product. That admission governs the weight to be attached to the identical parameters when they reappear against IS 1460. The Noticee submits that if shortfalls on Flash Point and Distillation Recovery were considered sufficient by CRCL itself to take the sample outside HFHSD, the same*

parameters cannot be treated as minor or peripheral when they appear against the proposed standard IS 1460."

19.7.2 I have gone through the above submissions and Reply B of the CRCL Report. The tested figures on which Reply B rests, set against the limits prescribed in IS 16861, are as under:

Parameter	**IS 16861 (HFHSD) Limit**	**CRCL Test Result**	**Outcome**
Flash Point (Abel)	Min 66°C	59.5°C	Does not meet (6.5°C short)
Distillation Recovery @ 370°C	Min 95%	91%	Does not meet (4% short)

19.7.3 I find that the sample, as reported by CRCL, does not meet the requirements of IS 16861 on the above two parameters. The Show Cause Notice has also not proposed classification of the goods as HFHSD. Reply B, therefore, does not by itself support the classification proposed in the Show Cause Notice.

19.7.4 As regards the contention of the Noticee that CRCL abandoned IS 16861 on account of these shortfalls and proceeded to test the sample against IS 1460, I find that the Test Memo itself sought the opinion of CRCL on conformity of the sample with both IS 16861 and IS 1460, and Replies B and C are answers to those queries. I, however, note that during his cross-examination, Shri Pradeep Maroo was specifically asked at Q.8 whether Flash Point and Distillation Range are crucial parameters for determining any petroleum product. In reply, he stated: "*Distillation range and flash point are important parameters for any petroleum product.*" I find, from this answer, that the Chemical Examiner himself regards these two parameters as important for any petroleum product. Accordingly, the shortfall of the sample in respect of these two parameters is material, and I find that the sample cannot be regarded as HFHSD conforming to IS 16861. I further find that, unlike Cloud Point, which is governed by Note 'f' to Table 1 of IS 16731, no such qualification applies to Flash Point or Distillation Recovery. The contention of the Noticee, regarding the weight to be given to the shortfall in Distillation Recovery when the sample is compared with IS 1460, shall be discussed while examining Reply C of the CRCL Test Report.

19.7.5 I further note that Flash Point is one of the most important parameters for identifying and classifying petroleum products. Flash Point is the lowest temperature at which the vapour above a fuel momentarily ignites in air. It therefore shows how safely the fuel can be stored, handled and used. The Hon'ble Supreme Court in Gastrade International (para 80(v)) has observed that "Flash point being a very important criteria to classify petroleum products, non-compliance of the samples on this parameter would

make the classification doubtful." The Flash Point of the sample in the present case, as reported by CRCL, Visakhapatnam, is 59.5°C.

19.7.6 As regards HFHSD, IS 16861 prescribes a minimum Flash Point of 66°C. As its very name indicates, a high flash point is the defining feature of High Flash High Speed Diesel. As per its Scope, IS 16861 is mainly meant for marine use, including use by the Indian Navy, merchant ships and fishing vessels, "where a high flash point diesel is required", and also for non-automotive and stationary engines. The higher flash point provides a safety margin, so that the fuel does not readily form ignitable vapour when stored in bulk and handled in warm conditions or on board vessels. A fuel whose Flash Point is below 66°C does not meet this basic requirement and falls outside the ambit of IS 16861, even if its other parameters are met. The sample, with a Flash Point of 59.5°C, is 6.5°C short of this requirement, and therefore cannot be regarded as HFHSD, as already held at above para.

19.7.7 The same approach has been adopted by the Commissioner of Customs, Kandla, in the order for provisional release dated 06.11.2025 in the case of M/s Prajakt Agro Industries Pvt. Ltd., that has also attained finality. In that case, samples of goods declared as Distillate Marine Oil had Flash Points of 46.5°C and 51.8°C, and CRCL, Visakhapatnam reported them as most akin to HFHSD and as not meeting IS 16731 on Cloud Point. It was found that, since the Flash Point was below the minimum of 66°C, the goods could not be regarded as HFHSD. I, therefore, find that the Flash Point of the sample takes the goods outside HFHSD and does not support the classification of the goods as HFHSD.

19.7.8 I further note that Distillation Recovery is also not a nominal or peripheral parameter, and its purpose needs to be understood. Distillation of a fuel shows the temperature range over which it vaporises. IS 16861 prescribes that at least 95% of HFHSD must be recovered at 370°C, and IS 1460 similarly prescribes that at least 95% of Automotive Diesel Fuel must distil at or below 360°C. The purpose of these limits is to restrict the heavier, high-boiling fractions in the fuel, commonly called the "heavy ends". In the present case, CRCL, Visakhapatnam has reported a recovery of only 91% at 370°C against the IS 16861 requirements, and 89% at 360°C against the IS 1460 requirement. IOCL, Haldia has also reported that the 95% recovery point of the sample is 393°C, against the maximum of 360°C prescribed under IS 1460. The sample thus fails the distillation requirement of both standards.

19.7.9 HFHSD under IS 16861 is meant for use in compression ignition engines, including marine, stationary and other non-automotive engines. Automotive Diesel Fuel under IS 1460 is likewise meant for use in the compression ignition engines of motor vehicles, which in BS-VI vehicles are fitted with high-pressure fuel injection systems and devices fitted in the exhaust system to reduce pollution, such as the diesel particulate filter, which traps the soot present in the exhaust gases. In such engines, the fuel is injected and must vaporise and burn within a very short time in each combustion cycle. It is generally

understood that where a fuel contains heavy ends beyond the prescribed distillation limit, the heavier fractions do not vaporise and burn completely within the time available, resulting in incomplete combustion. The unburnt heavy fractions tend to form carbon deposits on injector nozzles, piston crowns, piston rings and valves, which affect the spray pattern of the injectors and the performance of the engine. Incomplete combustion also results in higher smoke and particulate emissions, which in BS-VI vehicles lead to faster clogging of the diesel particulate filter and other after-treatment devices. Unburnt fuel may further pass into the crankcase and dilute the lubricating oil, reducing its effectiveness and increasing engine wear, and the cold starting and smooth running of the engine may also be adversely affected.

19.7.10 It is for these reasons that the distillation limit forms part of the specification of fuels meant for compression ignition engines. As stated in the Foreword to IS 16861, such specifications have evolved primarily as performance specifications rather than compositional specifications, and they prescribe what a fuel must achieve to be fit for its intended use in an engine. A product which does not meet the distillation requirement of IS 16861 or IS 1460 is, therefore, not fit for the use for which HFHSD or Automotive Diesel Fuel is meant.

