



OFFICE OF THE COMMISSIONER

CUSTOM HOUSE, KANDLA

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A	File No.	GEN/ADJ/ ADC/510/2023-ADJN -O/o-Commr-Cus-Kandla
B	Order-in-Original No.	KND-CUSTM-000-COM-18-2025-26
C	Passed by	M. Ram Mohan Rao, Commissioner of Customs, Custom House, Kandla.
D	Date of Order	28.07.2025
E	Date of Issue	30.07.2025
F	SCN No. & Date	GEN/ADJ/ADC/510/2023-ADJN dated 28.03.2023
G	Noticee / Party / Importer / Exporter	M/s. Hazel Mercantile Limited and others

1. This Order-in-Original is granted to the concerned free of charge.
2. Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:
Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench,
2ndFloor, Bahumali Bhavan Asarwa,
Nr.Girdhar Nagar Bridge, GirdharNagar, Ahmedabad-380004
3. Appeal shall be filed within three months from the date of communication of this order.
4. Appeal should be accompanied by a fee of Rs.1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/-in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh(Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs. 10,000/-in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs(Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.
5. 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. Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules, 1982 should be adhered to in all respects.
8. An appeal against this order shall lie before the Appellate Authority on payment of 7.5% of the duty demanded wise duty or duty and penalty are in dispute, or penalty wise if penalty alone is in dispute.

BRIEF FACTS OF THE CASE-

1. M/s. Hazel Mercantile Ltd. (IEC No. 396030441) (herein after referred to as "M/s. HML" or "the importer" for the sake of brevity), Office No. 4, Plot No. 222, Ward-12B, Gandhidham-370201, registered office at 181, Ashoka Shopping Centre, 2nd Floor, G.T. Hospital Complex, L.T. Road, Mumbai-400001 having Corporate office at Veritas House, 70 Mint Road, Fort, Mumbai-400001 were engaged in import/export/purchase/sale/trading of various petrochemicals, edible oils, metal, iron ore, polymers etc. including goods declared as "Naphtha". M/s. HML got cleared the subject goods at various ports of India.

2. Intelligence gathered by the Directorate of Revenue Intelligence (herein after referred to as "DRI") indicated that M/s. HML were importing Natural Gasoline Liquid (NGL)/Motor Gasoline, in the guise of goods declared as "Naphtha" classifying under CTH 27101229 of Customs Tariff. The intelligence further suggested that an import consignment having more than 20,000 MT of subject import goods in bulk was imported by M/s. HML at Kandla in vessel MT Tuna and another vessel was on the way; that the actual product i.e. NGL/Motor Gasoline was a restricted item and could be imported through State Trading Enterprises (STEs) only in terms of Import policy Condition 5 of Chapter 27. Hence, in order to bypass the restrictions imposed on import of goods through STEs, the said importer had mis-declared the subject goods as "Naphtha" and mis-classified the same under CTH 27101229 of Customs Tariff.

3. Acting upon the intelligence, investigation was initiated by DRI in respect of the goods imported by M/s. HML at Kandla Port with the declared descriptions 'Naphtha'. The importer had filed following In Bond/Warehousing Bills of Entry in respect of subject goods imported by them per vessel MT Tuna (**RUD No. 1 colly**): -

S . N O	WH B/E NUMBE R	B/E DATE	DECLARED ITEM DESCRIPTION	DECLARED CTH	QTY. (MT)	DECLARED ASSESSABLE VALUE (Rs.)	DECLAR ED PORT OF LOADIN G	DECLAR ED SHIPPE R/SUPP PLIER
1	2659785	06-02- 2021	NAPHTHA	27101229	3000	118798533	Sohar, Oman	M/s. Aureole Trading LLC, Dubai, UAE (as per Bills of Entry and Commer cial Invoice), M/s. Delta Shipping & Trading LLC, Oman (As per Bills of Lading)
2	2659863	06-02- 2021	NAPHTHA	27101229	3000	118798533	Sohar, Oman	
3	2659919	06-02- 2021	NAPHTHA	27101229	3000	118798533	Sohar, Oman	
4	2659949	06-02- 2021	NAPHTHA	27101229	3000	118798533	Sohar, Oman	per Bills of Entry and Commer cial Invoice), M/s. Delta Shipping & Trading LLC, Oman (As per Bills of Lading)
5	2659978	06-02- 2021	NAPHTHA	27101229	3000	118798533	Sohar, Oman	
6	2660035	06-02- 2021	NAPHTHA	27101229	3000	118798533	Sohar, Oman	
7	2660059	06-02- 2021	NAPHTHA	27101229	2110.7 7	83585342	Sohar, Oman	
TOTAL					20110. 77	796376540		

3.1. M/s. HML also imported subject goods declared as „Light Naphtha" under CTH 27101221 per vessel MT Aston-1 in November, 2020 and „Naphtha" under CTH 27101229 per vessel MT Arihant in Feb., 2021. However, the present case is related to the subject goods imported per vessel **MT Tuna only**.

4. Whereas, on importation of the said subject goods at Kandla port per vessel MT Tuna, representative sample was drawn from the same by the officer of the Customs House, Kandla. The representative sample so drawn was sent to the Custom House Laboratory, Kandla for testing vide Test Memo bearing no. 17/08.02.2021 dated 08.02.2021 (**RUD No. 2**). After necessary testing, the Chemical Examiner, Custom House Laboratory, Kandla had given their Test

Report bearing no. 6454/2659863/06.02.2021 dated 15.02.2021 and reported that the sample under reference is mixture of hydrocarbons and mentioned therein the readings of test results as under (**RUD No. 3**): -

- Density at 15°C: 0.6474 gm/ml
- Initial Boiling Point: 40°C
- 10% Distills v/v: 42°C
- 50% Distills v/v: 52°C
- 90% Distills v/v: 119°C
- Flash point: Below 25°C

Since the subject goods were declared by the importer to be „Naphtha” and classified under CTH 27101229, which classification pertains to „Full Range Naphtha”, the Customs House Laboratory was requested vide letters dated 16.02.2021 and 17.02.2021 by the Deputy Commissioner of Customs, Kandla (**RUD No. 4 colly**) to give specific report as to whether the subject goods were “Full Range Naphtha”, or otherwise. In response, the Customs House Laboratory, Kandla vide letter dated 19.02.2021 (**RUD No. 5**) opined that the sample under reference was „Natural Gasoline Liquid” (hereinafter referred to as “NGL”). Thus, it appeared that the subject goods were mis-declared and mis-classified as “Naphtha” falling under CTH No. 27101229 by the importer in the aforementioned 07 Bills of Entry filed by them at Customs House, Kandla, suppressing the correct description of the imported goods as „NGL”, which is appropriately classifiable under CTH No. 27101290.

5. Whereas, in terms of Section V and Chapter 27 of the Schedule 1 pertaining to the Import Policy of the ITC (HS), only the specified State Trading Enterprises are permitted to import the goods falling under Tariff Item No. 27101290 and “NGL” is also falling under the same Tariff Item, the same can be imported by the STEs only. As per Para 2.20 of Foreign Trade Policy 2015-20 as amended, any goods, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprises (STE), may be imported or exported by the concerned STE as per conditions specified in ITC (HS). Further, as per the Policy condition stipulated for Chapter 27, import of the goods falling under CTH No. 27101290, are allowed only through IOC subject to para 2.20 of the 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. As the importer M/s. HML was not holding status as STE, hence the import of NGL made by M/s. HML vide the aforesaid 07 Bills of Entry, all dated 06.02.2021 appears to be in violation of the provisions of the Foreign Trade Policy 2015-20, as extended and for the same, the subject goods are appeared to be liable for confiscation under the provisions of Section 111 of the Customs Act, 1962 accordingly.

6. Since it appeared that the subject goods were mis-declared, mis-classified and imported contrary to the Import Policy provisions, there was reason to believe that the subject goods imported vide aforesaid 07 Bills of Entry having declared quantity 20110.77 MT (Received Quantity at the installation 19990.541 MT) and declared Assessable value **Rs. 79,63,76,540/-** (Rupees Seventy-Nine Crore Sixty-Three Lakh, Seventy-Six Thousand, Five Hundred Forty only) [market value of NGL as **Rs. 278,95,19,113/-** (Rupees Two Hundred Seventy-Eight Crore, ninety-five lakh, Nineteen Thousand, One Hundred Thirteen only)], were liable for confiscation under the provisions of Section 111 of Customs Act, 1962, hence the subject goods then lying at the Liquid Storage Tank Terminal of M/s. Friends Salt Works & Allied Industries, Kandla (Hereinafter referred to as “FSWAI”), were placed under seizure vide Seizure Memo dated 26.02.2021 under the provisions of Section 110(1) of the Customs Act, 1962 (**RUD No. 6**). The seized goods were handed over to the representative of M/s. FSWAI, Liquid Storage Tank Terminal, Kandla vide Supratnama dated 26.02.2021 for safe custody (**RUD No. 7**).

7. During the course of investigation, searches were carried out at the office premises of M/s. HML and other related premises on 25.02.2021.

7.1. During the search carried out at the Corporate Office premises of M/s. HML situated at Veritas House, 70, Mint Road, Fort, Mumbai-400001, various incriminating documents, 01 Hard Disc Drive (WD S.No. WXA2AA03ZNT1) containing back up of emails & Tally data , 05 mobile phones of the following key persons, containing data relating to the business activities of M/s. HML and useful for investigation were resumed under Panchnama dated 25.02.2021 (**RUD No. 8**).

S. No.	Name of the mobile phone user (Shri)	Designation of the user	Make/model Mobile Phone
1	Nitin Kumar Didwania	Managing Director	Galaxy S20+, Sr.No. R58N21C5QMZ (RUA No. 1)
2	Minesh Shah	Director	One Plus A6000, Sr. No. ab2350d9
3.	Sreyas S. Chaudhary	Sr.V.P. (Marketing)	One Plus A6010, Sr. No. 3a652ca5
4	Saurabh Rajput	Manager (Procurement)	Redmi Note 7 Pro
5	Rajaram Shanbhag		Iphone X, Sr. No. GOPVX6J7JCLF

7.2. During the course of search carried out at the Branch Office premises of M/s. HML declared in the import documents, situated at Naitik Associate's Building, 1st Floor, Office No. 4, Plot No. 222, Ward -12B, Gandhidham (Kutch), various incriminating documents, printouts of emails,etc. relating to the business activities of M/s. HML and useful for investigation were resumed under Panchnama dated 25.02.2021 (**RUD No. 9**).

7.3. At the Registered Office premises of M/s. HML declared in the IEC records, situated at 181, Ashoka Shopping Centre, 2nd Floor, GT Hospital Complex, Mumbai-400001, no document/file/record/computer relating to the business activities of M/s. HML was recovered during the search. The procedure of the search is incorporated in the Panchnama dated 25.02.2021 (**RUD No. 10**).

7.4. During the course of search carried out at the Office premises of M/s. Hemjyot Agency, appointed Customs Broker of M/s. HML, situated at Shivram House, 2nd Floor, Plot No. 111, Sector-1/A, Gandhidham (Kutch), various incriminating documents, printouts of emails, Samsung Galaxy Note 9 SM make mobile phone of Shri Pramod Soneta, Partner of M/s. Hemjyot Agency relating to the business activities of M/s. HML and useful for investigation were resumed under Panchnama dated 25.02.2021(**RUD No. 11**). During the course of search, one person viz. Shri Satish Gaichor, Associate General Manager-Logistics of M/s. HML was found present at the premises of said Customs Broker firm M/s. Hemjyot Agency.

8. In the course of inquiry, the statements of various persons were recorded, as per the following details:

8.1. Statement of Shri Satish Gaichor, Associate General Manager- Logistics of M/s. HML was recorded on 25.02.2021 (RUD No. 12).

In his statement, Shri Satish Gaichor interalia stated that:

8.1.1. He was working with M/s. HML as Associate General Manager- Logistics since January, 2017 and he was mainly looking after logistics related work and reporting his day-to-day official activities to Shri Nitin Kumar Didwania, Managing Director of M/s. HML; that he also supervises overall activities of their Gandhidham branch office. On being asked, Shri Satish Gaichor stated that M/s. HML was one of the companies of Veritas group and engaged in the

business of import/export, trade and distribution mainly relating to chemicals, dry bulk etc. There were around 15 offices of M/s. HML in India and overseas which include offices at Dubai, China etc.; that the details of all Directors of M/s. HML were not readily available with him and he assured to provide the same within two-three days which he provided later.

8.1.2. Shri Satish Gaichor further stated that he came to Gandhidham in connection with the clearance of import consignments of his company imported through vessel MT Tuna and another vessel viz. MT ARIHANT at Kandla Port; that he joined the Panchnama proceedings in the office premises of their appointed Customs Broker M/s. Hemjyot Agency, as representative of M/s. HML, as per the directions of their Managing Director Shri Nitin Kumar Didwania and remained present during the Panchnama proceedings.

8.1.3. On being asked who was placing orders with the overseas suppliers/shippers/notify parties/agents for import of goods in M/s. HML, Shri Satish Gaichor stated that their Managing Director Shri Nitin Kumar Didwania and Marketing team consisting of Shri Minesh Shah, Director, Shri Saurabh Rajput, Shri Sreyas Choudhary were looking after overall activities relating to placing of orders to overseas suppliers, negotiation of rates, making payments etc.; that they were also looking after sale of the imported goods in domestic market and also export. On being asked, he further stated that M/s. HML do not have any manufacturing Unit in India except in Kandla Special Economic Zone (KASEZ) where a Unit was doing manufacturing too.

8.1.4. Shri Satish Gaichor further stated that M/s. HML have imported goods having declared description Naphtha through vessels viz. MT Aston I (26801 MT in the month of Nov., 2020), MT Tuna (20111 MT in the month of Feb., 2021) and MT ARIHANT (9621 MT in the month of Feb., 2021) at Kandla port. On being asked as to whether the said product was actually Naphtha, or otherwise, he stated that he could not comment in this regard as he was not belonging to chemical background and not aware about the actual chemical composition of the product. On being further asked, he stated that the out of 26801 MT goods imported vide vessel MT Aston-I by his company, around 26000 MT goods were re-exported to M/s. Lotte Malaysia, Malaysia and rest of goods were sold in India; that he would provide the details of such buyers within 2-3 days by email. He told that they were in process to re-export the goods imported vide MT Tuna (20111 MT in the month of Feb., 2021) and MT ARIHANT (9621 MT in the month of Feb., 2021) at Kandla port. On being asked whether any testing was done at the time of re-export of the said 26000 MT goods imported vide vessel MT Aston I, Shri Satish Gaichor stated that he was not aware whether any testing was done at the time of re-export of the goods; that he would check their records and revert back within 2-3 days in this regard.

8.1.5. During the course of statement, the official email IDs of Shri Satish Gaichor were logged in by him and some printouts of email conversations were taken. Similarly, printouts of some of the Whatsapp chat conversations were also taken by him and produced to DRI investigating officer as the same were part of his official activities and pertaining to M/s. HML. As regards one of such printout of email conversations dated 23.02.2021, 09.17 PM between Shri Satish Gaichor and one Shri Ranganatha Reshamwala, a Ship broker, he was asked to comment upon remark „Gasoline“ mentioned in the Sr. No. 1 of Table in the said email. Shri Satish Gaichor stated that this email conversation was relating to last 10 port of calls of the vessel MT Trident Trinity which he was chartering for their shipment of declared goods Naphtha from Hamriyah, UAE to Thailand and this shipment was not meant for import to India.

8.1.6. As regards one Whatsapp Chat dated 11.02.2021 between Shri Satish Gaichor and Shri Nitin Kumar Didwania, Managing Director of M/s. HML, he stated that vide this Chat, he had asked their Managing Director regarding supply of Gasoline and Gasoil by M/s. HML as per requirement (specifications) from the buyers; that their Managing Director asked him for

report/specifications. On being asked, Shri Satish Gaichor stated that it was not remembered to him whether any further development took place in this regard and whether the said party had supplied them the report/specifications of Gasoline and Gasoil. He added that the details of concerned buyer and said attached specifications, were also not readily remembered /available with him.

8.1.7. In the Whatsapp printouts taken by Shri Satish Gaichor from his mobile phone, he told that some conversations were held by him with some brokers namely Shri Shyam Tiwari, CAFS (Coal & Freight Services), Ahmedabad, Shri Sreejith, Dubai, Nikhil of Braemer/La Mer, Shri Ranganatha Reshamwala, Dubai etc and Shri Ashok Desai, Head of Department-Logistics of M/s. HML; that he did not have complete address, email Id of any of these brokers and assured to provide the same. He further stated that these brokers and Shri Ashok Desai had discussed with him through these Whatsapp chat messages regarding supply of Gasoline and Gasoil and last cargos etc. Shri Satish Gaichor voluntarily surrendered his mobile phone of Samsung make for investigation purpose which was switched off and sealed properly in his presence (**RUA No. 2**).