19.7.11 The distillation results of the sample show the presence of heavy ends well beyond the limits permitted under both standards. This is also consistent with Reply D of the CRCL Test Report, discussed in following para, which records the presence of a higher carbon distillate/light base oil in the sample. I, therefore, find that the shortfall in Distillation Recovery is not a minor deviation which can be overlooked. It is a material deviation on a performance parameter essential to the use for which HFHSD and Automotive Diesel Fuel are meant, and it takes the goods outside both IS 16861 and IS 1460.

19.8 C: The sample meets all the parameters of Automotive Diesel Fuel not containing bio-diesel (IS 1460) except Distillation Recovery at 360 °C (which is 6% less than required 95%). The sample is most akin to Automotive Diesel Fuel not containing bio-diesel (IS 1460).

19.8.1 The Noticee, in their submissions dated 14.09.2026, has submitted as under:

> *"6. Against IS 1460 the report states that the sample meets all parameters except Distillation Recovery at 360°C (6% short of 95%) and is therefore "most akin to" Automotive Diesel Fuel not containing bio-diesel. Distillation Recovery is not a discretionary or peripheral test; the Department's own witness has described it as important for every petroleum product. A shortfall of that magnitude cannot be reconciled with the assertion that the sample meets "all the parameters." More fundamentally, the statutory entry CTH 27101944 demands goods "conforming to standard IS 1460." The phrase "most akin to" is language of resemblance, not of conformity, and the report's choice of words accurately reflects the fact that actual*

conformity was not established. The Hon'ble Supreme Court in Gastrade International v. Commissioner of Customs, Kandla, 2025 (392) E.L.T. 529 (S.C.), at Para 80(iv), held that where samples did not conform to IS 1460 on flash point and distillation range, "it cannot be said there is substantial compliance with the parameters of IS 1460:2005." The same principle applies with full force to the present shortfall of 6% on Distillation Recovery."

19.8.2 The Noticee had made similar submissions earlier as well. In their reply dated 23.06.2026, they submitted that "*If mandatory parameters are not satisfied, the product cannot be classified as Automotive Diesel Fuel conforming to IS 1460. A product either conforms or does not conform. There is no statutory category called 'most akin to IS 1460.'*" In their submissions dated 11.09.2026, they submitted "*the Department cannot convert a non-conforming sample into a conforming product by using the expression 'most akin.' Similarity is not conformity, and approximation is not a statutory tariff description. If conformity to IS 1460 is an express element of the tariff entry, failure to establish conformity defeats the proposed CTH 27101944 classification.*"

19.8.3 I have gone through the above submissions and Reply C of the CRCL Test Report. Reply C states that the sample meets all the parameters of IS 1460 except Distillation Recovery. The tested figure on that parameter is set out below:

Parameter	**IS 1460 (ADF) Limit**	**CRCL Test Result**	**Outcome**
Distillation Recovery @ 360°C	Min 95%	89%	Does not meet (6% short)

The question that arises is whether, despite this shortfall, the sample can be treated as Automotive Diesel Fuel conforming to IS 1460. The answer depends on whether Distillation Recovery is an important parameter, or a minor one whose deviation can be overlooked.

19.8.4 On this question, I find that the evidence of the Chemical Examiner himself is clear. At Q.8 of his cross-examination, he stated that "*Distillation range and flash point are important parameters for any petroleum product.*" Unlike Cloud Point, the significance of this parameter is not stated in the standard to depend on end use. The Noticee has also relied on para 80(iv) of the judgment of the Hon'ble Supreme Court in *Gastrade International v. Commissioner of Customs, Kandla* [(2025) 29 Centax 8 (S.C.) = 2025 (392) E.L.T. 529 (S.C.)], reproduced as below:

"*80(iv). ……The last and third test have reported compliance with 14 parameters, though as discussed abovein respect of 2 of the aforesaid 14 parameters, namely, flash point and distillation range, the same are not inconformity. Thus, it cannot be said there is substantial compliance with the parameters of IS 1460:2005*."

There, it was held that where the samples did not conform to IS 1460 on flash point and distillation range, there could not be said to be substantial compliance with IS 1460. I,

therefore, find that the shortfall in Distillation Recovery is material and cannot be treated as a minor deviation.

19.8.5 Since the sample does not meet IS 1460 on an important parameter, namely Distillation Recovery, the opinion in Reply C that it is nevertheless "most akin" to Automotive Diesel Fuel is based on its resemblance to Automotive Diesel Fuel in the other parameters. However, the Chemical Examiner has accepted at Q.5 and Q.15 of his cross-examination that, except Cloud Point, the sample also meets all the other tested parameters of IS 16731, the standard for the goods as declared. Thus, the parameters on which Reply C relies are met by the sample under both the standards, and they do not, by themselves, distinguish Automotive Diesel Fuel from the goods as declared. As held by the Hon'ble Supreme Court in Gastrade International (para 83), what is required to be shown is that the goods bear the closest resemblance to the specified goods, and not mere similarity. I, therefore, find that Reply C, by itself, does not establish that the goods are Automotive Diesel Fuel conforming to IS 1460.

19.8.6 Further, as discussed in detail at paras 19.7.8 to 19.7.11 above, Distillation Recovery is a performance parameter essential to the use of fuels in compression ignition engines. A fuel containing heavy ends beyond the prescribed limit is not fit for the use for which Automotive Diesel Fuel is meant. In the present case, the sample shows a recovery of only 89% at 360°C as per CRCL, and a 95% recovery point of 393°C as per IOCL, against the requirement of IS 1460. I, therefore, find that the shortfall in Distillation Recovery takes the goods outside IS 1460, and the opinion in Reply C does not establish that the goods are Automotive Diesel Fuel conforming to IS 1460.

19.9 D: **As per the GCMS studies & above tested parameters the sample is Automotive Diesel Fuel admixed/adulterated with Higher carbon distillate/Light base oil.**

19.9.1 The Noticee, in their submissions dated 14.09.2026, has submitted as under:

> "**7.** *The report's further assertion that the sample is Automotive Diesel Fuel adulterated with Higher carbon distillate/Light base oil cannot stand with the preceding finding. Under Section 2(a) of the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005, adulteration means the introduction of a foreign substance that results in the product failing to conform to IS 1460. The said Order regulates the supply and distribution of these products within India and does not govern goods at the stage of import. It is referred to here only to understand what the word "adulteration", as used in Conclusion D, means. Non-conformity is therefore an essential element of the statutory concept. The same report cannot simultaneously declare that the sample meets all but one parameter of IS 1460 and that it is adulterated within the meaning of a definition that presupposes non-conformity. The two statements are mutually exclusive. Even apart from that internal contradiction, the adulteration finding is deficient in every other respect. It is submitted that Conclusion D of the CRCL Test*

Report does not identify the alleged adulterant beyond the general description "Higher carbon distillate/Light base oil", nor does it state its proportion in the sample. At Q.12, the Chemical Examiner further stated that "What has been added is also a petroleum origin product." Distillation behaviour, density, kinematic viscosity and flash point are correlated properties; the introduction of a heavier fraction in any material quantity would be expected to elevate density, viscosity and flash point. The report's own figures — density 0.833 g/ml, kinematic viscosity 4.02 cSt, flash point 59.5°C — lie comfortably inside the IS 1460 ranges and display no upward movement whatever. The underlying GCMS methodology and raw data have also not been placed on record despite the examiner's undertaking in cross-examination. A finding of such gravity, carrying confiscatory and penal consequences, cannot rest on incomplete material. The Hon'ble Supreme Court in Gastrade International (Para 80(vii)) has held:

"In view of the ambiguity and lack of clarity in the expert opinion/laboratory test results, it would be unsafe to draw the inference that the Department had been able to prove their case even by applying the test of preponderance of probability merely because the samples conform to certain parameters."

The settled principle that the view favourable to the Noticee must be preferred when technical evidence admits of two readings applies with particular force when the contradiction resides inside a single report of the very officer whose testimony is relied upon. It would therefore be unsafe to treat the CRCL conclusions regarding Automotive Diesel Fuel as having established that the goods conform to IS 1460."

19.9.2 In their submissions dated 11.09.2026, the Noticee had submitted that "*during cross-examination, when the CRCL witness was asked to produce the GCMS methodology/scientific test representing that the sample was adulterated, the answer was that the soft version of the file could be sent. No such scientific finding is established by the cross-examination record itself.*" It was also submitted that "*at Q12 the witness stated that the added material was also a petroleum-origin product. That answer does not establish that the Noticee deliberately mixed Automotive Diesel Fuel or any prohibited product,*" and that "*the Department therefore cannot infer deliberate adulteration merely from overlapping hydrocarbon characteristics.*"

19.9.3 I have gone through the above submissions and Reply D of the CRCL Test Report. It states that, as per the GCMS studies, the sample is Automotive Diesel Fuel admixed/adulterated with higher carbon distillate/light base oil. At Q.9 of his cross-examination, the Chemical Examiner explained that the GCMS analysis showed higher distillates above 370°C. To understand what bearing this has on the proposed classification, it is first necessary to see what the term "adulteration" means.

19.9.4 The Noticee, vide their submissions dated 14.09.2026, has relied upon the definition of "adulteration" in Clause 2(a) of the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005, issued under Section 3 of the Essential Commodities Act, 1955, vide Notification G.S.R. 729(E) dated 19.12.2005. I

find that the term is not defined in the Customs Act, 1962. Clause 2(a) of the said Order defines "adulteration" as "*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*". As also submitted by the Noticee, the said Order regulates the supply and distribution of these products within India and does not govern goods at the stage of import, and it is referred to here only to understand what the word "adulteration", as used in Reply D, means.

19.9.5 On this understanding, a product is described as "adulterated" when, as a result of something being added to it, it does not conform to IS 1460. By describing the sample as "adulterated" Automotive Diesel Fuel, CRCL has, in effect, described it as a product that does not conform to IS 1460. Reply D of the CRCL Test Report, therefore, does not cure the non-conformity noted in Reply C. On the contrary, it confirms that the sample, as imported, does not conform to IS 1460. The next question is whether the finding of adulteration is itself supported by reliable material.

19.9.6 On this aspect, I find that at Q.11 of his cross-examination, the Chemical Examiner was asked to produce the GCMS methodology or scientific test showing that the sample is adulterated. He answered: "*I can send the soft version of the file. I will send it on the mail id provided.*" No such data has, however, been forwarded to this office till date. Further, the Noticee has pointed out that Reply D of the CRCL Test Report also does not identify the alleged adulterant beyond the general description "Higher carbon distillate/Light base oil", nor does it state its proportion in the sample. At Q.12, the Chemical Examiner further stated that "*What has been added is also a petroleum origin product.*" I find that a finding of adulteration which is not supported by its underlying data, and which neither identifies nor quantifies the alleged adulterant, cannot be safely relied upon as per the *Gastrade Judgement.*

19.9.7 Further, the noticee has contended that the absence of the GCMS data also leaves another aspect unexplained. As per Reply C, the sample meets all the parameters of IS 1460 except one, namely Distillation Recovery. In other words, the only change attributed to the alleged addition of a heavier fraction is the shortfall in Distillation Recovery. All the other parameters tested by CRCL have remained within the limits of IS 1460, including Density (0.833 g/ml), Kinematic Viscosity (4.02 cSt) and Flash Point (59.5°C). The Noticee has also pointed out that these parameters are closely related to the distillation behaviour of the product, and that if a heavier fraction had been added to lower the Distillation Recovery, some of the other parameters may fall out of limit prescribed under IS 1460, would ordinarily be expected. The CRCL report does not explain how the alleged addition has affected only Distillation Recovery while leaving all the other parameters within the limits of IS 1460.

19.9.8 When Replies C and D of the CRCL Test Report are read together, the position that emerges is as follows. Reply C presents the sample as Automotive Diesel Fuel meeting all the parameters of IS 1460 except one. Reply D presents it as Automotive Diesel Fuel to

which another substance has been added. The report does not state clearly whether the sample is to be regarded as Automotive Diesel Fuel with one parameter out of range, or as a product that has been altered by the addition of another substance. Nor does it quantify that addition or produce the data on which it rests. The two replies, therefore, do not give one clear and complete account of what the sample actually is.

19.9.9 In view of the above discussion, I find that Reply C of the CRCL Test Report itself recorded that the sample does not meet IS 1460 in respect of Distillation Recovery at 360°C, the recovery being 89% as against the minimum requirement of 95%. The Chemical Examiner has accepted at Q.8 of his cross-examination that distillation range is an important parameter for any petroleum product, and in *Gastrade International* (para 80(iv)) the Hon'ble Supreme Court declined to find substantial compliance with IS 1460 where the distillation range did not conform.