8.1.8. Shri Satish Gaichor vide email dated 13.03.2021 (**RUD No. 13**) provided certain details/documents such as list of Directors of M/s. HML, details of some international buyers and details of brokers but failed to provide remaining details/documents i.e. specification/report regarding Gasoline which was discussed by Shri Satish Gaichor and Shri Nitin Kumar Didwania on Whatsapp conversations, status of testing at the time of re-export of goods imported by them per vessel MT Aston-I, etc.

9.1. The data contained in electronic devices resumed/surrendered during investigation was forensically examined under Panchnama dated 08.03.2021 to 11.03.2021 at Cyber Forensic Laboratory, DRI Zonal Unit, Mumbai (**RUD No. 14**). The data extracted from the electronic devices was exported/stored to destination external Hard Disc Drives as detailed below: -

Sr. No.	Detail of resumed/surrendered electronic device	User/owner of electronic device	Detail of destination external Hard Disc Drive
1	Samsung galaxy S20 Plus	Shri Nitin Kumar Didwania	Toshiba make HDD Sr. No. 80GET0V2TRPG (RUA No. 3)
2	One plus A 6010	Shri Sreyas S. Chaudhary	Toshiba make HDD Sr. No. 80GET0V2TRPG
3	One plus A 6000	Shri Minesh Shah	Toshiba make HDD Sr. No. 80GET0V2TRPG. Whatsapp data could not be extracted due to non-availability of appropriate software and non-support of security patch
4	Redmi Note 7	Shri Saurabh Rajput	Could not be done under this Panchnama. Mobile phone was re-sealed.
5	Iphone X	Shri Rajaram Shanbhag	Toshiba make HDD Sr. No. 80GET0V2TRPG
6	Hard Disc Drive	Containing backup of Tally data, emails etc. of corporate office of M/s. HML	Toshiba make HDD Sr. No. 80GET0URTRPG

7	Samsung SM	Shri Satish Gaichor	Toshiba make HDD Sr. No. 80GET0V2TRPG
8	Samsung Galaxy Note 9SM	Shri Pramod Soneta	Could not be done under this Panchnama. Mobile phone was re-sealed.

9.2. The data contained in mobile phone of Shri Pramod Soneta, Partner of Customs Broker firm M/s. Hemjyot Agency was forensically examined under Panchnama dated 22.07.2021 at Cyber Forensic Laboratory, DRI Zonal Unit, Mumbai but the mobile phone of Shri Saurabh Rajput could not be examined forensically on 22.07.2021 also due to non-availability of updated patch of software as the mobile phone was having pattern lock. The data extracted from the mobile phone of Shri Pramod Soneta was exported/stored to destination external Hard Disc Drive of Toshiba make bearing S/N Y05DT12NTRRG.

9.3. Further attempt was made to get extracted the mobile phone data from the mobile phone of Shri Saurabh Rajput which was having pattern lock which could not be crack opened due to non - availability of updated patch of software. A letter dated 27.12.2021 was issued to Shri Saurabh Rajput directing him to appear for opening of pattern lock at Cyber Forensic Laboratory, DRI Zonal Unit, Mumbai. Shri Saurabh Rajput vide email dated 27.12.2021 confirmed that he has conveyed the PIN/pattern lock to the concerned officer of DRI drawing Panchnama in respect of mobile phone data extraction proceedings at Cyber Forensic Laboratory, DRI Zonal Unit, Mumbai. The data contained in mobile phone of Shri Pramod Soneta, Partner of Customs Broker firm M/s. Hemjyot Agency was forensically examined under Panchnama dated 22.07.2021 at Cyber Forensic Laboratory, DRI Zonal Unit, Mumbai. The Whatsapp data of mobile phone of Shri Minesh Shah, Director of M/s. HML was also examined forensically under Panchnama dated 27 to 30.12.2021. The Whatsapp data of mobile phone of Shri Minesh Shah and data pertaining to the mobile phone of Shri Saurabh Rajput was exported to Toshiba make external Hard Disc Drive bearing S/N 515GT04PTLTH.

10. On examination of data so extracted from the mobile phones of key persons viz. Shri Nitin Kumar Didwania and Shri Satish Gaichor, a number of evidences gathered which suggest that the subject goods imported by M/s. HML were mis-declared with respect to material particulars such as nature of goods, country of origin, port of loading, name of shipper/supplier etc. Various Whatsapp chat conversations among key persons of importer company and other associates such as actual shipper/supplier/agents/representatives, shipping line representative, etc. were noticed who used to communicate mainly through Whatsapp chat conversations and a Whatsapp group namely

“Light Naphtha Ops” which was formed to discuss the conspiracy of manipulation of material particulars in the import related documents as it appears.

11. In order to gather evidences and to record statement of Shri Nitin Kumar Didwania, Managing Director of M/s. HML, Summons dated 12.03.2021 was issued to him. In response, Shri Nitin Kumar Didwania vide email dated 15.03.2021 sought further date for appearance. Accordingly, another Summons dated 16.03.2021 was issued (**RUD No. 15 col"ly**). Statement of Shri Nitin Kumar Didwania was recorded on 12.04.2021 (**RUD No. 16**).

11.1. Shri Nitin Kumar Didwania in his statement inter alia stated that there were following main business companies of Veritas group in India: -

(i) M/s. HML: -He was Managing Director of M/s. HML which was formed in 1995; that he was looking after overall supervision of entire activities of this company. He informed that Shri Minesh Shah, Ms. Kamla Aithal, Shri Vijay Parekh and one more Director whose name was not remembered to him, were Directors; that M/s. HML was in the business of

trading/import/export of all petrochemicals, edible oils, metal, iron ore, polymers etc.; that they were having around 9 offices in India.

(ii) M/s. Veritas India Ltd.: - Shri Pravin Bhatnagar, MsKamlaAithal, and two more Directors whose name were not remembered to him, were Directors; that this company was also in the business of trading/import/export of similar items; that he would provide the list of Directors for both the said companies to DRI within 02 days.

Shri Nitin Kumar Didwania further stated that outside India, there were following group companies of Veritas Group: -

(i) M/s. Hazel Middle East FZE, Hamriyah Free Trade Zone, UAE was engaged in UAE operations; that Shri Sanjay Agarwal was Director in this company.

(ii) M/s. VerascoFZE,Hamriyah Free Trade Zone, UAE (previously known as Hazel International FZE), was a 100% subsidiary of M/s. Veritas India Ltd.; that Shri Sanjay Agarwal was Director in this company. He informed that the Tank storage terminal and processing plant was in M/s. Verasco FZE. He informed that both these companies were having common office situated at P.O. Box 54073, Sharjah, UAE.

11.2. On being asked to provide the Bank Account details in respect of him and M/s. HML, Shri Nitin Kumar Didwania stated that the same were not readily available with him and he assured to provide within 02 days but he failed to provide the required details. He also assured to provide details of all other 17-18 companies / firms in which he was working as Director/Owner/ Controller/ Prop. / Partner etc. alongwith Bank Account details thereof, but did not provide.

11.3. Shri Nitin Kumar Didwania stated that he did not have any role and responsibility in M/s. Hazel Middle East FZE, UAE and M/s. Verasco FZE, UAE. He was asked how many warehouses/storage tank/manufacturing plants which his company M/s. HML or group companies owned or taken on hiring basis from others, were there in UAE and other countries than India. In response, he stated that there were no other warehouses/storage tank/manufacturing plants other than the Tank storage terminal and processing plant of M/s. Verasco FZE, UAE.

11.4. On being asked, he stated that they had imported Light Naphtha, Naphtha (Full Range Naphtha), Naphtha (Full Range Naphtha) respectively in vessel MT Aston1, MT Tuna and MT Arihant respectively during 2020-21. He further stated that as per the documents provided by the supplier, the country of Origin of goods imported in MT Aston1, MT Tuna and MT Arihant was Oman; that the supplier of such goods was Aureole Trading LLC (UAE). He added that they were supplied the goods by the supplier stating that the goods were of Oman origin.

11.5. On being asked whether he/his company/group companies had done any further manufacturing/processing on the goods purchased from the said manufacturer/producer/suppliers and if so what process were done, Shri Nitin Kumar Didwania stated that after importation of goods from the supplier, they brought the goods to their Tank storage terminal and processing plant of M/s. Verasco FZE, UAE, where they sometimes used to do blending of Light Naphtha and/or Heavy Naphtha and /or Full Range Naphtha for cost effectiveness and to meet the standard needed by the buyers but he claimed that the overall nature/specification/classification of the goods imported were not changed by such blending and the CTH remained same (that of the higher quantity goods) after blending.

11.6. On being asked what was the difference in nature/specifications, uses and rates of Light

Naphtha, Heavy Naphtha and Full Range Naphtha and whether the goods imported by them and declared as Light naphtha/Naphtha were extracted from the Natural Gas, Shri Nitin Kumar Didwania explained that the Heavy Naphtha was used usually for raw material of petrochemical production. He added that the Light Naphtha was usually used for manufacturing of polymers and Full Range Naphtha covered Heavy Naphtha and Light Naphtha both; that it was not fix which of the products i.e. Light Naphtha and Heavy Naphtha or Full Range Naphtha was costlier, sometimes Light Naphtha was costlier but sometimes the Heavy Naphtha /Full Range Naphtha was costlier. He further stated that the Final Boiling Point and Density was higher for Heavy Naphtha plus the PIONA (Paraffin, Iso-paraffin, Olefins, Naphthenes and Aromatics) configurations marginally different for Light Naphtha and Heavy Naphtha. He deposed that the Light Naphtha/Naphtha imported by his company seemed to be extracted from Natural Gas.

11.7. Shri Nitin Kumar Didwania was shown documents received from Punjab National Bank, Foreshore Road Branch, Mumbai regarding Letter of Credit bearing no. 84670FLC0000421 dated 28.01.2021 opened by M/s. HML in favour of Aureole Trading LLC (UAE) in respect of import of goods which were imported in vessel MT Tuna. He was apprised that in the application form, Contract dated 11.01.2021 with M/s. Aureole Trading LLC and other supporting documents, the product to be imported was mentioned as „Light

Naphtha (HS Code 27101221). However, M/s. HML filed Bills of Entry declaring the import goods as „Naphtha under CTH 27101229 i.e. for Full Range Naphtha. On being asked to explain the difference in the description of goods and CTH mentioned in the all LC documents and Bills of Entry, Shri Nitin Kumar Didwania stated that it was true that there was difference in the goods description and CTH mentioned in these documents and that of mentioned in the concerned Bills of Entry filed at CH, Kandla. He claimed that initially they had signed the deal with supplier for supply of Light Naphtha but later on the supplier suggested that the goods were actually Full Range Naphtha; that since there was no difference in import policy of Light Naphtha, Heavy Naphtha and Full Range Naphtha and they were having orders for Full Range Naphtha also so they amended the contract as well as the LC with respect to description of goods and CTH thereof and the supplier issued the invoice, BL, Certificate of Origin etc. mentioning description of goods and CTH for Naphtha.

11.8. Shri Nitin Kumar Didwania was apprised that as per Bills of Lading bearing no. 01 to 07 all dated 02.02.2021, for import of 20110.77 MT subject goods in vessel MT Tuna, the shipper was mentioned as M/s. Delta Shipping & Trading LLC, Sohar, Oman whereas in the concerned commercial Invoice/Packing List, the shipper was mentioned as M/s. Aureole Trading LLC, UAE. On being asked to explain, Shri Nitin Kumar Didwania stated that their supplier for 20110.77 MT subject goods in vessel MT Tuna was M/s. Aureole Trading LLC, UAE, accordingly in concerned commercial Invoice/Packing List, the shipper was mentioned as M/s. Aureole Trading LLC, UAE. He expressed that it was possible that M/s. Aureole Trading LLC, UAE had arranged the said goods through M/s. Delta Shipping & Trading LLC, Sohar, Oman, accordingly, the Bills of Lading were containing shipper details as M/s. Delta Shipping & Trading LLC, Sohar, Oman. However, there is apparent variation in the suppliers details in the import documents as per which it appears that Shri Nitin Kumar Didwania tries to hide the actual facts of the such suppliers.

11.9. Shri Nitin Kumar Didwania was apprised that in Para 9 and other related paras of one SCA No. 4803 of 2021 filed by M/s. HML with Hon"ble Gujarat High Court, it was contended that the employee of M/s. TUV India Pvt. Ltd. had drawn samples on 09.02.2021 from the subject goods stored in the Liquid Storage Tank Terminal of M/s. FSWAI, Kandla; that the samples so drawn were from the same cargo, from which the officer of the Customs House, Kandla had drawn the samples; that Shri Nitin Kumar Didwania/M/s. HML had furnished an

Affidavit given by one Shri Shantilal Regar, claiming himself to be an employee of M/s. TUV India Pvt. Ltd. as well as letter dated 27.02.2021 issued by M/s. TUV India Pvt. Ltd., wherein they were claiming that the Test Reports were relating to the samples, which were drawn by them from the warehoused cargo of subject goods. In this regard, on being asked as to whether any approval from Customs was taken to draw the samples from the warehoused goods, Shri Nitin Kumar Didwania stated that he was not aware whether any approval was taken from Customs, and he expressed doubt about the same.

11.10. Shri Nitin Kumar Didwania was apprised that in terms of provisions of Section 64 of Customs Act, 1962, the owner of the goods is permitted for restricted activities in respect of the goods so warehoused, which does not include the sampling of the warehoused goods. Further, the provisions of Section 71 of the Customs Act, 1962 provides that the warehoused Goods cannot be taken out of warehouse, except as provided by this Act and that no warehoused goods shall be taken out of a warehouse except on clearance for home consumption or export, or for removal to another warehouse, or as otherwise provided by this Act. In this regard, on being asked to offer comment as it appeared that drawing of samples from the warehoused goods without intimating Customs and/or without getting approval/permission from Customs for the same was violation of provisions of Customs Act, 1962, Shri Nitin Kumar Didwania stated that the sampling was done by the surveyor/employee of M/s. TUV India Pvt. Ltd. as per their (M/s. HML's) request from the warehoused goods as they interpreted the Section 64 of the Customs Act, 1962 as inspection and sorting may include sampling also; that in case, they are not correct, they would pay the applicable Customs Duty/fine/penalty to the extent of quantity of samples. He added that they were having residual ship composite samples at the time of the discharge of the cargo which was a normal practice they were following.

11.11. Shri Nitin Kumar Didwania was shown statement dated 25.02.2021 of Shri Satish Gaichor, Associate General Manager-Logistics of M/s. HML. On being asked to comment regarding correctness of facts stated by him, Shri Nitin Kumar Didwania stated that the facts relating to him/M/s. HML mentioned in the statement were true. As regards the Whatsapp Chat dated 11.02.2021 between Shri Satish Gaichor and Shri Nitin Kumar Didwania regarding supply of Gasoline and Gasoil by M/s. HML as per requirement (specifications) from the buyers, Shri Nitin Kumar Didwania stated that there are several business activities Shri Satish Gaichor was doing as he was looking after logistic work, and he (Shri Nitin Kumar Didwania) had asked the report like parameters of Gasoline/Naphtha which the buyers intended to buy/sell. On being further asked who were the buyers requested for supply of Gasoline in that case and from whom/where they/M/s. HML used to arrange Gasoline, Shri Nitin Kumar Didwania stated that neither Shri Satish Gaichor had told him, nor he was aware who was the buyer in that case; that they had not supplied Gasoline to any buyer.

11.12. On being asked how many consignments of Gasoline/NGL M/s. HML had imported during last five years, Shri Nitin Kumar Didwania replied in negative stating that they had not imported Gasoline/NGL during last five years. He also denied to have supplied any consignment of Gasoline/NGL in transit through India and/or fully outside India during the last five years. Shri Nitin Kumar Didwania was apprised that in his statement dated 25.02.2021, Shri Satish Gaichor explained that some brokers namely Shri Shyam Tiwari, CAFS (Coal & Freight Services), Ahmedabad, Shri Sreejith, Dubai, Nikhil of Braemer/La Mer, Renganath of Reshamwala, Dubai etc and Shri Ashok Desai, Head of Department-Logistics of M/s. HML had discussed with him regarding supply of Gasoline and Gasoil and last cargos etc. through Whatsapp chat messages. On being asked to provide the details of Gasoline imported/purchased/arranged by M/s. HML from/through these brokers/persons during last five years, Shri Nitin Kumar Didwania stated that they had not imported/purchased/arranged Gasoline from/through these brokers/persons during last five years.

11.13. On being asked what were the main difference in the specifications/parameters of Naphtha (Full Range Naphtha) and NGL, Shri Nitin Kumar Didwania stated that he did not have knowledge of NGL. As regards Naphtha, he stated that it was a basic raw material for all petrochemical products which was used for cracking production for polymers and also for aromatics; that as per his views, the international market was governed by Open Spec Naphtha terms which was basically Full Range Naphtha with the IBP of 25 and FBP 205 and the Density Range from 0.60 Deg C to 0.78 Deg C. He added that it could be further classified as „Light Naphtha“ and „Heavy Naphtha“ where the parameters were slightly changed; that different producers and manufacturers across the Globe were following their own parameters, hence the ranges mentioned by him above might marginally vary.