As regards Reply D of the CRCL Test Report, I find that the finding of adulteration rests on GCMS data which, despite the undertaking given by the Chemical Examiner at Q.11, has not been received in this office till date. It neither identifies nor quantifies the alleged adulterant, which, as per the Chemical Examiner's own answer at Q.12, is also a petroleum-origin product. The report also does not explain how the alleged addition has affected only Distillation Recovery while leaving all the other parameters within the limits of IS 1460. Read together, Replies C and D do not give one clear account of whether the sample is Automotive Diesel Fuel with one parameter out of range, or a product altered by the addition of another substance. The Hon'ble Supreme Court in *Gastrade International*, at para 80(vii), relied upon by the Noticee, has held that where the expert opinion or laboratory test results are ambiguous or lack clarity, it would be unsafe to hold that the case has been proved merely because the samples conform to certain parameters. Applying the same principle, I find that Replies C and D of the CRCL Test Report do not establish, with the degree of certainty required in proceedings having confiscatory and penal consequences, that the goods are Automotive Diesel Fuel classifiable under CTH 27101944 as laid down at para 78 of the Hon'ble Supreme Court Judgement in *Gastrade International.*

19.9.10 Further, the Noticee vide their submissions dated 14.09.2026, has submitted as under:

> *"9. Once both laboratory reports are read together with the cross-examination record, the only position that remains is that the goods fail the declared classification of Distillate Oil under IS 16731 on a single parameter, namely Cloud Point. By contrast, they fail the alleged classification of Automotive Diesel Fuel under IS 1460 on Distillation Recovery (CRCL) and, according to the IOCL Chief Manager on cross-examination, also on water content and ash content. That officer ultimately conceded that the goods do not conform to IS 1460 at all.*
>
> *The Hon'ble Supreme Court in Gastrade International v. Commissioner of Customs, Kandla, 2025 (392) E.L.T. 529 (S.C.) has laid down the correct approach for*

competing classification founded on partial or ambiguous technical results. At para 78 the Court held:

> *"What the aforesaid decisions postulate is that there may be varying range in the degree of probabilities. Certainly, where the proceedings involve requirement of fulfilment of technical/scientific parameters with confiscatory and penal consequences, the degree of probability would be of a higher order and not mere probability."*

The present proceedings propose confiscation under Section 111 and penalties under Sections 112, 114AA and 117, and rest entirely on whether the goods satisfy the parameters of IS 1460 and IS 16731. The same ambiguity that proved fatal to the Revenue in Gastrade exists here. The Court held at para 80(vii):

> *"In view of the ambiguity and lack of clarity in the expert opinion/laboratory test results, it would be unsafe to draw the inference that the Department had been able to prove their case even by applying the test of preponderance of probability merely because the samples conform to certain parameters."*

The CRCL report records the sample as meeting all IS 1460 parameters except one, yet simultaneously characterises it as "adulterated" — a term which, on its statutory meaning, denotes non-conformity with IS 1460. The IOCL report, relied upon to cure this difficulty, has been shown on cross-examination of its own signatory to be incorrect on three parameters, and the Chief Manager conceded that the goods do not meet IS 1460 at all. It is in this context that the Court laid down the "most akin" test. At paras 82 and 83 it held:

> *"82. The real test for classification, according to us, would be as to whether any goods or substance in question is 'most akin' or bears the closest resemblance or similarity to any of the specified goods mentioned under the Headings and relative Section or Chapter Notes under the Tariff Act, and not by applying the test of preponderance of probability.*
>
> *83. ...it has to be shown by the Customs Authority that the imported goods bear the most affinity or resemblance or similarity to be 'most akin' to the specified goods and not mere similarity or akinness."*

Applying that test requires weighing the parameter that defeats each classification, not merely counting shortfalls. The goods fail the declared classification on one parameter — Cloud Point. They fail the alleged classification on three — Distillation Recovery, Water Content and Ash Content.

Cloud Point carries little weight. On the express text of IS 16731 (Note (f) to Table 1) it is a voyage/climate-suitability parameter, not a marker of compositional identity. CRCL's own examiner treated its importance as discretionary, and binding precedent (Noya Infrastructure, following the CRCL Director's clarificatory letters) confines its

significance to marine fuel used in cold climates. The goods are used for industrial manufacture of cutback bitumen; the qualified relevance of Cloud Point is therefore absent on the facts.

By contrast, Distillation Recovery, Water Content and Ash Content carry full weight. CRCL's examiner conceded without qualification that these are "important parameters for any petroleum product." IS 1460 contains no end-use qualification. The Department itself relied on the IOCL report at para 5.2 of the Show Cause Notice to "conclusively establish" the Automotive Diesel Fuel classification; that report has now been discredited by its own author.

Thus the goods depart from the declared classification only on a parameter that the standard itself treats as end-use/climate-dependent and that is inapplicable on the present facts. They depart from the alleged classification on parameters conceded to be important without qualification. Applying the "most akin" test mandated by Gastrade, the imported goods are most akin to Distillate Oil under IS 16731 and not to Automotive Diesel Fuel under IS 1460. The proposed reclassification under CTH 27101944, and the consequential demand, confiscation and penalties, cannot be sustained. The burden of proof rests throughout on the Customs authority and remains undischarged.

Further, the heavy detention and demurrage charges are being incurred on the seized goods on a continuing basis. In view of the clear legal and factual position emerging from the laboratory reports and the cross-examination of the Department's own witnesses, the Noticee prays for immediate and unconditional release of the goods so that further accumulation of detention and demurrage may be avoided."

19.9.11 I have gone through the above submissions. I find that the Hon'ble Supreme Court in Gastrade International (paras 82 and 83) has held that goods are to be classified with the specified goods to which they are "most akin", that is, with which they bear the closest resemblance, and that the Customs authority has to establish such closest resemblance and not mere similarity. At para 78, the Court held that where the proceedings turn on technical parameters and carry confiscatory and penal consequences, a higher degree of probability is required. At para 85, the Court further observed that where goods do not fully meet IS 1460, the correct test is whether they are most akin to HSD, for which appropriate scientific evidence will be of utmost relevance. Thus, non-conformity with IS 1460 is not, by itself, sufficient to decide the classification. The Department must show, through reliable scientific evidence, that the goods are nonetheless most akin to Automotive Diesel Fuel.

19.9.12 In the present case, the only opinion that the goods are "most akin" to Automotive Diesel Fuel is Reply C of the CRCL Test Report. For the reasons recorded at paras 19.8 above, that opinion cannot be relied upon. Further, as discussed at para 19.11 below, the officer who signed the IOCL report has admitted on cross-examination that the sample does not meet IS 1460, and that report gives no "most akin" opinion.