11.14. Shri Nitin Kumar Didwania was asked who was Vishal Goyal and what business relations were there between Shri Nitin Kumar Didwania/M/s. HML and Shri Vishal Goyal. He was also asked to provide complete details such as name, address, Mb. No., email Id of Shri Vishal Goyal and companies/firms owned by Shri Vishal Goyal as well as Qty.& description of goods sold/purchased through him etc. In response, Shri Nitin Kumar Didwania stated that Shri Vishal Goyal was their employee in M/s. Hazel Middle East FZE; that his mobile number was 971501766413 and email Id was vishal.g@grouperveritas.com.; that he would provide other details within two days as the same were not readily available with him; that since he was their employee, no goods were sold/purchased through Shri Vishal Goyal. Shri Nitin Kumar Didwania did not provide further details about Shri Vishal Goyal.

11.15. Shri Nitin Kumar Didwania was shown Panchnamas dated 25.02.2021 drawn at their Gandhidham office premises, Regd. Office premises as well as corporate office premises at Mumbai in respect of search proceedings conducted by the officers of DRI and some documents/electronic devices including his Samsung make mobile phone were resumed in his presence. He was apprised that the data contained in the said mobile phone was extracted under Panchnama dated 08.03.2021 to 11.03.2021. The said Panchnamas were also shown to him for perusal as per which the data contained in his said mobile phone was extracted and exported/stored to external Hard Disc Drive bearing S/N 80GET0V2TRPG. The external Hard Disc was connected to the computer and some of the Whatsapp Chat conversations were shown to Shri Nitin Kumar Didwania. He was requested to go through the same and explain the content of some selected conversations as being asked which were relevant to the investigation. In this regard, Shri Nitin Kumar Didwania stated that he had perused the Panchnamas shown to him and he put his dated signature thereon in token of having seen and perused the same; that he was aware that his mobile phone was resumed under Panchnama dated 25.02.2021 drawn in his presence; that he had verified the S/N of destination external Hard Disc drive as mentioned in the Panchnama dated 08.03.2021 to 11.03.2021 vis-à- vis the Toshiba make Hard Disc Drive shown to him physically; that the said Hard Disc drive bearing S/N 80GET0V2TRPG was connected to computer in his presence and after plugging in the said Toshiba make Hard Disc Drive, he had seen that the Whatsapp Chat messages were accessed in following steps:- Exported Data of Samsung SM-G985F Galaxy S20 Plus→ Folder 2021-03- 09.12-58-53→ Folder

Samsung GSM_SM-G985F Galaxy S20

Plus→FolderChats→Folder WhatsApp_Native→ Notepad files containing System generated numbers

11.16. Shri Nitin Kumar Didwania after seeing the data contained in the Hard Disc Drive bearing S/N 80GET0V2TRPG which included the data of his mobile phone which was resumed under Panchnama dated 25.02.2021, explained the selected content thereof and supplementary question thereto as under:-

Chat No. 576: -

Sr. No.	Chat Details	Body /content of Chat	Supplementary Question and /or Comments/explanation of Shri Nitin Kumar Didwania
1	<p>Start Time: 18-07-2020 09:14:52(UTC+0)</p> <p>Last Activity: 25-02-2021 08:04:38(UTC+0)</p> <p>Participants:</p> <p>989127025761@s.whatsapp.net Omid, 971501159789@s.whatsapp.net Alex Aby. Hif, 989123377852@s.whatsapp.net Ali. Trilliance, 989127401664@s.whatsapp.net Saba.trilliance. Ali, 989035386365@s.whatsapp.net FJ, NitinDidwania</p> <p>System Message System Message</p> <p>Timestamp: 18-07-2020 09:14:52(UTC+0)</p> <p>Source App: WhatsApp</p>	<p>989127401664@s.whatsapp.net created group "Light Naphtha ops"</p>	<p><i>Q:- Who created the said Whatsapp Group and please inform about the members of the said group alongwith their whereabouts?</i></p> <p><i>Ans:- This group was created by Ms. Saba of Trilliance Petrochemical Ltd., one of the group representative of suppliers.</i></p> <p><i>Other members /Participants of this Whatsapp group are as follow: -</i></p> <p><i>989123377852@s.whatsapp.net Ali. Trilliance, 989127025761@s.whatsapp.net Omid and 989035386365@s.whatsapp.net FJ are other representatives of suppliers group. I am not aware about their full name and other whereabouts.</i></p> <p><i>971501159789@s.whatsapp.net Alex Aby. Hif, and me are</i></p>
			<p><i>representative of our company.</i></p>

2	From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 13:50:57(UTC+0) Source App: WhatsApp	<i>for tuna, since AIS will be off. is it ok to do dox of oman without entering to sohar anchorage? i afraid vessel arrest order is circulated in all GCC countries</i>	<i>Q:- When MT Tuna did not reach Oman, why port of loading was mis-declared as Sohar, Oman for subject goods imported in vessel MT Tuna?</i>
			<i>Ans: - The Bills of Entry were filed by us as per the documents received from the supplier. We have just placed orders for supply of Naphtha. No benefit of country of origin was availed by us, and there is no revenue implication and hence there was no malafide intention on our part behind this.</i>
3	From: Nitin Didwania (owner) Timestamp: 31-01-2021 13:58:43(UTC+0) Source App: WhatsApp	<i>Do we have Iraq doxs for this</i>	<i>Q: - What did you manage with Iraq documents? Please provide such documents.</i>
4	From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 13:59:30(UTC+0) Source App: WhatsApp	<i>yes we have</i>	<i>Ans: - I will ask the suppliers to provide such Iraqi documents if possible and will revert back accordingly within a week time.</i>
5	From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 14:01:58(UTC+0) Source App: WhatsApp	<i>shall we come with iraq dox to kandla?</i>	
6	From: Nitin Didwania (owner) Timestamp: 31-01-2021 16:01:21(UTC+0) Source App: WhatsApp	<i>Yes. We will manage</i>	
7	From: Nitin Didwania (owner) Timestamp: 01-02-2021 09:17:45(UTC+0)	<i>Saba, my logistic says that for tuna, we cannot do Iraq. We need loadport on</i>	<i>Q: - It shows all acts of mis-declaration were done with your active consent and</i>

	Source App: WhatsApp	<i>bl to be either sohar, khorfakkan, or sharjah. I do not need other docs like coo etc.</i>	<i>supervision. Why did you do so. Please comment.</i> <i>Ans: - The Bills of Entry were filed by us as per the documents received from the supplier. We have just placed orders for supply of Naphtha. No benefit of country of origin was availed by us, and there is no revenue implication and hence there was no malafide intention on our part behind this.</i>
8	From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 01-02-2021 11:15:21(UTC+0) Source App: WhatsApp	<i>And idont feel safe for entering into port limits of sohar</i>	<i>Q: - Why did you not provide the documents to Customs having correct material particulars?</i> <i>Ans: - The Bills of Entry were filed by us as per the documents received from the supplier. We have just placed orders for supply of Naphtha. No benefit of country of origin was availed by us, and there is no revenue implication and hence there was no malafide intention on our part behind this.</i>
9	From: Nitin Didwania (owner) Timestamp: 01-02-2021 11:34:38(UTC+0) Source App: WhatsApp	<i>Ais is manageable, but even in jndia they may ask for last port clearance.</i>	<i>Ans: - The Bills of Entry were filed by us as per the documents received from the supplier. We have just placed orders for supply of Naphtha. No benefit of country of origin was availed by us, and there is no revenue implication and hence there was no malafide intention on our part behind this.</i>
10	From: Nitin Didwania (owner) Timestamp: 01-02-2021 11:35:33(UTC+0) Source App: WhatsApp	<i>Sts may be difficulttry. If nothing else works out, we will bring the cargo to India with Iraq and I will mange but that is the last option.</i>	<i>Ans: - The Bills of Entry were filed by us as per the documents received from the supplier. We have just placed orders for supply of Naphtha. No benefit of country of origin was availed by us, and there is no revenue implication and hence there was no malafide intention on our part behind this. The import was legitimately done and the purchase was under LC from Indian bank.</i>
11	From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 01-02-2021 11:53:49(UTC+0) Source App: WhatsApp	<i>We can still get sohar dox.</i>	
12	From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 01-02-2021 11:54:10(UTC+0) Source App: WhatsApp	<i>Maybe we use last port clearance as iraq pc?</i>	
13	From: Nitin Didwania (owner)	<i>Seems fine. This may work. Pls go ahead</i>	

	<p>Timestamp: 01-02-2021 11:55:27(UTC+0) Source App: WhatsApp</p>		
14	<p>From: 989127025761@s.whatsapp.net Omid Timestamp: 03-02-2021 05:44:43(UTC+0) Source App: WhatsApp</p>	<p><i>I'm preparing Sohar docs. Will share them with you once ready</i></p>	
15	<p>From: 989127025761@s.whatsapp.net Omid Timestamp: 03-02-2021 10:39:33(UTC+0) Source App: WhatsApp</p>	<p><i>@971501159789 is it possible to change the name of the shipper? The guy who provides these docs in Sohar for us uses their company and issues docs usually and can later support those docs this way to be safe</i></p>	<p><i>Q: - Who was the guy and his company who used to provide you the documents having manipulated/incorrect material particulars?</i></p> <p><i>Ans: - I am not aware. I will inquire with the sender of this message and will revert within a week time.</i></p>
16	<p>From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 03-02-2021 10:50:35(UTC+0) Source App: WhatsApp</p>	<p><i>@989127025761 as discussed, we can use Delta shipping and trading LLC as the Shipper.</i></p> <p><i>We did the same last time for Aston 1, which went to india</i></p>	<p><i>Q: - It appears that similar mal-practice of mis-declaration of material particulars was being done for subject goods imported in vessels MT Aston I, MT Tuna and MT Aribant? Please comment. What is the actual role of Delta shipping and trading LLC in the import made by you/your company in said three vessels viz. MT Aston I, MT Tuna and</i></p>

17	From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 03-02-2021 10:51:18(UTC+0) Source App: WhatsApp	<i>Also as discussed, pls ask the Delta team only to change the shipper and balance all to remain same as per the DI provided</i>	<i>MT Aribant?</i> <i>Ans: - As stated above, it is possible that M/s. Aureole Trading LLC, UAE had arranged the said goods through M/s. Delta Shipping & Trading LLC, Sohar, Oman, accordingly, the Bills of Lading are containing shipper</i>
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			<i>details as M/s. Delta Shipping & Trading LLC, Sohar, Oman</i>
18	From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 04-02-2021 10:25:03(UTC+0) Source App: WhatsApp	<i>Attachments:</i> <i># 1:</i> <i>chats\WhatsApp_Native\attachments576\thumb_Tuna BL_02 (3000 MT) -1.jpg</i> <i>Body:</i>	
19	From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 04-02-2021 10:25:03(UTC+0) Source App: WhatsApp	<i>1. HS CODE CHANGED IN ALL OBLS.</i> <i>2. LC DETAILSADDED IN 6 & 7</i>	<i>Q: - What was actual /original HS Code which was changed?</i> <i>Ans: - The change was in the CTH of light Naphtha and Full Range Naphtha.</i>

The relevant Whatsapp Chat files being voluminous were copied to CD/DVD (in two sets) and the same were placed in paper envelope duly signed by Shri Nitin Kumar Didwania and sealed in such a manner that the data contained in these CD/DVD cannot be tampered without breaking the seal/paper envelope (**RUA No. 4**).

11.17. On being asked as to whether there was difference in the rate of Iraq/Iran origin goods (Naphtha or NGL) and Oman origin goods (Naphtha or NGL), Shri Nitin Kumar Didwania stated that the prices of Iraq/Iran origin goods (Naphtha or NGL) and Oman origin goods (Naphtha or NGL) are decided as per Mean of Platts Arab Gulf and there was only difference in freight; that as he stated above, he did not have any knowledge of product NGL.

11.18. Shri Nitin Kumar Didwania was shown various images/documents extracted from his mobile phone resumed under Panchnama dated 25.02.2021. On being asked, he explained the content of the images/documents as under: -

Page No. of made-up file containing the images/documents extracted from his mobile phone of Shri Nitin Kumar Didwania	Comments/explanation of Shri Nitin Kumar Didwania
1-131	It is term tender document issued by Ceylon Petroleum Corporation, Sri Lanka. We are not registered with them. Since it is Gasoline, we have not pursued with this.
133-145	We had made a presentation to BPCL for several business possibilities including discussion of Gasoline, however, nothing has been materialized as yet.
147-155	Proposals from international market/Pakistan State Oil Co. Ltd. regarding supply of Naphtha, Gasoline etc. and sample Analysis report.
157-165	Copy of cheques/payment particulars to M/s. Trio Energy DMCC.
167-177	Trade Licenses and other documents issued by Govt. of Dubai in respect of M/s. Aureole Trading LLC.
179-237	Documents relating to supply of goods from origin country in vessel MT Tuna and other vessels(RUD No. 17)
239-295	Printouts/screenshots of whatsapp chat conversations with suppliers and other associates (RUD No. 18)
297-307	Documents relating to market offers of Kerosene, Gasoline, Bituminetc. (RUD No. 19)
309-319	Internal-office discussion note regarding possibilities inbusiness of Gasoline, Kerosene etc. (RUD No. 20)

321-343	Misc letter heads of parties, stamps impression etc. to prepare documents. These may have been sent on whatsapp. I will check and will revert back within a week time. (RUD No. 21)
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11.19. During his statement, Shri Nitin Kumar Didwania was also shown Test Report bearing no. 6454/2659863/06.02.2021 dated 15.02.2021 of Customs House Laboratory, Kandla pertaining to goods imported per vessel MT Tuna, vide which it was reported that the sample under reference was mixture of hydrocarbons. He was apprised that since the subject goods were declared to be „Naphtha“ by M/s. HML in the concerned 07 Bills of Entry and classified under CTH 27101229, which classification pertains to „Full Range Naphtha“, the Customs House Laboratory was requested vide letters dated 16.02.2021 and 17.02.2021 by Deputy Commissioner of Customs to give specific report as to whether the subject goods were Full Range Naphtha, or otherwise; that in response, the Customs House Laboratory, Kandla vide letter dated 19.02.2021 opined that the sample under reference was „NGL“. Copy of these conversations were also shown to him. On being asked to comment as to whether that the subject goods imported in vessel MT Tuna and covered in 07 Bills of Entry were mis-declared and mis-classified as Naphtha falling under CTH No. 27101229 by him/M/s. HML in the aforementioned 07 Bills of Entry filed by them at Customs House, Kandla, suppressing the correct description of the imported goods as „NGL“, he stated that he did not agree with these Test Report bearing no. 6454/2659863/06.02.2021 dated 15.02.2021 of Customs House Laboratory, Kandla and technical opinion of the Customs House Laboratory, vide letter dated 19.02.2021 which suggested that the sample under reference was „NGL“; that as per Order dated 05.04.2021 of Hon“ble High Court of Gujarat , they were in process of getting re-tested the subject goods; that he did not have knowledge of any product known as NGL, the only knowledge he was having that any product produced from natural gas was called NGL.

11.20. On being specifically asked as to whether M/s. HML were holding status as STE and/or have been granted rights for marketing /sale/ transportation of NGL in India, Shri Nitin Kumar Didwania replied in negative saying „no“.

11.21. Shri Nitin Kumar Didwania was further shown provisions of Schedule 1-Import Policy of the ITC (HS), pertaining to Section V Chapter 27, as per which only State Trading Enterprises were permitted to import goods which were covered under CTH/Item Code No. 27101290. He was apprised that as per Para 2.20 of Foreign Trade Policy 2015-20 as extended, any goods, import or export of which was governed through exclusive or special privilege granted to State Trading Enterprises (STE), may be imported or exported by the concerned STE as per conditions specified in ITC (HS); that as per the Policy condition stipulated for Chapter 27, import of the goods falling under CTH No. 27101290, were allowed through IOC subject to para 2.20 of the Foreign Trade Policy, except for the companies who had 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 had been marketing transportation fuels before this date. He was further apprised that it appeared that NGL was classifiable as „Others“ category i.e. 27101290 and accordingly, import thereof was restricted to STEs only. On being asked to comment upon the same, Shri Nitin Kumar Didwania stated that he did not agree with these Test Report bearing no. 6454/2659863/06.02.2021 dated 15.02.2021 of Customs House Laboratory, Kandla and technical opinion of the Customs House Laboratory, vide letter dated 19.02.2021 which suggested that the sample under reference was „NGL“; that they had declared the goods as per the actual quality/ parameters as provided by the suppliers and as per the purchase contract and as per load port analysis which confirmed the goods to be Naphtha. He added that they were having orders from overseas buyers and have received part advance payment for the same on 17.02.2021, 25.02.2021 and 03.03.2021 in respect of goods imported in vessel MT Tuna and they had already requested Customs Kandla for re-export of the goods imported in vessel MT Tuna vide letter dated 16.02.2021 submitted to customs on 17.02.2021.

12. Inquiries were made in this case with M/s. HML and concerned banks with respect to the product name mentioned in the Contracts/agreement entered by the importer with overseas suppliers and Letters of Credit and supporting documents relating to payment made to overseas suppliers for purchase of imported goods. The product name was mentioned by M/s. HML in the documents gathered in this regard, as tabulated below:-

Vessel	Contract No. (RUD No. 22)	Application for LC (RUD No. 23)
MT Tuna	<p>Light Naphtha as per contract no. AUR/HML/LN-04/20-21, dtd.11.01.2021,</p> <p>Naphtha as per revised contract dated 27.01.2021</p>	<p>Light Naphtha (HS Code 27101221) as per Punjab National Bank LC No. 84670FLC0000421, dtd.28.01.2021</p> <p>Naphtha (HS Code 27101221) [HS Code No. 27101221 is for Light Naphtha] as per amendment to the LC No. 84670FLC0000421 dtd.28.01.2021</p>

From above, it appears that though the contract made by M/s. HML with the declared supplier M/s. Aureole Trading LLC appears façade, the terms of said contract dtd.11.01.2021 was for supply of Light Naphtha, which was revised on 27.01.2021 as Naphtha only, without any specification and the similar contract dtd.04.02.2021 was made by them for supply of Naphtha without any specific range. It further appears that while opening the LC with the Punjab National Bank, the importer had made reference to revised contract dtd.27.01.2021, but HS Code of the product Naphtha was declared to be 27101221, which is assigned to Light Naphtha. Against this, the Invoices, B/L and other shipping documents pertaining to the consignment mentioned the HS Code of the goods supplied

as 27101229, which relates to Full Range Naphtha.

From above, there appeared no consistent stand of M/s. HML in respect of product name and correct classification of the goods and they also failed to validate the documents presented by them with the declarations they had made in the respective Bills of Entry.

13. M/s. HML had filed Special Civil Application bearing no. 4803 of 2021 before the Hon"ble Court, challenging the Seizure of subject goods (imported per MT Tuna) effected by the Senior Intelligence Officer of DRI and related Seizure Memo, Summons, Panchnama etc. M/s. HML had vide said SCA further prayed to stay the proceedings of investigation till disposal of the said Writ Petition and requested for provisional release of the seized goods as well as sought permission for re-export thereof etc. M/s. HML had also prayed for re- sampling and re-testing of the subject imported goods involved in the case and provisional release of the seized mobile phone, etc. M/s. HML in the said SCA, relied on a Test Report of M/s. TUV India Pvt. Ltd. claiming that the report was pertaining to samples drawn by their surveyor M/s. TUV India Pvt. Ltd. and that the Test Report indicated the subject goods as Naphtha. The Respondent Department filed reply affidavit before Hon"ble Court which include the counter of Test Report produced by M/s. HML that the Test Report was not authentic and not relating to the subject goods as no permission from Customs authorities was taken by M/s. HML or M/s. TUV India Pvt. Ltd. for drawing of samples from the warehoused goods. This aspect was subsequently confirmed by Shri Nitin Kumar Didwania in his statement dated 12.04.2021 wherein he confirmed that they did not obtain such permission. Thus, there appeared no evidential value for the Test Report of M/s. TUV India Pvt. Ltd. referred by M/s. HML in support of their claim. After hearing both the sides, the Hon"ble Court had vide Order dated 05.04.2021(**RUD No. 24**) disposed of the said Petition, permitting the re-drawing of samples from the impugned imported consignment, providing samples to the Petitioner also and further directing the Respondents for re-testing of the goods from different laboratories at the choice of the Department as also M/s. HML.

14. In compliance of the said Order dated 05.04.2021 of Hon"ble Gujarat Court, officers of the DRI and Customs House, Kandla had carried out Panchnama proceedings regarding drawl of representative samples from the seized goods lying at storage tanks of M/s. FSWAI, Liquid Storage Tank Terminal Division, Kandla on 09.04.2021(**RUD No.25**). During the Panchnama proceedings, 02 sets of the samples (marked as S1 & S2) kept by the DRI, one sealed sample (marked as S3) was handed over to the officer of Customs House, Kandla, whereas 02 sets of sealed samples (marked as S4 & S5) were provided to the authorised representative of Customs House, Kandla.

15. The fresh sample (marked as S1) so drawn from the seized goods was forwarded by DRI to the Central Revenue Control Laboratory (CRCL), New Delhi for testing/re-testing vide letter dated 15.04.2021 under Test

Memo No. 44/2021-22 dated 15.04.2021 (**RUD No. 26**). In the Test Memo, the laboratory

was asked to examine the sample with respect to all possible descriptions of goods including Naphtha as declared by M/s. HML. The queries raised vide Test Memo No. 44/2021-22 are as under:-

- “Whether the representative sample confirms to description/Characteristics/Specifications/properties of “Naphtha”
i.e. “Full Range Naphtha” as per Customs Tariff heading (CTH) 27101229?
- Whether the representative sample is mixture/blended item of Light Naphtha (CTH- 27101221) and/or Heavy Naphtha (CTH- 27101222) and/or Full Range Naphtha (CTH- 27101229) with or without any other goods and falling under „Others“ category goods as per CTH 27101290.
- Whether the representative sample confirms to Characteristics/Specifications/properties of “Natural Gasoline Liquid”?
- Whether the representative sample confirms to Characteristics/Specifications/properties of “Motor Gasoline” as per CTH 27101241?
- Whether the representative sample is mixture/blended item of any of the goods mentioned at Sr. No. 2 to 5 above with or without any other goods and falling under „Others“ category goods as per CTH 27101290 of Customs Tariff.
- Whether the representative sample is other than that of mentioned at Sr. No. 2 to 6 above? If so, details /identification thereof?”

The CRCL, New Delhi provided the test results vide Re-Test Report bearing C.No. 27-Cus/C-08/2021-22 dated 28.05.2021(**RUD No. 27**). The conclusion of Re-Test Report of the CRCL, New Delhi with respect to the sample drawn from the subject goods on 09.04.2021 is reproduced hereunder: -

“The sample is in the form of clear colourless liquid having. it is mainly composed of lighter mineral hydrocarbon oil, having mineral hydrocarbon oil content more than 70% by Wt. It is having following characteristics.....The sample is a low boiling liquid extracted from natural gas. It is „NGL.“

Thus, it was revealed in the CRCL report that the subject goods were not “Naphtha”, as being claimed by M/s. HML

but were suggested to be „NGL□.

The Re-Test Report dated 28.05.2021 was conveyed to M/s. HML vide letter dated 02.06.2021 (**RUD No. 28**).

16. After Order dated 05.04.2021 of Hon"ble Gujarat High Court for re- drawl of fresh sampling, re-testing etc., M/s. HML vide letter dated 06.04.2021 provided a long list of parameters to be ascertained by re-testing (**RUD No. 29**). They vide another letter dated 15.04.2021 provided another list by changing parameters to be ascertained by re-testing (**RUD No. 30**). Vide letter dated 14.05.2021, M/s. HML enclosed copy of letter dated 16.04.2021 claiming that they had submitted one of the samples vide letter dated 16.04.2021 to M/s. Geo-Chem Laboratories Pvt. Ltd. (**RUD No. 31 Col"ly**). M/s. HML

specified the subject of this request letter dated 16.04.2021 as “testing of Naphtha samples” and had given the reason for testing in their request letter addressed to M/s. Geo-Chem Laboratories Pvt. Ltd. as under: -

“The goods were declared as Naphtha and meant for manufacturer of Poly- Olefins and the product is high paraffinic Naphtha but the Department has reservations on the quality and wishes to reverify the same. We request you to analyse the same and certify that the goods confirm to Naphtha or otherwise and oblige”

17. From above content of the request made by M/s. HML to laboratory of M/s. Geo-Chem Laboratories Pvt. Ltd. vide letter dated 16.04.2021, it appeared that M/s. HML had not only attempted to get biased report in their favour but also, they suppressed the actual contention of Department and also mis- represented the facts by stating that the Department *has reservations on the quality of Naphtha*.

18. M/s. HML provided Test Certificates bearing no. PET/21/05/000443 dated 11.05.2021 and PET/21/05/000443-I dated 11.05.2021 of M/s. Geo- Chem Laboratories Pvt. Ltd. wherein the conclusion of testing was mentioned as “Confirms to OSN Specifications of Naphtha with respect to the tests carried out” (**RUD No. 32**).

19. Similar request was claimed to have made by M/s. HML to another laboratory of their choice i.e. Indian Institute of Petroleum (IIP), Dehradun vide letter dated 16.04.2021. They, vide letter dated 19.05.2021(**RUD No. 33 Col"ly**), provided copy of Report bearing No. ASD 417:2021 of IIP, Dehradun which contain the heading of report as “Studies on Sealed Naphtha Samples”. The following further headings are mentioned in this report as under (**RUD No. 34**): -

Project Title: - Studies on Sealed Naphtha Samples

Report No.: ASD 417:2021: Sealed sample of Naphtha (Marked as S5 with Seal No. 715255), Location: MT Tuna with letter having subject “Testing of sealed samples of naphtha dated 16.04.2021 Naphtha”.

Introduction: Studies on Sealed Naphtha Samples from

M/s. Hazel Mercantile Limited, Mumbai

Standard Test Methods:Naphtha samples (Marked as S5 with Seal No.

715255, Location MT Tuna was analysed in our laboratory...)

Results: Naphtha Sample (Marked as S5 with Seal No.

715255 Location: MT Tuna) Report.....

Conclusion: “Based on the above observations/results, this sealed naphtha sample (Marked as S5 with Seal No. 715255, Location MT Tuna) falls under the light naphtha range.”

20. From above content of request letter dated 16.04.2021 and Project Report no. ASD 417:2021, it appears that M/s. HML had not only attempted to get biased report in their favour, they also suppressed the actual contention of Department and also mis-represented stating that the Department has reservations on the quality of Naphtha.

Thus, it appeared that both the laboratories i.e.M/s. Geo-Chem Laboratories Pvt. Ltd. and IIP Dehradun provided their report considering the goods pre determined as Naphtha as per subject and content of request letter dated 16.04.2021 of M/s. HML. Reports of both of these laboratories appeared to be biased, influenced, mis-leading and non-maintainable.

21. It further appears that the conclusions of said two reports supplied by M/s. HML were also different for the similar sample of subject goods, which were drawn from one storage tank. The Test Certificate dated 11.05.2021 of M/s. Geo Chem Laboratories Pvt. Ltd. did not specify even the category of Naphtha as to whether it was Light Naphtha, or Heavy Naphtha or Full Range Naphtha whereas separate classification/CTH are provided under Customs Tariff for Light Naphtha (CTH 27101221), Heavy Naphtha (27101222) and Full Range Naphtha (27101229).

22. Looking to the above, it appears that the test reports of M/s. Geo Chem Laboratories Pvt. Ltd. and IIP Dehradun can not be relied upon as they had not at all tested the sample for its property as “NGL” and there was no categorical denial in any of the reports that the said sample can not be considered as NGL. It thus appears that the test results so provided by M/s. HML are vague and issued to suit the requirement of M/s. HML only, which can not be considered as absolute test report to absolve the goods from being described as NGL.

23. Contrary to the above, the DRI had vide Test Memo bearing no. 44/2021 dated 15.04.2021 clearly requested the CRCL, New Delhi to provide their report independently with the following queries based on the facts came on record during investigation:-

“2. Whether the representative sample confirms to description/Characteristics/Specifications/properties of “Naphtha” i.e. “Full Range Naphtha” as per Customs Tariff heading (CTH) 27101229?

3. Whether the representative sample is mixture/blended item of Light Naphtha (CTH- 27101221) and/or Heavy Naphtha (CTH- 27101222) and/or Full Range Naphtha (CTH- 27101229) with or without any other goods and falling under „Others“ category goods as per CTH 27101290.

4. Whether the representative sample confirms to Characteristics/Specifications/properties of “NGL”?

5. Whether the representative sample confirms to Characteristics/Specifications/properties of “Motor Gasoline” as per CTH 27101241?

6. Whether the representative sample is mixture/blended item of any of the goods mentioned at Sr. No. 2 to 5 above with or without any other goods and falling under „Others“ category goods as per CTH 27101290 of Customs Tariff.

7. Whether the representative sample is other than that of mentioned at Sr. No. 2 to 6 above? If so, details /identification thereof?”

24. From the reference made by DRI, as aforesaid, there remained no cause or concern pertaining to the testing of the goods remained unattended. It further appears that the said 02 Test Reports of M/s. Geo Chem Laboratories Pvt. Ltd. and Indian Institute of Petroleum referred by M/s. HML do not have scientific and reasonable basis to rely and sustain while the Test Report dated 15.02.2021 read with clarification dated 19.02.2021 of Customs House Laboratory, Kandla and Re-Test Report dated 28.05.2021 of CRCL, New Delhi adopting the systematic, scientific and unprejudical method of testing is required to be maintained. Further, the investigation brings following facts and grounds in support of the outcome of test results dated 15.02.2021 read with clarification dated 19.02.2021 of Customs House Laboratory, Kandla and Re- Test Report dated 28.05.2021 of CRCL, New Delhi: -

- (i) It seems that M/s. HML had influenced the test results by providing mis-leading and biased content and parameters in their close ending request letters dated 16.04.2021 and by not disclosing the actual facts/charges and content of the case.
- (ii) The Test Memo bearing No. 44/2021 dated 15.04.2021 of DRI is covering all aspects and it was open to carry out testing with respect to the declared goods and alleged goods as per intelligence as well as to all other such goods falling in such category.
- (iii) The Managing Director of M/s. HML in his statement dated 12.04.2021 deposed that the said imported goods seemed to be extracted from Natural Gas.
- (iv) The conclusion of said two reports supplied by M/s. HML appears to be different and contradictory to each other for similar sample of subject goods which were drawn from one storage tank thus cannot be accepted in the eye of law.

- (v) The Test Certificate dated 11.05.2021 of M/s. Geo Chem Laboratories Pvt. Ltd. is vague in nature and does not specify even the category of Naphtha as to whether it was Light Naphtha, or Heavy Naphtha or Full Range Naphtha as separate classification/CTH are provided under Customs Tariff for Light Naphtha (CTH 27101221), Heavy Naphtha (27101222) and Full Range Naphtha (27101229).
- (vi) The conclusion of Project Report of Indian Institute of Petroleum, Dehradun is vague and not specific as it concludes "the sample marked as S5 falls under the light naphtha range". This only indicated the range and not the goods as such.
- (vii) It is revealed that none of the two test reports, which are being referred to by M/s. HML, are categorically denying that the goods are other than NGL, because no such test process has been carried out in respect of the sample.
- (viii) It seems that the Re-Test Report dated 28.05.2021 of CRCL, New Delhi is specific and conclusive. This is in conformity and corroborated with the Test Report dated 15.02.2021 and clarification/technical opinion dated 19.02.2021 of Customs House Laboratory.
- (ix) The intelligence, investigation and the test report of Customs House Kandla and Test report of referral lab CRCL New Delhi also reveals the identity of the imported goods as NGL.
- (x) The testing parameters for both the test reports referred by M/s. HML were as suggested by M/s. HML, but they are seemingly unable to explain how those parameters had got relevance with particular statutory provisions under the Customs Act, 1962 or under the Foreign Trade Policy pertaining to classification of the imported goods. In absence of statutory relevance of those parameters/methods, the outcome of the analysis derived by the concerned testing laboratories is not providing compliance with the statutory classification methods for the goods.
- (xi) The plain conversation retrieved from WhatsApp chat of M/s. HML indicates that they have apparently hatched the conspiracy to mis-declare the subject goods as naphtha/light Naphtha instead of Gasoline/NGL (as apparent from statement of Shri Nitin Kumar Didwania, MD of M/s. HML) and accordingly they approached the respective test labs with very narrow and closed parameters with malafide intent to get the favorable results as per their conspiracy, will and choice.

Thus, those test reports relied upon by M/s. HML appear to be non-reliable, contradictory to each other and non-maintainable.

25. The observations of Hon'ble High Court of Gujarat in the testing procedure were as follow: -

"6. Reading of the Seizure Memo dated 26.02.2021 what is evident is that the Directorate of Revenue Intelligence (D.R.I) regional Unit, Gandhidham (Kutchh) has initiated an investigation in respect of the goods imported. The seizure memo indicates that since the declared

goods are Natural Gasoline Liquid, none other than State Trading Enterprises are permitted to import these and the petitioner not holding such a status, the goods are prohibited and therefore are liable for confiscation as per the provisions of Section 111 of the Customs Act, 1962 and they are lying at liquid storage bank terminal, M/s. Friend Salt and Work and allied industries, Kandla, are so seized to be in safe custody pending such investigation.