19.9.13 The question of which classification the goods most closely resemble cannot be decided merely by counting the parameters on which the sample fails. The significance of each failed parameter has to be considered. The sample departs from the declared standard, IS 16731, only on Cloud Point. As discussed at para 19.6 above, under Note 'f' to Table 1 of IS 16731 and the clarification of the Director, CRCL dated 28.10.2025, as accepted by the Hon'ble Gujarat High Court in Noya Infrastructure, Cloud Point is significant only where the fuel is used as marine fuel in colder weather conditions. Nothing has been brought on record to show such use. By contrast, the sample departs from the proposed standard, IS 1460, on Distillation Recovery, as reported by both the laboratories. This is a mandatory requirement of IS 1460, and it has been accepted as an important parameter by the Chemical Examiner, CRCL at Q.8 of his cross-examination. IS 1460 does not link its relevance to end use, and the Hon'ble Supreme Court in Gastrade International (para 80(iv)) declined to find substantial compliance with IS 1460 where the distillation range did not conform. Applying the "most akin" test, I, therefore, find that the goods do not bear a closer resemblance to Automotive Diesel Fuel. On the contrary, they bear a closer resemblance to Distillate Oil, as declared.

19.9.14 In view of the above, I find that the CRCL report does not establish that the goods are Automotive Diesel Fuel conforming to IS 1460.

19.10 The IOCL Haldia Report

Now, I proceed to examine the other report relied upon in the Show Cause Notice — that of IOCL, Haldia, which is reproduced below for ready reference:

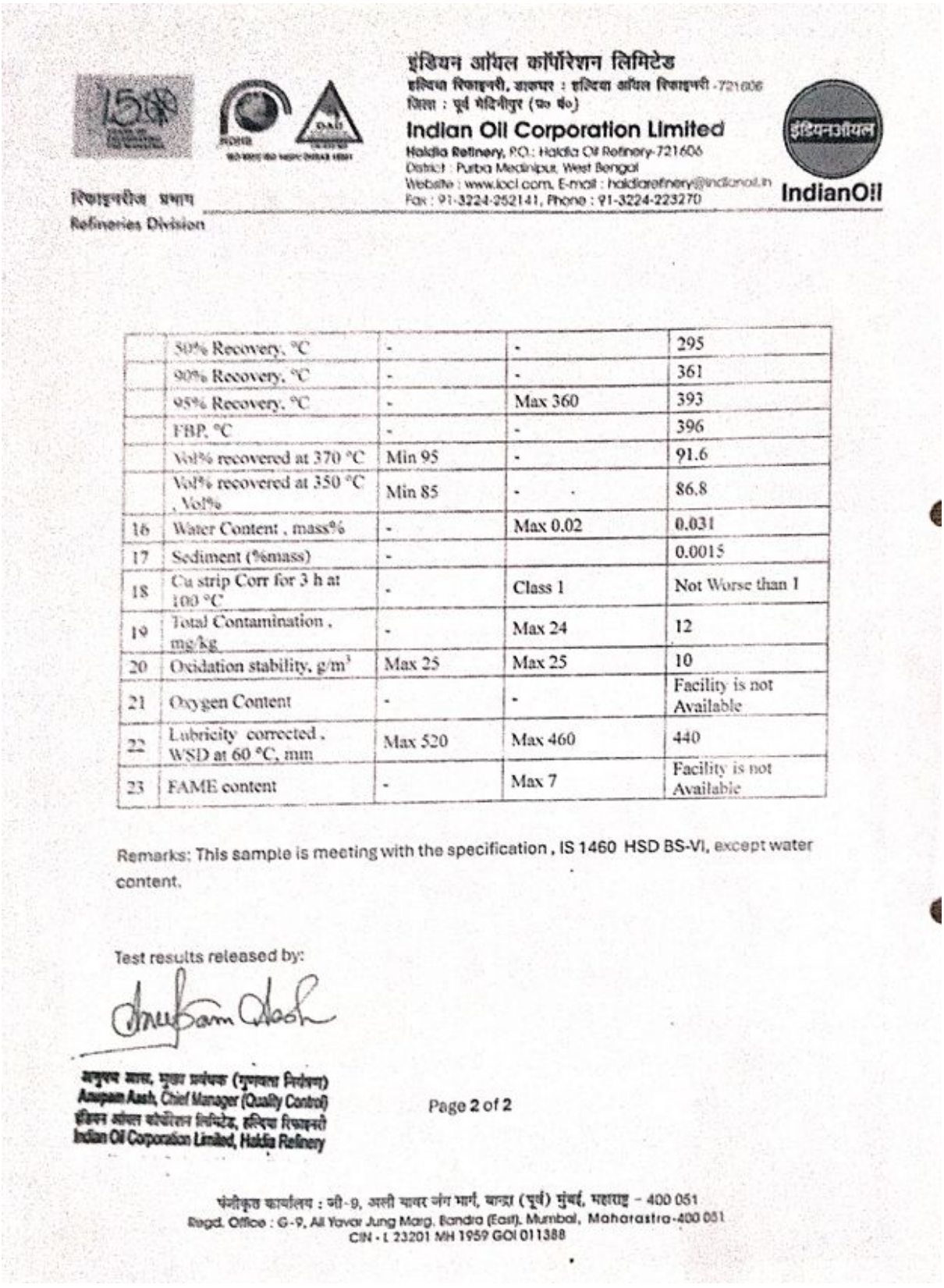
इंडियन ऑयल कॉर्पोरेशन लिमिटेड
हल्दिया रिफाइनरी, डाकघर : हल्दिया ऑयल रिफाइनरी -721606
जिला : पूर्व मेदिनीपुर (प० बं०)
Indian Oil Corporation Limited
Haldia Refinery, P.O.: Haldia Oil Refinery-721606
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Fax : 91-3224-252141, Phone : 91-3224-223270
रिफाइनरीज प्रभाग
Refineries Division
IndianOil

Sample ID: DRI/JRU/INQ-11/2025-26/1829 dated 16.03.2026

TEST RESULTS

Sl No	Parameter	IS 16861 HFHSD	IS 1460 HSD BS-VI	Test Result
1	Appearance	Clear & Bright	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
2	Acid No, mgKOH /g	0.5	-	0.03
3	Acidity, Inorganic, mgKOH/g	-	-	0.0
4	Acidity, Total, mgKOH/g	-	Max 0.2	0.03
5	Ash Content, mass %	Max 0.01	Max 0.01	0.05
6	Cetane Index	Min 45	Min 46	61
7	Cetane Number	-	Min 51	59.5
8	Carbon Residue on 10% residue	Max 0.3	Max 0.3	0.005
9	Cloud Point	-	-	-2
10	Density, kg/m^3	Max 860	810-845	833.3
11	KV at 40 °C, cSt	-	2.0-4.5	4.04
12	**Total sulfur,mass %**	**Max 0.2**	**Max 0.001**	**0.0006**
13	**Flash Point, °C**	**Min 66**	**Min 35**	**55.5**
14	Pour Point, °C	Max 15	Max 15	-6
15	Distillation			
	IBP, °C	-	-	182
	10% Recovery, °C	-	-	240

पंजीकृत कार्यालय : जी-9, अली यावर जंग मार्ग, बान्द्रा (पूर्व) मुंबई, महाराष्ट्र - 400 051
Regd. Office : G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai, Maharastra-400 051
CIN - L 23201 MH 1959 GOI 011388



इंडियन ऑयल कॉर्पोरेशन लिमिटेड
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IndianOil
रिफाइनरीज प्रभाग
Refineries Division

	80% Recovery, °C	-	-	295
	90% Recovery, °C	-	-	361
	95% Recovery, °C	-	Max 360	393
	FBP, °C	-	-	396
	Vol% recovered at 370 °C	Min 95	-	91.6
	Vol% recovered at 350 °C , Vol%	Min 85	-	86.8
16	Water Content , mass%	-	Max 0.02	0.031
17	Sediment (%mass)	-		0.0015
18	Cu strip Corr for 3 h at 100 °C	-	Class 1	Not Worse than 1
19	Total Contamination , mg/kg	-	Max 24	12
20	Oxidation stability, g/m^3	Max 25	Max 25	10
21	Oxygen Content	-	-	Facility is not Available
22	Lubricity corrected , WSD at 60 °C, mm	Max 520	Max 460	440
23	FAME content	-	Max 7	Facility is not Available

Remarks: This sample is meeting with the specification , IS 1460 HSD BS-VI, except water content.

Test results released by:

अनुपम आश, मुख्य प्रबंधक (गुणवत्ता नियंत्रण)
Anupam Aash, Chief Manager (Quality Control)
इंडियन ऑयल कॉर्पोरेशन लिमिटेड, हल्दिया रिफाइनरी
Indian Oil Corporation Limited, Haldia Refinery

Page 2 of 2

पंजीकृत कार्यालय : जी-9, अली यावर जंग मार्ग, बान्द्रा (पूर्व) मुंबई, महाराष्ट्र - 400 051
Regd. Office : G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai, Maharastra-400 051
CIN - L 23201 MH 1959 GOI 011388

19.11 The IOCL, Haldia, in its test report bearing Sample ID DRI/JRU/INQ-11/2025-26/1829 dated 16.03.2026 (Test Memo No. 42/2025-26), has remarked: "*The sample is meeting with the specification, IS 1460 HSD BS-VI, except water content.*"

19.11.1 The Noticee, in their submissions dated 14.09.2026, has submitted as under:

"8. The IOCL report, obtained expressly to place the Department's case beyond doubt by testing all twenty-one parameters mandated by the Supreme Court, itself collapses under the cross-examination of its own signatory. The test-result table records 95% Distillation Recovery at 393°C against the IS 1460 ceiling of 360°C and Ash Content at 0.05% against the ceiling of 0.01%. Yet the Remarks claim compliance with IS 1460 HSD BS-VI except only for water content. The signing officer admitted that both Distillation Recovery and Ash Content had been missed during screening and, in unambiguous terms, that the sample does not meet the specification of IS 1460. He further admitted that the sample was never tested against the declared standard IS 16731 and that there was "no specific reason" for this omission; the comparison was made only on the basis of appearance with IS 16861 and IS 1460. The report the Department regarded as conclusive therefore establishes the opposite of what is claimed for it. The Show Cause Notice itself records that the combined reports from CRCL Visakhapatnam and IOCL Haldia "conclusively established" that the imported goods were Automotive Diesel Fuel conforming to IS 1460. Once the IOCL report is shown by its own author to be incorrect on three parameters and to have never tested the declared standard, the Department's claim of conclusive establishment also fails."

19.11.2 The Noticee had made similar submissions in their submissions dated 11.09.2026, stating that "*the IOCL witness expressly admitted that IS 16731 was not applied because there was 'no specific reason' for not comparing the sample with it. ISO 8217 was also not tested.*" It was further submitted that "*the testing was directed to IS 16861 and IS 1460, with no full conformity to IS 1460 established,*" and that "*the test methodology therefore cannot support the sweeping conclusion that the imported goods were legally Automotive Diesel Fuel.*"

19.11.3 I have gone through the above submissions and the IOCL report dated 16.03.2026. On a plain reading of the report, I find that the sample falls outside the limits of IS 1460 on three parameters, though the remark in the report refers to only one of them:

Parameter	**IS 1460 Limit**	**IOCL Test Result**	**Outcome**
Distillation, 95% recovery	Max 360°C	393°C	Does not meet
Ash Content	Max 0.01%	0.05%	Does not meet
Water Content	Max 0.02	0.031	Does not meet

The question that arises is whether, in view of this discrepancy, the remark in the report can be relied upon to hold that the sample conforms to IS 1460.

19.11.4 I find that this discrepancy was examined in the cross-examination of Shri Anupam Aash, Chief Manager (Quality Control), IOCL, Haldia, who signed the report. At Q.3, he was asked why the sample was not compared with IS 16731. He replied: "*There is no specific reason. The sample's appearance was matching more closely with HSD BS-VI (IS 16861), and it was accordingly compared with IS 16861 and IS 1460, and not with IS 16731.*" This shows that the sample was never compared with the standard for the declared goods, and the standards used were chosen only by looking at the sample. At Q.8, he was

asked why the report says the sample meets IS 1460 "except water content", when the distillation result is outside the limit. He answered: "*The sample is also not meeting the specification with respect to distillation recovery, in addition to water content. This was missed during screening at the time the report was prepared. The sample is not meeting the specification of IS 1460 with respect to distillation recovery and water content.*" At Q.9, he said: "*Ash content is beyond the specified limit and is also not meeting the specification.*" At Q.10, he was asked directly whether the sample meets IS 1460. He replied: "*No, the sample is not meeting the specification of IS 1460.*" I find this to be an important admission. The officer who signed the report has himself confirmed that the remark in the report was incomplete, and that the sample does not meet IS 1460 on three parameters.

19.11.5 In view of the above, I find that the IOCL report also does not support the classification proposed in the Show Cause Notice. The officer who signed the report has himself admitted that the sample does not meet IS 1460, and the report was not compared with IS 16731, the standard applicable to the goods as declared.

19.12 Final Conclusion:

19.12.1 The proposal for re-classification in the Show Cause Notice rests entirely on two test reports, one issued by CRCL, Visakhapatnam and the other by IOCL, Haldia. At para 5.2 of the Show Cause Notice, these reports were stated to have together "conclusively established" that the goods were Automotive Diesel Fuel conforming to IS 1460. Now one of the reports i.e. IOCL, Haldia Report is invalidated by its own signatory and second report i.e. CRCL, Vishakhapatnam Report has been found to be wrong in drawing conclusion that goods were ADF (IS 1460).