7.....

8. Based on the correspondences that have been undertaken post the order passed by this Court on 05.04.2021 permitting drawing of samples for a re- test on 08.04.2021, the Directorate of Revenue Intelligence addressed a letter to the Managing Director of M/s. Hazel Mercantile Limited, the petitioner, requesting them to make necessary arrangement to make an authorized representative available for sampling proceedings. The petitioner proposed that the material be drawn by sample and be re tested at certain laboratories.

.....What is evident from the communications annexed to the petition is that the petitioner independently forwarded the samples for re-testing to the Geochem Laboratory and to the IIPM without consulting the statutory authorities. Based on the order dated 05.04.2021 passed by the Court, it appears that the petitioner by its letters supplied a long list of 66 parameters proposed to be tested which was subsequently changed to a proposal of 49 parameters for testing. From reading of the affidavit-in-reply of the respondent, it appears that no parameters were suggested by the petitioner pertaining to the test of goods as Natural Gasoline Liquid. Even if the letters dated 16.02.2021 and 17.02.2021 which are pressed into service by Mr. Nankani are considered as creating a doubt about the Custom House Laboratory what is indicated is that though the lines of investigation was in context of whether the goods was Naphtha, the CRCL report dated 28.05.2021 (page 447 of the paperbook) in accordance with the parameters prescribed by the authorities in the test memo indicate unequivocally that the consignment is that of Natural Gasoline Liquid.

9. The validity of the test reports of M/s. Geochem Laboratories Private Limited and of the Indian Institute of Petroleum have been disputed by the authorities on the ground - (i) That the test results have been influenced by providing misleading and biased content and parameters in the petitioner's close ending request letters. (ii) That the conclusion of the two reports supplied by the petitioner are different and contradictory to each other. (iii) The test certificate dated 11.05.2021 of M/s. Geochem Laboratories is vague in nature and does not specify even the category of Naphtha. The test report of the Indian Institute of Petroleum is not specific as it concludes "the sample marked as S5 falls under the light Naphtha range" which only indicates the range and not the goods. (iv) In contrast thereof there is a test report of the CRCL dated 28.05.2021, an accredited laboratory which shows that the consignment is that of Natural Gasoline Liquid.

10.....

11.*We are afraid then when the validity of the reports are disputed inasmuch as it is the case of the Union of India through its investigating agency that the parameters and scientific analysis of the reports on which the petitioner seeks reliance are contradictory, this Court would be loathe in weighing its options on such disputed questions of fact and disturbing the seizure memo an exercise which cannot be undertaken in the midst of an investigation. The Court in exercise of its extra-ordinary jurisdiction under Article 226 of the Constitution of India cannot enter into a roving inquiry on the basis of conflicting test reports to decide the validity of a seizure memo.*

12. *Moreover, what we find from the records of the case is that the though it is a stand of the Union of India that there can be no provisional release of goods pending seizure for which reliance is placed on a decision in the case of Raj Grow Impex (supra) by the respondent counsel Shri Devang Vyas and also a decision from which Mr. Nankani draws support. The correspondence indicates that letters for provisional release and communications inter-se dated 28.02.2021, 16.04.2021, 04.05.2021 and 12.05.2021 made to the Principal Commissioner of Customs, Kandla are pending. No final decision on provisional release has yet been taken on these applications of the Petitioner.*

13. *The exercise of seizure is an interim measure pending investigation. What is evident from the affidavit-in-reply filed by the investigating agency is that based on the statements recorded under Section 108 of the Customs Act, 1962, the investigation is pending. Reading of the provisions of the Customs Act, 1962 Sections 111 and 112 which provide for confiscation of goods post an investigation, the authorities are required to issue a show-cause notice under Section 124 of the Customs Act, 1962 before confiscation of goods. That stage has yet not reached.”*

26. Subsequently M/s. HML filed another SCA bearing No. 7840 of 2021 before Hon“ble Gujarat High Court on 02.06.2021 challenging the Re-Test Report dated 28.05.2021 of CRCL, New Delhi on the basis of test reports of two laboratories i.e. M/s. Geo-Chem Laboratories Pvt. Ltd. and IIP, Dehradun and also challenged the seizure, classification adopted by DRI in seizure memo etc. and prayed for provisional release and re-export of seized goods, recovery of costs, detention/ demurrage/ storage charges. The Reply Affidavit to the SCA No. 7840 of 2021 was filed on 22.06.2021 covering all the contentions raised by M/s. HML vide SCA No. 7840 of 2021.

27. M/s. HML filed Affidavit of Rejoinder dated 28.06.2021 to the SCA No. 7840 of 2021 followed by Supplementary Affidavit dated 16.07.2021 which were also replied vide Sur rejoinder dated 03.07.2021 and Sur Sur rejoinder dated 22.07.2021.

28. M/s. HML made repeated requests to the competent authority i.e. Commissioner, Customs House, Kandla for provisional release of

subject goods imported by the per MT Tuna. They were informed vide letter dated 22.06.2021 of Deputy Commissioner (Gr-I), Customs House, Kandla that the matter was sub-judice and hence their request would be processed as per the directions of the Hon"ble Gujarat High Court (**RUD No. 35**). After several effective hearings, the Hon"ble Gujarat High Court vide Order dated 24.08.2021 read with Order dated 15.09.2021 dismissed the petition of M/s. HML directing the petitioner M/s. HML to press their application for provisional release and directed the respondents to decide the applications so made pending before it, in accordance with law within a period of four weeks from the date of receipt of a certified copy of the Order (**RUD No. 36**).

29. M/s. HML filed Special Leave Petition before Hon"ble Supreme Court of India against the Order dated 24.08.2021 of Hon"ble Gujarat High Court which was rejected vide Order dated 08.10.2021 on the ground that the directions of Hon"ble Gujarat High Court imparted vide Order dated 24.08.2021 were pending for implementation before the competent authority (**RUD No. 37**).

30. In compliance of Hon"ble Gujarat High Court Order dated 24.08.2021, M/s. HML were conveyed vide letter dated 27.10.2021 of the Assistant Commissioner of Customs (Gr.I), Custom House, Kandla, as under (**RUD No.38**):

"Please refer to your letter dtd.28.09.2021 regarding provisional release for re- export. In this regard, it is to inform you that the Commissioner of Customs, Kandla has not exceeded the request & rejected provisional release for re- export."

31. M/s. HML preferred appeal before Hon"ble CESTAT, West Zonal Branch, Ahmedabad against the communication dated 27.10.2021 of the Assistant Commissioner of Customs (Gr.I), Custom House, Kandla. It appears that Hon"ble CESTAT without going into details of the case and without following the Rule 10 of the CESTAT (Procedure) Rule 1980 as well as natural justice by way of not providing reasonable opportunity of hearing and filing written submission to the department, passed Order dated 03.12.2021 ex parte (**RUD No. 39**) and allowed provisional release and re-export in respect of seized goods imported per MT Tuna. Being aggrieved with Order dated 03.12.2021 of Hon"ble CESTAT , DRI filed SCA No. 1715 of 2022 before Hon'ble High Court of Gujarat against the CESTAT Order. The Hon"ble Gujarat High Court vide order dated 27.01.2022 passed the following orders (**RUD No.40**):-

"20. Having heard the learned counsel appearing for the parties and having gone through the materials on record, we are of the view that at this point of time without entering into any other controversy, we must pass an appropriate interim order that may protect the interest of both, the respondent No.1 also and at the same time the writ applicant DRI. It is very clear that even if the respondent No.1 is permitted to re-

export the goods as ordered by the Tribunal, it is always open for the Department to initiate appropriate proceedings for the purpose of confiscation of the goods by issue of a show cause notice. All larger issues involved in this litigation shall be looked into and decided.

21. We are of the view that we should permit the respondent No.1 to re-export the goods on the condition that the respondent No.1 shall furnish a running Bank Guarantee of an amount of Rs.15 Crore of any Nationalized Bank in favour of the respondent No.2, Commissioner of Customs, Kandla. This would definitely protect the interest of the Revenue to some extent.

22. As the vessel is now ready to sail its going to be very difficult for the respondent No.1 to furnish the bank guarantee by today itself. In such circumstances, Mr. Nankani, the learned senior counsel submitted that an authorized representative of the Company i.e. the respondent No.1 shall file an undertaking in the form of an affidavit before this Court stating that the bank guarantee of the amount of Rs.15 Crore shall be furnished to the respondent No.2 by 31.01.2022 without fail. For the present, we permit the respondent No.1 to proceed with the re-export of the goods on the respondent No.1 furnishing a bank guarantee of Rs.15 Crore in favour of the respondent No.2 by 31.01.2022. The respondent No.1 be permitted to re-export the goods by using the nomenclature "Naphtha" and it is observed that using of the said nomenclature would not bind the Department (DRI) and would not entitle the respondent No.1 to raise a plea of estoppel in the proceeding that may be initiated by the DRI against the respondent No.1."

M/s. HML , vide letter dated 31.01.2022 (**RUD No. 41**) had submitted the Bank Guarantee bearing no. 49580IGL0009222 for Rs. 5 Crore and 49580IGL0009322 for Rs. 10 Crore both dated 29.01.2022, as per Hon^{ble} High Court Order dated 27.01.2022 and the goods were re-exported vide following Shipping Bills showing description of goods „Naphtha”:-

Shipping Bill No. & Date (RUD No. 42)	Qty. (KG)	Declared Value (Rs.)	FOB	Name and country of buyer
7481590 dated 14.01.2022	2846000	138341214		M/s. Verzone PTE Ltd., UAE

7481589 14.01.2022	dated	2846000	138341214	M/s. Verzone PTE Ltd., UAE
7481583 14.01.2022	dated	950000	46178550	M/s. Verzone PTE Ltd., UAE
7480824 14.01.2022	dated	3000000	145827000	M/s. Verzone PTE Ltd., UAE
7575533 19.01.2022	dated	1898000	99948206	M/s. United Raw Material PTE Ltd., Singapore
7576010 19.01.2022	dated	2846000	149869649	M/s. United Raw Material PTE Ltd., Singapore
7577007 19.01.2022	dated	2846000	149869649	M/s. United Raw Material PTE Ltd., Singapore
7576700 19.01.2022	dated	1898000	99948206	M/s. United Raw Material PTE Ltd., Singapore
Total		19130000	968323688	

Subsequently, on being prayed by M/s. HML, Hon'ble High Court reduced the BG amount from Rs. 15 Crore to Rs. 8 Crore vide Order dated 21.04.2022 (**RUD No.43**).

32. In order to get substantiated the evidence gathered during investigation and to get further evidences, inquiries were extended to overseas suppliers and handlers of the subject goods. The reply is awaited from overseas Customs formations.

33. During the course of investigation, Summons were issued to following persons to gather evidence and to explain and clarify such evidences gathered during investigation. The outcome and status of Summons is as under: -

S. No.	Name of Person (Shri/Smt./ Ms.)	Designation/ Company/connection with present case	Date of Summons issued (RUD No. 45)	Date given for appearance	Outcome/status of Summons
1	Nitin Kumar Didwana	Managing Director, M/s. HML	08.12.2021, 29.12.2021, 10.01.2022, 12.01.2022	24.12.2021 , 31.12.2021 , 12.01.2022 , 18.01.2022	Neither details/documents provided, nor appeared
2	Rajaram Shanbhag	M/s. HML	13.09.2021, 08.12.2021, 10.01.2022	30.09.2021 , 16.12.2021 , 13.01.2022	Neither details/documents provided, nor appeared

3	Minesh Shah	Director, M/s. HML	13.09.2021, 08.12.2021, 01.01.2022	29.09.2021, 17.12.2021, 13.01.2022	
4	Sreyas S. Choudhhary	Sr. Vice President, M/s. HML	13.09.2021, 08.12.2021, 01.01.2022	27.09.2021, 20.12.2021, 11.01.2022	
5	Fehimah	Representative of Overseas Associates of M/s. HML	13.09.2021, 13.12.2021	04.10.2021, 1500 hrs IST, 28.12.2021 (1 PM)	No response received
6	Omid	Representative of Overseas Associates of M/s. HML	13.09.2021, 13.12.2021	04.10.2021, 1300 hrs IST, 28.12.2021 (12.30 PM)	No response received
7	Ali	Representative of Overseas Associates of M/s. HML	13.09.2021, 13.12.2021	01.10.2021, 1600 hrs IST, 28.12.2021 (12 PM)	No response received
8	Saba	Representative of Overseas Associates of M/s. HML	13.09.2021, 3.12.2021	01.10.2021, 1500 hrs IST, 28.12.2021 (11.30 AM)	No response received
9	Claudy	Representative of Overseas Associates of M/s. HML	13.09.2021, 13.12.2021	01.10.2021, 1300 hrs IST, 28.12.2021 (2.30 PM)	No response received
10	Vishal Goyal	Representative of Overseas Associates of M/s. HML	13.09.2021, 13.12.2021	01.10.2021, 1100 hrs IST, 28.12.2021 (2 PM)	No response received
11	Abby Alex	Representative of Overseas Associates of M/s. HML	13.09.2021, 13.12.2021	04.10.2021, 1100 hrs IST, 28.12.2021 (1.30 PM)	No response received
12	Jabal Al-Aswad Company	Appears to be actual shipper/supplier of subject goods	08.12.2021	27.12.2021 (11 AM)	No response received
13	Trilliance Petrochemical Co. Ltd	Business associate of M/s. HML	08.12.2021	27.12.2021 (01.30 PM)	No response received

14	Hazel International FZE	Group company of M/s. HML	08.12.2021	27.12.2021 (1.00 PM)	No response received
15	Delta Shipping and Trading LLC	Declared supplier in Bills of Lading	08.12.2021	27.12.2021 (10.30 AM)	No response received
16	Aureole Trading LLC	Declared shipper/supplier in Bills of Entry	08.12.2021	27.12.2021 (10.00 AM)	No response received
7	Saurabh Rajput	Manager(Procurement)	13.12.2021, 10.01.2022	28.12.2021 (11 AM), 12.01.2022	Neither details/documents provided, nor appeared
18	Verzone PTE Ltd	Claimed to be a overseas Buyer	28.12.2021	08.01.2022 (4 PM)	No response received
19	Ashok Desai	Head of Department- Logistics	28.12.2021, 10.01.2022	08.01.2022 (4 PM), 17.01.2022	Neither details/documents provided, nor appeared

In above context, Criminal Complaints under Section 174,175,176 of Indian Penal Code, 1860 were filed against following persons before Hon^{ble} Additional CJM Court, Gandhidham :-

- (i) Shri Nitin Kumar Didwania (Cr. Complaint No. 6248 /2022)
- (ii) Shri Rajaram Shanbhag (Cr. Complaint No. 6246/2022)
- (iii) Shri Minesh Shah (Cr. Complaint No. 6245 /2022)
- (iv) Shri Sreyash Chaudhary (Cr. Complaint No. 6249/2022)
- (v) Shri Saurabh Rajput (Cr. Complaint No. 6247 /2022)

34. The data of mobile phones of various key persons of M/s. HML extracted forensically was containing various Whatsapp Chat conversations, documents, images etc. indicating manipulation of material particulars in the import documents and mis-declaration with respect to description, value, country of origin, shipper/supplier details, port of loading etc. The data so extracted is required to be explained by the concerned key person/owner of mobile phone but in spite of issuing repeated Summons none of such key persons appeared before investigating officer to tender statement and to explain the evidences. Shri Nitin Kumar Didwania, Managing Director of M/s. HML initially showed little cooperation by making himself present before investigating officers to tender statement but when his mobile phone data was revealed to him, it appears that he knowingly avoided his presence before investigating officers to explain the evidences. The other key persons viz. Shri Rajaram Shanbhag , Shri Minesh Shah , Shri Sreyash Chaudhary , Shri Saurabh Rajput etc. did not join the investigation and thus failed to explain the facts and evidence available in their mobile

phones. Accordingly, the relevant illustrative data of mobile phones of some of the key persons is discussed here in brief on the basis of its content.

35. FROM MOBILE PHONE OF SHRI NITIN KUMAR DIDWANIA, MANAGING DIRECTOR, M/S. HML: -

35.1. The illustrative Whatsapp Chat conversations retrieved from the mobile phone of Shri Nitin Kumar Didwania, Managing Director of M/s. HML has been covered in the abstract of his statement narrated above. There was discussion regarding supply /business of Gasoline in various documents /images recovered from his mobile phone. Also, there were Misc letter heads of parties, stamps impression etc. for which Shri Nitin Kumar Didwania in his statement dated 12.04.2021 stated that the same were to prepare documents and may have been sent on whatsapp. He assured to check their records in this regard and to revert back within a week time but in spite of lapse of around eight months period and in spite of issuance of further Summons, Shri Nitin Kumar

Didwania avoided to provide any details/information/documents in this regard. This act of reluctance and non-cooperation on his part clearly indicates the aspect of manipulation of import documents.