19.12.2 Accordingly, I hold that the classification proposed in the Show Cause Notice under CTI 27101944 cannot be sustained, and that the goods covered under Bill of Entry No. 7746721 dated 25.02.2026 are correctly classifiable as "Distillate Oil" under CTI 27101961, as declared.

20. VALUATION

20.1 Regarding the second issue, I find that the Show Cause Notice proposes to reject the declared assessable value of **Rs. 17,46,10,113/-** under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962. It proposes to re-determine the value at **Rs. 25,93,33,307/-** under Rule 9 of the said Rules, on the basis of the market price of Automotive Diesel Fuel taken from an invoice of M/s Nayara Energy Limited.

20.2 Under Rule 12 of the CVR, 2007, the declared value can be rejected only where the proper officer has reason to doubt the truth or accuracy of the value declared. The reason for invoking Rule 12 in the present case is given at para 8.1 of the Show Cause Notice, which reads:

> "*it is evident that M/s. Premium Petro and Infra Projects Private Limited 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...*"

Para 8.3 of the Show Cause Notice further states that, since the goods were reported as Automotive Diesel Fuel by the laboratories, the declared value does not reflect the actual value of the goods.

20.3 I find that the only reason given in the Show Cause Notice for doubting the declared value is the alleged mis-declaration of the goods as Distillate Oil instead of Automotive Diesel Fuel. The Show Cause Notice does not point to any other ground for doubting the value, such as contemporaneous imports of Distillate Oil at a higher price, any evidence of extra payment to the supplier, or any relationship between the buyer and the seller. The doubt about the value is thus based entirely on the proposed re-classification. As held at first issue above, the goods are correctly classifiable as Distillate Oil, as declared. The only reason for doubting the declared value, therefore, no longer survives, and Rule 12 cannot be invoked to reject the transaction value.

20.4 I further find that, as recorded at para 8.4 of the Show Cause Notice, the re-determined value of **Rs. 25,93,33,307/-** has been worked out on the basis of "*ADF data dated 14.03.2026 from the M/s Nayara Energy Limited*", that is, the market price of Automotive Diesel Fuel at Rs. 54,006.17 per KL. Since the goods have been held to be Distillate Oil and not Automotive Diesel Fuel, the price of Automotive Diesel Fuel cannot be used to value them. Once the proposed classification fails, the value worked out on that basis also fails.

20.5 In view of the above, I find that the only ground on which the declared value was doubted, namely the alleged mis-declaration of classification, has not been sustained. The re-determined value has also been worked out on the price of Automotive Diesel Fuel, which the goods have been held not to be. I, therefore, hold that the declared assessable value of **Rs. 17,46,10,113/-** (Rupees Seventeen Crore Forty-Six Lakh Ten Thousand One Hundred and Thirteen only) in respect of Bill of Entry No. 7746721 dated 25.02.2026 is not liable to be rejected under Rule 12 of the CVR, 2007, and is accepted. The proposal to re-determine the value at **Rs. 25,93,33,307/-** (Rupees Twenty-Five Crore Ninety-Three Lakh Thirty-Three Thousand Three Hundred and Seven only) under Rule 9 of the CVR, 2007 is accordingly dropped.

21. CONFISCATION

21.1 Regarding the third issue, I have held above that the goods are correctly classifiable as Distillate Oil under CTH 27101961, as declared, and not as Automotive Diesel Fuel under CTH 27101944. I have also held that the declared value cannot be rejected under Rule 12 of the CVR, 2007. I now examine whether the goods are still liable to confiscation, as proposed in the Show Cause Notice.

21.2 The Show Cause Notice proposes confiscation of the goods under Sections 111(d) and 111(m) of the Customs Act, 1962. Section 111(d) applies to goods imported "*contrary to any prohibition imposed by or under this Act or any other law for the time being in force.*" Section 111(m) applies to goods which "*do not correspond in respect of value or in any other particular with the entry made under this Act.*"

21.3 I find that the Show Cause Notice has proposed confiscation under both these clauses only on the ground that the goods were Automotive Diesel Fuel conforming to IS 1460, which is restricted for import through State Trading Enterprises under Policy Condition No. 5 of Chapter 27 of the ITC (HS), and that they were mis-declared as Distillate Oil. This is clear from para 3.6 of the Show Cause Notice, which states:

> "*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 'Distillate 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 position is repeated at para 11.1 of the Show Cause Notice:

> "*the said mis-declared goods having declared value of Rs. 17,46,10,113/- and re-determined value of Rs. 25,93,33,307/- appear to be liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.*"

21.4 I find from the above that the proposal for confiscation is not an independent charge. It depends entirely on the allegation that the goods were Automotive Diesel Fuel. Section 111(d) can apply only if the goods were Automotive Diesel Fuel, a restricted item, imported without the required authorisation. The import of Distillate Oil under CTH 27101961 is not subject to any such restriction. Since the goods have been held to be Distillate Oil, their import does not contravene any prohibition or restriction under the Import Policy. I, therefore, find that Section 111(d) is not attracted.

21.5 Similarly, Section 111(m) applies where the goods do not match the Bill of Entry in value or in any other particular. In the present case, it was invoked on the ground that the goods were mis-declared in description and classification, and were therefore undervalued. Since the goods have been held to match their declared description, Distillate Oil, and the declared value has been accepted at para 20.5 above, there is no mismatch in description or in value. I, therefore, find that Section 111(m) is also not attracted.

21.6 In view of the above, since neither the proposed re-classification nor the proposed re-determination of value, on which the proposal for confiscation was based, has been sustained, I hold that the goods covered under Bill of Entry No. 7746721 dated 25.02.2026 are not liable to confiscation under Section 111(d) or Section 111(m) of the Customs Act, 1962. The proposal for confiscation is accordingly dropped.

22. PENALTY

22.1 Regarding the fourth issue, I find that the Show Cause Notice proposes penalties on the importer, M/s Premium Petro and Infra Projects Private Limited, under Sections 112(a), 112(b), 114AA and 117 of the Customs Act, 1962, and on its Director, Shri Vishal Bohra, under Sections 112(a), 112(b) and 114AA of the said Act.

22.2 I find that each of these penalty provisions has a basic condition that must be satisfied before a penalty can be imposed. Either the goods must be liable to confiscation under Section 111, or a false or incorrect declaration must have been made, or a provision of the Act must have been contravened. In view of the findings recorded above, I find that none of these conditions is satisfied in the present case.