35.2. It is revealed that in the Whatsapp group „Light Naphtha Ops“, entire conspiracy of mis-declaration and manipulation of documents is discussed among the key persons including Shri Nitin Kumar Didwania, Managing Director of M/s. HML and their overseas associates. The illustrative chat messages of said Whatsapp group „Light Naphtha Ops“ appear to be pertaining to subject goods imported per vessel MT Tuna are tabulated hereunder: -

Chat details	Body /Chat content
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 22-01-2021 07:09:13(UTC+0) Source App: WhatsApp	Also pls find below documentry instructions for 20 KT Kharg vessel mt Tuna
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 27-01-2021 05:59:57(UTC+0) Source App: WhatsApp	@989127025761 @989127401664 pls share the docs for Tuna and the shipment docs
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 27-01-2021 06:00:09(UTC+0) Source App: WhatsApp	Pls aslo share the load port quality report
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 28-01-2021 05:20:34(UTC+0) Source App: WhatsApp	@989127025761 pls advise on the status of MT Tuna
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 28-01-2021 05:20:45(UTC+0) Source App: WhatsApp	Also the documentation for the same

From: Nitin Didwania (owner) Timestamp: 28-01-2021 06:36:07(UTC+0) Source App: WhatsApp	Omid, in the quality analysis, they have missed the oxygenates, can you pls try to get the same.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 28-01-2021 07:25:33(UTC+0) Source App: WhatsApp	Hi Mr Nitin, they have recently operational issue in Abadan and thsts why cargo is on deep discount. I had not experience of their heavy cargo before. But their light cargo has like 1000 ppm oxy. Better we test in india and see.
From: Nitin Didwania (owner) Timestamp: 29-01-2021 12:33:17(UTC+0) Source App: WhatsApp	Noted. Good. Only problem is that this cargo is high oxy, I could have blended partial cargo as the oxy of kharg was high.
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 29-01-2021 12:39:45(UTC+0) Source App: WhatsApp	We need to do internal transfer documentation first
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 29-01-2021 12:39:56(UTC+0) Source App: WhatsApp	In the name of Aureole
From: Nitin Didwania (owner) Timestamp: 30-01-2021 07:36:07(UTC+0) Source App: WhatsApp	Since the tuna is under problem, it is best that we take possession of our material as early as possible.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 04:47:29(UTC+0) Source App: WhatsApp	Hi @971501159789 has tuna been accepted in kamdla?
From: Nitin Didwania (owner) Timestamp: 31-01-2021 07:59:01(UTC+0) Source App: WhatsApp	Tuna to kandla seems to be ok.
From: Nitin Didwania (owner) Timestamp: 31-01-2021 08:05:08(UTC+0) Source App: WhatsApp	Let me know if finally we are planning for tuna to come to India. We have sold some cargoes locally And arihant is further delayed.
From: Nitin Didwania (owner) Timestamp: 31-01-2021 08:05:41(UTC+0) Source App: WhatsApp	Also, do not forget to pressurize kharg for rebate because of off spec cargo to us.
From: Nitin Didwania (owner) Timestamp: 31-01-2021 08:12:25(UTC+0) Source App: WhatsApp	Since the delivery to jg summit and yncc is delayed.we will have to sail out asap. Actually topping up is a practical and cost effective mechanism but we will not be able to justify delay and origin as well

From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 09:15:40(UTC+0) Source App: WhatsApp	Shall we keep ais off till kandla?
From: Nitin Didwania (owner) Timestamp: 31-01-2021 09:47:00(UTC+0) Source App: WhatsApp	Yes pls
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 13:50:57(UTC+0) Source App: WhatsApp	for tuna, since AIS will be off. is it ok to do dox of oman without entering to sohar anchorage? i afraid vessel arrest order is circulated in all GCC countries
From: Nitin Didwania (owner) Timestamp: 31-01-2021 13:58:43(UTC+0) Source App: WhatsApp	Do we have Iraq doxs for this
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 13:59:30(UTC+0) Source App: WhatsApp	yes we have
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 14:01:58(UTC+0) Source App: WhatsApp	shall we come with iraq dox to kandla?
From: Nitin Didwania (owner) Timestamp: 31-01-2021 16:01:21(UTC+0) Source App: WhatsApp	Yes. We will manage
From: Nitin Didwania (owner) Timestamp: 01-02-2021 09:17:45(UTC+0) Source App: WhatsApp	Saba, my logistic says that for tuna, we cannot do Iraq. We need loadport on bl to be either sohar, khorfakkan, or sharjah. I do not need other docs like coo etc.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 01-02-2021 11:15:21(UTC+0) Source App: WhatsApp	And idont feel safe for entering into port limits of sohar
From: Nitin Didwania (owner) Timestamp: 01-02-2021 11:34:38(UTC+0) Source App: WhatsApp	Ais is manageable, but even in jndia they may ask for last port clearance.
From: Nitin Didwania (owner) Timestamp: 01-02-2021 11:35:33(UTC+0) Source App: WhatsApp	Sts may be difficult.... try. If nothing else works out, we will bring the cargo to India with Iraq and I will mange but that is the last option.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 01-02-2021 11:53:49(UTC+0) Source App: WhatsApp	We can still get sohar dox.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 01-02-2021 11:54:10(UTC+0) Source App: WhatsApp	Maybe we use last port clearance as iraq pc?

From: Nitin Didwania (owner) Timestamp: 01-02-2021 11:55:27(UTC+0) Source App: WhatsApp	Seems fine. This may work. Pls go ahead
From: 989127025761@s.whatsapp.net Omid Timestamp: 03-02-2021 08:58:00(UTC+0) Source App: WhatsApp	Also please let me know if you are OK with the below timings for Tuna. NOR Sohar Jan 30th 48 hours of loading Completion of loading Feb 2nd early AM hours
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 03-02-2021 09:32:40(UTC+0) Source App: WhatsApp	@989127025761 pls find attached the draft BL and DI for MT Tuna
From: 989127025761@s.whatsapp.net Omid Timestamp: 03-02-2021 10:39:33(UTC+0) Source App: WhatsApp	@971501159789 is it possible to change the name of the shipper? The guy who provides these docs in Sohar for us uses their company and issues docs usually and can later support those docs this way to be safe
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 03-02-2021 10:50:35(UTC+0) Source App: WhatsApp	@989127025761 as discussed we can use Delta shipping and trading LLC as the Shipper. We did the same last time for Aston 1, which went to india
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 03-02-2021 10:51:18(UTC+0) Source App: WhatsApp	Also as discussed, pls ask the Delta team only to change the shipper and balance all to remain same as per the DI provided
From: Nitin Didwania (owner) Timestamp: 03-02-2021 14:22:52(UTC+0) Source App: WhatsApp	Saba, is it possible to get a typical of the balance light with the oxy and olefin.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 04-02-2021 05:26:41(UTC+0) Source App: WhatsApp	They are using the light nap for blending of gasoline
From: 989127025761@s.whatsapp.net Omid Timestamp: 04-02-2021 07:31:40(UTC+0) Source App: WhatsApp Attachments: #1: chats\WhatsApp_Native\attachments576\Draft DOCS.pdf	-----

From: 989127025761@s.whatsapp.net ---- Omid Timestamp: 04-02-2021 07:32:06(UTC+0) Source App: WhatsApp Attachments: #1: chats\WhatsApp_Native\attachments576 \TUNA BLS.pdf	
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 04-02-2021 10:25:03(UTC+0) Source App: WhatsApp	1. HS CODE CHANGED IN ALL OBLS. 2. LC DETAILS ADDED IN 6 & 7
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 04-02-2021 10:25:04(UTC+0) Source App: WhatsApp	We will require 2 Certificates of origin 1. For BL#1,2,3,4,5 2. Certificate of Origin for BL#6 & 7
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 04-02-2021 10:26:14(UTC+0) Source App: WhatsApp	Dear Omid kindly ask delta to revise the OBL as per above. Also to issue 2 sets of Certificate of origin as per BL nos

On the basis of the chats, it appears that Shri Nitin Kumar Didwania, Managing Director of M/s HML in connivance with their associates manipulated the material particulars such country of origin, port of loading, shippers/suppliers details etc. in the import documents to be submitted with Customs authorities Kandla. From the chat conversations indicating

blending/ changing of parameters/specifications, it appears that these persons have altered/manipulated the nature of goods also and finally the subject goods imported at Kandla tested and found to be Natural Gasoline Liquid.

35.3. Following further relevant documents also recovered from the mobile phone of Shri Nitin Kumar Didwania (**RUD No. 46**):-

(i) A document having title „Free Zone Bill of Entry”, Hamriyah Free Zone dated 28.01.2021 showing port of loading Basrah, Iraq, vessel name-
Tuna, Qty. 20110767 KG

(ii) One document having title Supplier Analysis Report containing Port/location-Basrah/Iraq and vessel Name- MT
Tuna

36 & 37. On the basis of above chats and documents discussed above that the subject goods were loaded from Basrah Iraq and were originated in Iraq whereas the same were mis-declared in the import documents submitted with Kandla Customs as loaded from Sohar, Oman and originated from Oman.

38. FROM MOBILE PHONE OF SHRI SATISH GAICHOR, ASSOCIATE GENERAL MANAGER-LOGISTICS, M/S. HML: -

38.1. The following relevant Whatsapp Chat conversations have been retrieved from the mobile phone of Shri Satish Gaichor.

Chat No. 2139 with Shri Nitin Kumar Didwania: -

Sr. No.	Chat Details	Body
1	From: 919821026617@s.whatsapp.net HML - NKD Timestamp: 31-01-2021 7:21:34 AM(UTC+0) Source App: WhatsApp	Body: Hi @971501159789 has tuna been accepted in kamdla?
2	From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 11-02-2021 7:28:23 AM(UTC+0) Source App: WhatsApp	Body: Do u have reliable supplier in uae for Gasoil and Gasoline?
3	From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 11-02-2021 7:28:23 AM(UTC+0) Source App: WhatsApp	Body: Kindly confirm if they can supply the Gasoil and Gasoline as per the attached specification
4	From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 11-02-2021 7:28:23 AM(UTC+0) Source App: WhatsApp	Body: Can hazel supply
5	From: 919821026617@s.whatsapp.net HML - NKD Timestamp: 11-02-2021 10:20:22 AM(UTC+0) Source App: WhatsApp	Body: Need report

6	<p>From: 919821026617@s.whatsapp.net HML - NKD Timestamp: 22-02-2021 6:16:10 AM(UTC+0) Source App: WhatsApp</p>	<p>Attachments: #1: chats\WhatsApp Native\attachments2139\IMG-20210222-WA0009.jpg</p> <p>(Content of Clarification dated 19.02.2021 given by Customs House Laboratory, Kandla suggesting that the sample under reference was Natural Gasoline Liquid)</p>
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Chat No. 1789 with Shri Abby-Alex:-

Sr. No.	Chat Details	Body
	<p>From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 30-01-2021 1:37:32 PM(UTC+0) Source App: WhatsApp</p>	<p>Body: VV IMP: 1. We need a full survey of quality with the oxygenates. Same has to be done on priority and reports to be shared on priority prior vessel sailing to Kandla. 2. WATER CONTENT ANALYSIS REPORT TO BE SEPARATELY INFORMED (NOT PART OF MAIN REPORT). 3. All docs must mention "NAPHTHA" as product</p>
	<p>From: 971501159789@s.whatsapp.net HME - Abby Alex Timestamp: 02-02-2021 5:18:14 AM(UTC+0) Source App: WhatsApp</p>	<p>Attachments: #1: chats\WhatsApp Native\attachments1789\BILL OF LADING...pdf</p> <p>(The sender sent Bill of Lading for MT Tuna containing port of loading as Basrah, Iraq)</p>
	<p>From: 971501159789@s.whatsapp.net HME - Abby Alex Timestamp: 03-02-2021 8:58:41 AM(UTC+0) Source App: WhatsApp</p>	<p>Body: Also please let me know if you are OK with the below timings for Tuna. NOR Sohar Jan 30th 48 hours of loading</p>
		Completion of loading Feb 2nd early AM hours

	From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 04-02-2021 9:52:18 AM(UTC+0) Source App: WhatsApp	Body: 1. HS CODE CHANGED IN ALL OBLS. 2. LC DETAILS ADDED IN 6 & 7
	From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 04-02-2021 10:20:03 AM(UTC+0) Source App: WhatsApp	Body: We will require 2 Certificates of origin 1. For BL#1,2,3,4,5 2. Certificate of Origin for BL#6 & 7
	From: 971501159789@s.whatsapp.net HME - Abby Alex Timestamp: 04-02-2021 11:03:19 AM(UTC+0) Source App: WhatsApp	Body: @971501159789 As per your instruction, Tuna is sailing towards the discharge port with AIS turned off

38.2 Following further relevant documents also recovered from the mobile phone of Shri Satish Gaichor (**RUD No. 47 Col"ly**): -

- (i) Bill of Lading No. TN-100019-21 dated 24.01.2021
- (ii) Free Zone Bill of Entry dated 28.01.2021, Hamriyah Free Zone, Sharjah, UAE (vessel MT Tuna, Bill of Lading No. TN-100019-21)
- (iii) Cargo Manifest dated 24.01.2021
- (iv) Certificate of Origin dated 24.01.2021
- (v) Commercial invoice no. TN-100081-21 dated 24.01.2021
- (vi) Delivery order no. 2021-007732 dated 28.01.2021

As per these documents recovered from the mobile phone of Shri Satish Gaichor, the shipper/consignee was mentioned as M/s. Jabal Al-Aswad Co., Notify address was mentioned as M/s. Aureole Trading (LLC), Hamriyah Free Zone, Sharjah, UAE, vessel Name was MT Tuna, Qty. was 20110.767 MT, Port of Loading was Basrah (Iraq), Shipper's description of goods was „Naphtha” and the HS Code for the goods was mentioned as 27075000.

38.3. From the above mentioned documents recovered from the mobile phone of Shri Satish Gaichor, the name of shipper/consigner appeared as M/s. Jabal Al-Aswad Co., Iraq for the 20110.767 MT goods being transported in vessel MT Tuna. It further appears that the subject goods were loaded from Basrah, Iraq. This aspect is also corroborated with the facts of Whatsapp Chat conversations held among key persons who were discussing to get clearance of the cargo on the basis of some Iraqi Document. In these documents, the description of goods was mentioned as „Naphtha” but the HS Code for the same was mentioned as 27075000. It is pertinent to refer here that from the Chat conversations, it is apparent that the key persons had specifically insisted the concerned dealing hand to mention the product name as „Naphtha” in all documents. In order to get the content of these documents explained, Shri Satish Gaichor was issued Summons directing him to tender

statement to get explained the content of above-mentioned conversations and other evidences /documents/images appeared relevant in the ongoing investigation but he avoided to provide any details/information/documents in this regard. This act of reluctance and non-cooperation on his part clearly indicates the aspect of manipulation of import documents.

38.4. Summons were also issued to the said M/s. Jabal Al-Aswad Co., Iraq to get clarified the content of aforementioned documents recovered from the mobile phone of Shri Satish Gaichor, especially with respect to description of goods and classification thereof under HS Code 27075000 but they did not respond.

39. From the evidences /documents/images/Whatsapp chat conversations retrieved from the mobile phone data of Shri Nitin Kumar Didwania and Shri Satish Gaichor, it appears that the subject goods were originated in Iraq and were brought to India via Hamriyah, Sharjah, UAE in vessel MT Tuna. It further appears that in order to suppress the actual material particulars such as nature/description of subject goods, country of origin, shipper, port of loading etc., the conspirators prepared documents showing the supplier/shipper as M/s. Aureole Trading LLC, UAE in commercial invoice and M/s. Delta Shipping LLC in the concerned Bills of Lading. As discussed above that the product name as „Naphtha“ was mentioned on being specifically insisted by the key persons of M/s. HML. specifically The port of loading and country of origin were declared as Sohar (Oman) and Oman respectively, whereas, it is apparent from the Whatsapp Chat conversations retrieved from the mobile phone of Shri Nitin Kumar Didwania, Managing Director of M/s. HML and other key persons that the vessel MT Tuna even did not berth at Sohar, Oman and seemingly a conspiracy was noticed and the importers were brought the vessel MT Tuna by making AIS off. It appears that they hatched the ploy to send the vessel MT Tuna to Sohar Anchorage to get the concocted documents as evident from the Whatsapp Chat conversations and other corroborative evidences collected during investigation.

40. It further appears that M/s. Verasco FZE, Hamriyah Free Trade Zone, UAE (previously known as Hazel International FZE), was having Tank storage terminal and processing plant in Sharjah, UAE. In order to get explained the matter and examine the role of M/s. Verasco FZE in manipulation of subject goods with respect to its nature by blending/processing and manipulation of documents with respect to their material particulars, Summons were issued to M/s. Hazel International FZE/ M/s. Verasco FZE, but they did not respond.