22.3 Sections 112(a) and 112(b) provide for penalty on a person whose act or omission renders the goods liable to confiscation under Section 111, or who deals with goods which he knows or has reason to believe are liable to confiscation under Section 111. I have held at para 21.6 above that the goods are not liable to confiscation under Section 111. I, therefore, find that the basic condition for penalty under Sections 112(a) and 112(b) is not satisfied. I further find that this applies equally to Shri Vishal Bohra, as the proposal against him was also based on his alleged role in the mis-declaration on which the proposal for confiscation rested. Accordingly, I refrain from imposing any penalty under Sections 112(a) and 112(b) on M/s Premium Petro and Infra Projects Private Limited and on Shri Vishal Bohra.

22.4 Section 114AA provides for penalty on a person who "*knowingly or intentionally makes, signs or uses… any declaration, statement or document which is false or incorrect in any material particular.*" I find that the declaration in question in the present case is that the goods were Distillate Oil, and I have held above that this declaration is correct. Since no false or incorrect declaration has been made, I find that Section 114AA is not attracted. I also note that Shri Vishal Bohra, in his statement recorded under Section 108 of the Customs Act, 1962, stated that the goods were procured on the basis of the Certificate of Analysis and the Certificate of Quality issued by the supplier and a third-party inspection agency. I find that nothing has been brought on record to show that he knowingly or intentionally made or used any false document. Accordingly, I refrain from imposing any penalty under Section 114AA on M/s Premium Petro and Infra Projects Private Limited and on Shri Vishal Bohra.

22.5 I find that Section 117 is a residual provision. It applies only where a person has contravened a provision of the Act, or has failed to comply with a duty under the Act, and no other specific penalty is provided for such contravention. At para 10.4 of the Show Cause Notice, Section 117 has been invoked for the alleged contravention of Sections 17 and 46 of the Customs Act, 1962, that is, the duty to self-assess correctly and to make a true declaration in the Bill of Entry. Since the goods have been held to match their declared description, classification and value, I find that there is no incorrect self-

assessment under Section 17 and no incorrect declaration under Section 46. Accordingly, I refrain from imposing any penalty under Section 117 on M/s Premium Petro and Infra Projects Private Limited.

22.6 In view of the above, since the proposed re-classification and re-determination of value, on which all the proposed penalties were based, have not been sustained, I hold that no penalty is imposable on M/s Premium Petro and Infra Projects Private Limited under Sections 112(a), 112(b), 114AA and 117 of the Customs Act, 1962, and no penalty is imposable on Shri Vishal Bohra under Sections 112(a), 112(b) and 114AA of the said Act. The proposals for penalty against both the Noticees are accordingly dropped.

23. <u>END-USE AND RELEASE OF GOODS</u>

23.1 I have held above that the goods are correctly classifiable as Distillate Oil under CTH 27101961, as declared. This finding rests, among other things, on the fact that the significance of Cloud Point depends on the end use of the goods. The Hon'ble Gujarat High Court in Noya Infrastructure (para 28), while directing release of similar goods declared as Distillate Oil, directed that the importers shall file an end-use certificate before the Customs authority. Following the same approach, I find it appropriate to allow clearance of the goods subject to an End-Use Bond.

23.2 Accordingly, before release, the Noticee shall execute an End-Use Bond of value equal to the declared assessable value of **Rs. 17,46,10,113/-** (Rupees Seventeen Crore Forty-Six Lakh Ten Thousand One Hundred and Thirteen only), binding themselves that:

(i) the goods shall be used only as Distillate Oil for industrial purposes, including the manufacture of cutback bitumen and other bituminous products, and shall not be used for marine application or as Automotive Diesel Fuel, High Flash High Speed Diesel or any other transportation fuel;

(ii) where the goods or any part thereof is sold, the Noticee shall ensure that the buyer uses them in the same manner and shall maintain documents evidencing such use; and

(iii) the Noticee shall submit the documents relating to the use of the goods to the Deputy/Assistant Commissioner of Customs (Import), Custom House, Mundra, within 06 (six) months from the date of release, duly certified by the Chartered Accountant who audits the books of accounts of the Noticee.

23.3 I, therefore, deem it appropriate to release the goods in the above terms. Hence, the subject Bill of Entry No. 7746721 dated 25.02.2026 shall be assessed provisionally under CTH 27101961, as declared, on execution of the End-Use Bond as mentioned above.

<u>ORDER</u>

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

(i) I drop the entire proceedings initiated vide Show Cause Notice No. 61/2026-27/ADC/ZDC/MCH dated 01.06.2026 issued to M/s Premium Petro and Infra Projects Private Limited (IEC: AAOCP5368F) and Shri Vishal Bohra, Director;

(ii) The goods covered under Bill of Entry No. 7746721 dated 25.02.2026, seized vide Seizure Memo dated 06.04.2026, are allowed to be cleared for home consumption by way of provisional assessment of said Bill of Entry, subject to the condition of the Noticee executing an End-Use Bond of value equal to the declared assessable value of **Rs. 17,46,10,113/- (Rupees Seventeen Crore Forty Six Lakh Ten Thousand One Hundred and Thirteen only),** binding themselves that the goods shall be used only as Distillate Oil for industrial purposes and that they shall submit the documents related to such use within 06 (six) months from the date of clearance, duly supported with the certificate of the Chartered Accountant who audits the books of accounts of the Noticee, subject also to compliance with other laws for the time being in force;

(iii) The End-Use Bond shall remain in force until the conditions are fulfilled and the bond is discharged.

25. This order is issued without prejudice to any other action that may be taken against the Noticees 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.

26. Show Cause Notice No. 61/2026-27/ADC/ZDC/MCH dated 01.06.2026 stands disposed of on the above terms.

Digitally signed by Dipakbhai Zala
Date: 15-10-2026 16:01:15

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

To,

1. M/s Premium Petro and Infra Projects Private Limited (IEC: AAOCP5368F), 1/3, Hathroi Market, Ajmer Road, Jaipur, Rajasthan – 302 001

2. Shri Vishal Bohra, Director of M/s Premium Petro and Infra Projects Private Limited, Plot No. 15, Dwarkapuri, Opp. Raj Mahal Palace, C-Scheme, Jaipur, Rajasthan – 302 001

Copy to:

1. The Deputy Director, DRI, Jamnagar Regional Unit,
   Shri Hari Building", 4th & 5th Floor, Opp. Bank of Maharashtra,
   P.N. MARG, JAMNAGAR, Gujarat – 361 002
2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra
3. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra
4. The Dy./Asstt. Commissioner of Customs, Group-I, Custom House, Mundra
5. Guard File