41. Statement of Shri Bharat J. Goswami, Terminal Manager of M/s. FSWAI, Khar Rohar Road, Kandla, Kutch was recorded under Section 108 of the Customs Act, 1962 on 23.12.2021 (RUD No. 48).

41.1. In his statement, Shri Bharat J. Goswami interalia stated that he was working as Terminal Manager in M/s. FSWAI, Khar Rohar Road, Kandla; that his firm was in the business of storage and warehousing as

liquid terminals and acting as public warehouse and their liquid terminal was declared as landing place under Section 8(a) of Customs Act, 1962 and appointed as „Public Bonded Warehouse□ under Section 57 of Customs Act, 1962.

41.2. On being asked, Shri Bharat J. Goswami stated that for warehousing of goods, the importers used to intimate them through email about arrival of vessel, description of goods and quantity and accordingly, they allot the tanks as per description of goods intimated by the importer; that no document showing description of the import goods was being submitted by the importers

while requesting for warehousing of import goods; that after getting availability of authorized/nominated tanks for the particulars product, they used to issue NOC specifying therein the nominated Tank numbers with capacity addressing to Customs Authorities (Deputy/Assistant Commissioner) and forward the same to email Id of Customs Broker with copy endorsed to the importer. He added that the appointed Customs Broker of importer submit the Discharge permission of the cargo issued by Customs Authorities, to them by email; that for the purpose of verification of quantity and quality of goods the importers appoint surveyors; that before berthing the vessel, the surveyors carried out inspection of tanks with respect to quality and quantity /capacity of tanks; that after berthing of vessel, they used to connect pipeline with vessel and received the cargo in nominated tanks; that after storage of cargo in their storage tanks, the responsibility of safety and security of the cargo rested with them.

41.3. On being asked about procedure to clear the warehoused goods for home consumption, Shri Bharat J. Goswami stated that first of all, the importer used to inform them through email about discharge of warehoused goods; that thereafter importer used to intimate quantity, name of buyer/authorized party (also details of transporter in case the importer intended to clear goods for self), etc. enclosing Delivery Order issued by importer and Warehouse Bill of Entry (as the case may be); that the concerned Customs Broker appointed by importer provided them Ex-Bond Bill of Entry through email that the nominated transporter approach them with Indent Form detailing therein the name of importer, buyer, vehicle number etc.; that they used to check and verify the documentation and referred the matter to the surveyor nominated by importer and fire safety Department of their terminal; that the fire safety department checked and verified the vehicle in which delivery had to be made, the PESO License (Form No. 9 or Form 11) and other safety criteria were also checked; the Surveyor also used to verify similar parameters; that after necessary verification, their (FSWAI) fire safety department and Surveyor used to issue NOC by way of making endorsement of „OK“ and accordingly, Gate pass containing Ex Bond Bill of Entry No. and Delivery Order No. is issued from their terminal.

41.4. On being asked further, he stated that their firm started

storage/warehousing for consignments of M/s. HML before his joining in FSWAI firm and he used to contact Shri Satish Gaichor of M/s. HML for business activities. He further stated that the intimation of arrival of vessels carrying import goods for M/s. HML with respect to three import consignments imported in vessel MT Aston-I, MT Tuna and MT Arihant were given to them by the said importer vide email dated 02.11.2021, 04.02.2021 and 19.02.2021 respectively; that the said importer declared the description of import goods in those email as Naphtha (Light), Naphtha and Naphtha respectively. Shri Bharat

J. Goswami further stated that they allotted them (M/s. HML) the tanks prescribed for Naphtha/Light Naphtha by the competent authority. He also provided Tank wise quantity received in their terminal with respect to said three consignments as under: -

S. No.	Name of the vessel	Goods declared by importer	Quantity declared by importer	Quantity Actually received (MT)	Quantity Actually received (Ltr)	Tanks allotted
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	MT Aston-I	Naphtha (Light)	26801.637	26151.519	39788988	302,320,3 22,411,42 5,428,502, 504,509,5 12,527,52 9,537,539
2	MT Tuna	Naphtha	20110.77	19990.541	28972281.6	324,425,5 10,527,52 9,530,536, 537,539
3	MT Arihant	Naphtha	9621.26	9704.504	13062665.3	319,531,5 33,538

41.5. On being asked further, he stated that at the time of storage of goods imported vide said three vessels by M/s. HML, there was no goods stored in the Tanks mentioned above; that as on date no stock of goods imported in vessel MT Aston-I was there and in case of other tanks mentioned above, no goods other than the goods mentioned above were stored in comingled state. On being further asked whether all the above-mentioned Tanks were authorized/nominated by competent authority to store goods declared as Naphtha (Heavy/Light/Full Range), Shri Bharat J. Goswami stated that all the tanks mentioned above were authorized/nominated by Naphtha License issued by District Magistrate, Kachchh-Bhuj. In this regard, he submitted copy of such Naphtha License and (Petroleum and Explosive Safety Organization (PESO) Licenses issued by Controller of Explosives, Vadodara to their firm, duly signed by him.

41.6. During his statement, Shri Bharat J. Goswami was shown copy of Naphtha License dated 13.11.2020 issued by District Magistrate, Kachchh- Bhuj issued to M/s. HML and asked that in this License, their terminal's Tank No. 531, 533 and 536 were not mentioned/nominated/allowed to store goods declared as Naphtha, whereas they had stored the subject goods in those three tanks too. In reply to the same he stated that his firm received a Naphtha License dated 13.11.2020 issued by District Magistrate, Kachchh-Bhuj in which the Tank numbers were mentioned as „any available tank“. He was further asked how and from whom, another Naphtha License was received, he stated that one Mr. Vinodbhai of M/s. HML working at Gandhidham Branch vide email dated 23.12.2021 sent that License to his firm.

41.7. On being asked, Shri Bharat J. Goswami stated that M/s. TUV India Pvt. Ltd. were surveyors appointed by M/s. HML for said three import consignments. He was further asked whether M/s. HML had informed him or his firm about re-export of goods imported by them (M/s. HML) in vessel MT Tuna and MT ARIHANT and stored at their terminal, he stated that no such intimation of re-export was received by him/or his firm from M/s. HML; that as regards the goods imported per vessel MT Aston-I and importer's request/intimation for re-export for major part, he stated that he would check their record and assured to revert back within 02 days but he did not revert back.

41.8. On being asked further, Shri Bharat J. Goswami stated that the copy of contract/agreement between his firm and M/s. HML, he produced printout of email dated 03.11.2020 which was the contract for terminal facilities to be provided by his firm (FSWAI) to M/s. HML in respect of goods imported by them vide vessel MT Aston-1; that the same terms and conditions were followed in respect of next two import consignments of M/s. HML per vessels MT Tuna and MT ARIHANT. On being asked whether any written/signed contract/agreement was made, he stated that he would check their records and if there was any signed contract/agreement entered into between his firm and M/s. HML and assured to provide to DRI within 02 days but he did not revert back.

41.9. On being asked whether any specific period/limit was there for warehousing/storage of goods in respect of goods of M/s. HML stored in their terminal, he stated that no such period limit was there; that the importer could store their goods for a period mutually agreed upon by their terminal and the importer; that as regards the warehoused goods pertaining to vessel MT ARIHANT, they received Release Order dated 01.06.2021 from Customs and they were already provided Out of Charged Warehousing Bill of Entry bearing no. 3472215 dated 07.04.2021 as well as Ex-Bond Bills of Entry bearing no. 4083677 dated 26.05.2021 and 4095731 dated 27.05.2021 for domestic clearance of 1 MT and 74 MT goods to one domestic buyer M/s. PD Industries; however, following the directions as per another letter dated 03.06.2021 of Assistant

Commissioner (Bond) Customs, the delivery of such out of charged goods were stopped by them.

41.10. During his statement, Shri Bharat Goswami was shown following Test Report/clarification/re-test reports said to pertaining to representative samples drawn from the goods imported by M/s. HML in following vessels. He perused and stated that said test report and „Test Report/clarification/re-test report“ the subject products imported by M/s. HML per following vessels were as mentioned in Column 6 of below table.

S. No .	Name of the vessel	Goods declared in the Bill of Entry as	Declared CTH	Test Report/clarification/re-test report No. and date	Goods found in the Test Report/clarification/re-test reports as
(1)	(2)	(3)	(4)	(5)	(6)
1	MT Aston-I	Light Naphtha	27101221	C. No. 27-Cus. /C-08/2021-22 dated 01.06.2021 of CRCL, New Delhi	NGL
2	MT Tuna	Naphtha	27101229 (i.e. for Full Range Naphtha)	6454 2659863/6-2-21 dated 15.02.2021 readwith KDL/01/Misc-Corrs/KDL-Mundra/01/08-	NGL
				09/1169 dated 19.02.2021 and C. No. 27-Cus. /C-08/2021-22 dated 28.05.2021	
3	MT ARIHANT	Naphtha	27101229 (i.e. for Full Range Naphtha)	C. No. 27-Cus. /C-08/2021-22 dated 01.06.2021 of CRCL, New Delhi and C. No. 27-Cus. /C-08/2021-22 dated 19.07.2021	Special Boiling Point Spirit (SBPS)

41.11. Shri Bharat Goswami was also shown statement dated 12.04.2021 of Shri Nitin Kumar Didwania, Managing Director of M/s. HML. After perusal of the same, he stated that from the content of various Chat conversations held between Shri Nitin Kumar Didwania, Managing Director of M/s. HML and other persons as discussed in the said statement, the material particulars pertaining to goods imported in said vessels viz. MT Aston-I, MT Tuna and MT ARIHANT were mis-declared in the Bills of Entry with respect to country of origin, shipper details, port

of loading, nature of goods etc.

41.12. On being asked further why they had accepted the goods imported by M/s. HML per said vessels which were other than that of mentioned in their Licenses issued by competent authority, Shri Bharat Goswami stated that they had accepted the goods on the basis of email received from the importer wherein they had declared the subject goods as Naphtha (Heavy/ Light/Full Range) instead of NGL/SBPS; that declaring the product as Naphtha (Heavy/ Light/Full Range) in the relevant documents was not the decision of his firm/terminal. He further added that in the documents provided by the importer and/or their appointed Customs Broker as later stage also, those documents were also containing product name as Naphtha (Full Range Naphtha)/Light Naphtha so they were not aware about the actual nature/description of the subject goods.

41.13. During his statement, Shri Bharat Goswami was shown copy of letter dated 16.11.2021 of his firm addressed to the Intelligence Officer, DRI Gandhidham and copy endorsed to AC (Bond), Customs House, Kandla and M/s. HML; that the letter said to contain enclosed Tank wise stock report but inadvertently the same was left from attaching; that he provided a copy of the same; that they had, vide that letter, requested to allow them for physical stock verification of all tanks to ascertain physical stock and to ascertain the evaporation loss in respect of goods imported by M/s. HML and stored in their terminal. In this regard, on being asked further, he stated that they had not make any such request in the past and no such permission for allowing physical stock verification to ascertain stock and evaporation loss was ever granted by Customs/DRI. On being asked the basis on which they had mentioned the subject goods as Naphtha (Light/Heavy/Full Range) in the letter dated 16.11.2021, he stated that the description of goods was mentioned in the letter dated 16.11.2021 as Naphtha (Light/Heavy/Full Range) on the basis of said email intimations and Bills of Entry produced by M/s. HML; that however they would take care henceforth while mentioning description of goods covered under subject consignment.

41.14. On being asked whether his firm/terminal was authorized to store/warehouse goods such as NGL (NGL) and Special Boiling Point Spirit (SBPS) and if so what further cautions/arrangement were required to be made for storing warehousing such goods in their terminal, he stated that he was not aware about the same; that he would discuss with his management and would revert within 02 days but no further response was received from him.

42. Statement of Shri Pramod Dharamshi Soneta, Partner of Customs Broker firm M/s. Hemjyot Agency, was recorded under Section 108 of the Customs Act, 1962 on 21.12.2021(RUD NO. 49).

42.1. In his statement, Shri Pramod Dharamshi Soneta interalia stated

that he was looking after the overall supervision and control on the business activities of M/s Hemjyot Agency; that his firm was in the business of Customs clearance of import and export consignments at Kandla, Mundra and Nhava Sheva ports as Customs Broker having CHA License No. 11/0859 (PAN based Registration No. AAAFH2124ECH002). He stated that his firm M/s. Hemjyot Agency started work of Customs clearance of consignments of M/s. HML as Customs Broker for Kandla and Mundra port in the year 2000; that he used to contact Shri Nitin Kumar Didwania, Managing Director of M/s. HML

42.2. He explained the step-by-step procedure and role of his firm with respect to import of goods by M/s. HML at Kandla port. On being asked how, when and by whom the Landing permission was obtained and as regards the process of Landing permission and documents produced for the same, he stated that obtaining Landing permission was looked out by custodian i.e. FSWAI in that case and he and his firm was not concerned with the same. He assured to provide copy of Warehouse License and Warehouse Bond in the case of M/s. HML within 03 days which he provided later.

42.3. On being asked, Shri Pramod Soneta stated that as a normal practice with other importers, his firm used to send check lists to importer/exporter before finalizing every Bill of Entry and Shipping Bill and only after receipt of approval of the same from concerned importer/exporter, they filed the Bill of Entry and Shipping Bill. He provided copy of the check list and approval thereof from M/s. HML with respect to three import consignments pertaining to M/s. HML imported in vessel MT Aston-I, MT Tuna and MT ARIHANT. He also provided sample copy/printouts of email communications held with M/s. HML in respect of said three import consignments.

42.4. On being asked, Shri Pramod Soneta stated that his firm had also dealt with filing of the ex-bond bills of entry filed by various domestic buyers of product imported by M/s. HML per vessel MT Aston-I; he assured to provide complete set of documents pertaining to these ex-bond bills of entry and other related documents within 03 days which he provided later.

42.5. Shri Pramod Soneta further stated that M/s. HML Ltd. had imported goods having declared description Naphtha through vessels viz. MT Aston-I [26801.637 MT (received quantity 26402.5 MT,) in the month of Nov., 2020],

MT Tuna (20110.77 MT in the month of Feb., 2021) and MT ARIHANT (9621.26 MT in the month of Feb., 2021) at Kandla port; that out of 26402.5 MT goods imported by M/s. HML in the month of Nov., 2020, 25250 MT goods were re-exported and rest of goods were sold to domestic buyers; that the Bill of Entry/Shipping Bill/Ex Bond Bill of Entry wise details were submitted by him in separate sheets duly signed by him.

42.6. On being asked, Shri Pramod Soneta stated that M/s. TUV India Pvt. Ltd. were surveyors appointed by M/s. HML for the said three import consignments; that extension for warehousing period in respect of goods imported per vessel MT Tuna and MT Arihant was not obtained till that time as normal bonding period was one year from the date of warehousing.

42.7. Shri Pramod Soneta further stated that the vessel MT Arihant arrived at Kandla port on 24.02.2021 and the discharge permission for the goods were granted by officer of CH, Kandla vide Discharge Permission no. 1957 dated 22.02.2021; that the Warehouse Bill of Entry for the said consignment was filed on 07.04.2021; He explained that as per Section 46 of Customs Act, 1962, the Bill of Entry may be presented at any time not exceeding thirty days prior to the expected arrival of the vessel by which the goods had been shipped for importation into India; that due to same there was delay in filing of Warehousing Bill of Entry in respect of goods imported per vessel MT Arihant which attracted action under Section 48 of Customs Act, 1962. He further added that the importer M/s. HML requested the competent authority of Customs for waiver of action under Section 48 of Customs Act, 1962 and the same was accepted, however, a penalty of Rs. 4,05,000/- was imposed upon M/s. HML for delay in filing of Bill of Entry and the same was paid by the said importer on 25.05.2021 vide challan no. 2035087516 and no appeal against the same was filed by the importer. On being asked being a Customs Broker why he had not suggested the importer to file the Bill of Entry for goods importer per vessel MT Arihant within the stipulated time period, Shri Pramod Soneta stated that he had repeatedly requested Shri Nitin Kumar Didwania, Managing Director of M/s. HML to file the Bill of Entry but he (Shri Nitin Kumar Didwania) had given directions not to file the Bill of Entry until and unless he directed to do so; that on 30.03.2021, Shri Nitin Kumar Didwania asked him (Shri Pramod Soneta) to send check list and accordingly they (M/s. Hemjyot Agency) sent the same and on receipt of approval from the said importer, the warehousing Bill of Entry was filed. On being asked further to provide the reasons/reply /application made by M/s. HML in connection to waiver of action under Section 48 of Customs Act, 1962, he stated that he would check their record and provide the same within 03 days but he did not provide.

42.8. During recording his statement, Shri Pramod Soneta was shown following Test Report/clarification/re-test reports in respect of representative samples drawn from the goods imported by M/s. HML in following vessels. He stated that as per the Test Report/clarification/re-test report, the subject products imported by M/s. HML per following vessels were as mentioned in Column 6 of table below:

S. No	Name of the vessel	Goods declared in the	Declared CTH	Test Report/clarification/re-test	Goods found in the Test Report/clarific
(1)	(2)	Bill of Entry as	(3)	report No. and date	ation/re-test reports as

1	MT Aston-I	Light Naphtha	27101221	C. No. 27-Cus. /C-08/2021-22 dated 01.06.2021 of CRCL, New Delhi	NGL (NGL)
2	MT Tuna	Naphtha	27101229 (i.e. for Full Range Naphtha)	6454 2659863/6- 2-21 dated 15.02.2021 readwith KDL/01/Misc- Corrs/KDL- Mundra/01/08- 09/1169 dated 19.02.2021 and C.No. 27-Cus. /C- 08/2021-22 dated 28.05.2021	NGL (NGL)
3	MT Arihant	Naphtha	27101229 (i.e. for Full Range Naphtha)	C. No. 27-Cus. /C-08/2021-22 dated 01.06.2021 of CRCL, New Delhi and C.No. 27-Cus. /C- 08/2021-22 dated 19.07.2021	Special Boiling Point Spirit (SBPS)

42.9. On being asked why they had declared the subject goods imported by M/s. HML per said vessels as Naphtha/Light Naphtha instead of NGL/SBPS, Shri Pramod Soneta stated that while preparing the Check List for filing of Bill of Entry and Shipping Bill (in the case of re-export), they followed the description mentioned in the import documents provided by the said importer and also the directions of the importer who had approved the check list for filing of Bills of Entry and Shipping Bills as the case may be; that due to same declaring the product as Naphtha/Light Naphtha in the import documents was not the decision of his firm but it was decided by the importer.

42.10. During recording of his statement, Shri Pramod Soneta was shown copy of concerned pages of Customs Tariff for the year 2021 in respect of goods covered under Heading „Light Oils and preparations“ (271012). Under Head

„Naphtha“, there are three entries i.e. (i) Light Naphtha (27101221), Heavy Naphtha (27101222) and Full Range Naphtha (27101229) and on being asked why no specific category of Naphtha was mentioned as description of goods by the importer/his firm in the concerned Bills of Entry pertaining to goods imported per vessel MT Tuna and MT Arihant, he stated that as per documents received by his Customs Broker firm from the importer, the description of goods was mentioned as only „Naphtha“ alongwith CTH for „Full Range Naphtha“ i.e. 27101229; that they accordingly prepared the check list and the same was approved by the

importer.

42.11. On being asked who had decided classification of goods in respect of import/re-export made by M/s. HML in relation to the goods imported per vessel MT Aston-I, MT Tuna and MT ARIHANT, Shri Pramod Soneta stated that as per the import documents and directions of the M/s. HML, classification was declared. Further, based on subsequent approval of importer for Check List for filing of Bills of Entry/Shipping Bills, they declared the classification and filed those documents.

42.12. On being asked further about appropriate classification of goods NGL (NGL) and Special Boiling Point Spirit (SBPS), Shri Pramod Soneta stated that both those products were light oils and preparations (CTH 271012) and as on date there was no specific entry for both those products in the Customs Tariff, hence the same were appropriately classifiable under „others“ category of CTH 271012 i.e. 27101290 as per Customs Tariff.

42.13. Shri Pramod Soneta was shown statement dated 12.04.2021 of Shri Nitin Kumar Didwania, Managing Director of M/s. HML After perusal of the same he stated that from the content of various Chat conversations held between Shri Nitin Kumar Didwania, Managing Director of M/s. HML and other persons as discussed in the said statement, the material particulars pertaining to goods imported in said vessels viz. MT Aston-I, MT Tuna and MT ARIHANT were mis-declared in the of import documents/Bills of Entry with respect to country of origin, shipper details, port of loading, nature of goods etc.

42.14. He was also shown documents said to had been received from Punjab National Bank, Foreshore Road Branch, Mumbai regarding Letter of Credit bearing no. 84670FLC0000421 dated 28.01.2021 opened by M/s. HML in favour of Aureole Trading LLC (UAE) in respect of goods imported in vessel MT Tuna. After perusal of the said documents he stated that he in the application form, Contract dated 11.01.2021 with M/s. Aureole Trading LLC and other supporting documents, the product to be imported was mentioned as „Light Naphtha“ (HS Code 27101221) whereas in the Bills of Entry the same was mentioned as Naphtha (HS Code 27101229) i.e. linked with for Full Range Naphtha; that as regards the difference in the description of goods and CTH mentioned in the all LC documents and Bills of Entry, he stated that he had not seen the LC and supporting documents earlier, so he could not alert or suggest the importer about the same.

42.15. Shri Pramod Soneta was shown the following documents which have been extracted from the mobile phone data of Shri Nitin Kumar Didwania, Managing Director and/or Shri Satish Gaichor, Associate General Manager- Logistics of M/s. HML After perusal of the same, he stated that he had come across those Chat messages mentioned in the statement of Shri Nitin Kumar Didwania and the following documents first time.

For goods imported per vessel MT Tuna: -

- Cargo Manifest dated 24.01.2021
- Certificate of Origin dated 24.01.2021
- Commercial invoice no. TN-100081-21 dated 24.01.2021
- Delivery order no. 2021-007732 dated 28.01.2021
- Supplier Analysis Report dated 24.01.2021
- Free Zone Bill of Entry, Hamriyah Free Zone, Sharjah, UAE (Vessel MT Tuna)

For goods imported per vessel MT ARIHANT: -

- Load Inspection Report dated 25/26.01.2021 of M/s Keyhan Sanjesh Azma and other related documents such as Covering letter dated 25/26.01.2021 of said surveyor, Time Log, Certificate of quantity dated 26.01.2021, Certificates of Quality etc.

For goods imported per vessel MT Aston-I: -

- Addendum No. 1 dated 02.11.2020 issued by M/s Aureole Trading LLC

42.16. On being asked further, he stated that from the content of those documents, the subject goods imported by M/s. HML in said vessels viz. MT Aston-I, MT Tuna and MT ARIHANT were mis-declared in the import documents and Bills of Entry field with Customs House, Kandla with respect to port/country of shipment, details of shipper etc.

43. Statement of Shri Illa Giri Visweswarao, Manager of M/s. Samudra Marine Services Pvt. Ltd., 123 & 124, Golden Arcade, Plot No. 142-143, Sector-8, Gandhidham, Kutch was recorded on 22.01.2022 (RUD No. 50).

43.1. In his statement, Shri Illa Giri Visweswarao interalia stated that M/s. Samudra Marine Services Pvt. Ltd. was engaged in the business activities of clearance of import /export consignments acting as vessel agency and Customs Broker; their Head Office is in Mumbai and branch offices are at Sikka, Gandhidham, Pipavav and Budgebudge; that they do not have any office/establishment outside India. On being asked, Shri Illa Giri Visweswarao stated that they did not have any fix principal shipping line, so they were not working as agent of any shipping line on permanent basis and neither they had entered into agreement with any shipping line. He added that they were getting orders from different shipping lines/vessel owners to assist their vessel operations at Kandla, Mundra and Mumbai sea ports. He explained the step by step procedure to handle import of bulk liquid cargo.

43.2. Shri Illa Giri Visweswarao further stated that they did not enter any contract/agreement with the owner of the vessel and/or the receivers/importers/customs broker/terminal etc.; that they were not authorized to check the route of vessel and the owner/charterer of the vessel used to check the route of vessel. On being asked, Shri Illa Giri Visweswarao deposed that they had attended agency work relating to import consignments imported by M/s. Hazel Mercantile Ltd. per vessel MT Aston-I, MT Tuna and MT ARIHANT in the year 2020-21. He narrated

the facts /details in respect of nominations for carrying out agency work for the cargo imported per vessels MT Aston-I, MT Tuna and MT Arihant in the year 2020-21 as below:-

(i) **MT Aston-I** :- Their company M/s. Samudra Marine Services Pvt. Ltd. received nomination for this vessel MT Aston-I from one Capt. Najafi of M/s. Clara Shipping LLC, Suite 420, Oud Metha Offices, PO Box No. 93371, Dubai, UAE vide email dated 11.11.2020. Shri Illa Giri Visweswarao produced copy of some email conversations and documents in this regard. On being asked, he stated that he was not aware as to whether M/s. Clara Shipping LLC was the actual owner/charterer of the vessel MT Aston-I as it would be agent/broker of the owner/charterer. He assured to inquire in the matter and to revert back within 02 days. He further stated that he was not aware about the actual shipper/supplier/consigner

party of the 26801.637 MT cargo and who had booked the cargo in the said vessel and what documents were provided initially to the vessel owner by the overseas shipper/supplier/consigner party; that Mr. Khalid M. Hassanein was the Master of vessel MT Aston-I at her arrival at Kandla. As regards the load port of the cargo imported at Kandla per vessel MT Aston-I, he stated that as per the documents received by them from M/s. Clara Shipping LLC, the port of loading of the cargo imported at Kandla per vessel MT Aston-I was Sohar, Oman, however, he was not aware about the actual port of loading but as per the last 10 port call record, the vessel MT Aston-I remained at Sohar, Oman for the period 07.11.2020 to 08.11.2020. On being further asked whether it was possible that entire process of arrival, berthing, loading of 26801.637 MT bulk liquid cargo and departure of vessel completed within a day i.e. 07.11.2020 to 08.11.2020, he stated that it was not possible and hence, Sohar, Oman was not correct port of loading for the 26801.637 MT goods arrived at Kandla per vessel MT Aston-I. On being asked whether the 26801.637 MT cargo imported at Kandla port per vessel MT Aston-I was loaded from Iraq or Iran, he stated that as per last port call record, the said vessel was at Khor Al Zubair port, Iraq during the period 01.10.2020 to 11.10.2020, but he was not aware whether the said cargo imported at Kandla port per vessel MT Aston-I was loaded from Iraq or Iran. He assured to inquire in the matter and to revert back within

02 days but he did not do so.

(ii) **MT Tuna:-** They received nomination for this vessel MT Tuna from one M/s. Swiss Carriers S.A., Nafsikas 24, Athens 16673, Voula vide email dated 03.02.2021. He produced copy of some email conversations and documents. On being asked, Shri Illa Giri Visweswarao stated that he was not aware as to whether M/s. Swiss Carriers S.A. was the actual owner/charterer of the vessel MT Tuna as it may be agent/broker of the owner/charterer. He assured to inquire in the matter and to revert back within 02 days. He further stated that he was also not aware who was the actual shipper/supplier/consigner party of the 20110.767 MT cargo and who had booked the cargo in the said vessel and what documents were provided initially to the vessel owner by the overseas shipper/supplier/consigner party; that Mr. Cruz. Eduardo Sts. Ana was the Master of vessel MT Tuna at her arrival at Kandla. As regards the load port of the cargo imported at Kandla per vessel MT Tuna, Shri Illa Giri stated that as per the documents received by them from M/s. Swiss Carriers S.A., the port of loading of the cargo imported at Kandla per vessel MT Tuna was Sohar, Oman, however, he was not aware about the actual port of loading. He assured to inquire in the matter and to revert back within 02 days. On being asked whether the 20110.767 MT cargo imported at Kandla port per vessel MT Tuna was loaded from Iraq or Iran, he stated that he was not aware and assured to inquire in the matter and to revert back within 02 days but he did not do so.

(iii) **MT ARIHANT:-** Shri Illa Giri Visweswarao stated that the details of nomination for this vessel was not readily available with him and he assured to provide the same within 02 days. He produced some other documents. On being asked, he stated that he was not aware who was the actual shipper/supplier/consigner party of the 9621.26 MT cargo and who had booked the cargo in the said vessel and what documents were provided initially to the vessel owner by the overseas shipper/supplier/consigner party. I state that Capt. Harjit Singh was the Master of vessel MT ARIHANT at her arrival at Kandla. As regards the load port of the cargo imported at Kandla per vessel MT ARIHANT, he stated that as per the documents received by them from the owner/charterer/broker/agent, the port of loading of the cargo imported at Kandla per vessel MT ARIHANT was Sohar, Oman, however, he was not aware about the actual port of

loading; that as per the last 10 port call record, the vessel MT Arihant remained at Sohar, Oman for the period 18.02.2021 to 19.02.2021. In this regard, on being asked whether it was possible that entire process of arrival, berthing, loading of 9621.26 MT bulk liquid cargo and departure of vessel completed within a day

i.e. 18.02.2021 to 19.02.2021, he stated that it was not possible and hence, Sohar, Oman was not correct port of loading for the 9621.26 MT goods arrived at Kandla per vessel MT Arihant. On being asked whether the 9621.26 MT cargo imported at Kandla port per vessel MT Arihant was loaded from Iraq or Iran, Shri Illa Giri Visweswarao stated that as per last port call record, the said vessel was at Basrah, Iraq during the period 24.01.2021 to 26.01.2021, but he was not aware whether the said cargo imported at Kandla port per vessel MT Arihant was loaded from Iraq or Iran. He assured to inquire in the matter and to revert back within 02 days but he did not do so.

43.3. On being asked as to whether their company had dealt with the said three vessels earlier, or otherwise, Shri Illa Giri Visweswarao stated that they have not dealt with these vessels in the past.

43.4. Shri Illa Giri Visweswarao was shown documents pertaining to the said 03 vessels for which he deposed that the agency work was attended by his company. He expressed that these three sets of documents were pertaining to same consignments; that as per these documents, the material particulars of subject import consignments were found by him as under:-

MT Aston-I:-

	As per Bills of Lading no. 1 to 6 dated 08.11.2020 provided to us by the vessel owner/charterer or their agent/broker	As per documents (other than Bills of Lading) said to have been produced by importer alongwith concerned Bills of Entry	As per documents said to have been recovered during investigation (Bill of Lading no. pgsoc-1101-83 dated 01.11.2020
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			Addendum No. 1 dated 02.11.2020 issued by M/s Aureole Trading LLC)
Shipper/Supplier/Consignee	M/s. Delta Shipping and Trading LLC, Sohar, Oman	M/s. Aureole Trading LLC, Dubai, UAE	M/s Persian Gulf Star Oil Company. Iran
Port of Loading	Sohar, Oman	Sohar, Oman	Bandar Abbas, Iran
Country of Origin	Not mentioned	Oman	Iran
HS Code/CTH of Product	271011221	27101221	Not mentioned
Qty. (MT)	26801.637	26801.637	26801.637

MT Tuna:-

	As per Bills of Lading no. 1 to 7 dated 02.02.2021 provided to us by the vessel owner/charterer or their agent/broker	As per documents (other than Bills of Lading) said to have been produced by importer alongwith concerned Bills of Entry	As per documents said to have been recovered during investigation (Bill of Lading No. TN- 100019-21 dated 24.01.2021, Cargo Manifest dated 24.01.2021, Certificate of Origin dated 24.01.2021, Commercial Invoice no. TN-100081- 21 dated 24.01.2021, Free Zone Bill of Entry dated 28.01.2021)
Shipper/Supplier/Consignee	M/s. Delta Shipping and Trading LLC, Sohar, Oman	M/s. Aureole Trading LLC, Dubai, UAE	Jabal Al- Aswad Company, Iraq
Port of Loading	Sohar, Oman	Sohar, Oman	Basrah, Iraq
Country of Origin	Not mentioned	Oman	Iraq

HS Code/CTH of Product	271011229	27101229	27075000
Qty. (MT)	20110.767	20110.767	20110.767

MT Arihant:-

	As per Bills of Lading no. 1 to 4 dated 18.02.2021 provided to us by the vessel owner/charterer or their agent/broker	As per documents (other than Bill of Lading) said to have been produced by importer alongwith concerned Bill of Entry	As per documents said to have been recovered during investigation (Load Inspection Report dated 25/26.01.2021 of M/s Keyhan Sanjesh Azma and other related documents such as Covering letter dated 25/26.01.2021 of said surveyor, Time Log, Certificate of quantity dated 26.01.2021, Certificates of Quality etc.)
Shipper/Supplier/Consignee	M/s. Delta Shipping and Trading LLC, Sohar, Oman	M/s. Aureole Trading LLC, Dubai, UAE	M/s National Iranian Oil Products Distribution Company
Port of Loading	Sohar, Oman	Sohar, Oman	Bandar Mahshahr, Iran
Country of Origin	Not mentioned	Oman	Iran
HS Code/CTH of Product	271011229	27101229	Not mentioned
Qty. (MT)	9621.26	9621.26	9621.26

43.5. On being asked to comment which one set of above documents was having correct material particulars, Shri Illa Giri Visweswarao stated that his company had dealt with the Bills of Lading only and have filed the IGM only on the basis of Bills of Lading received from the party, but looking to above mentioned documents, the said Bills of Lading received by their company from the owner/charterer/agent/broker of vessels and subsequently produced/filed by them with IGM to Customs, Kandla, did not contain correct material particulars. He further stated that from the

content of the documents said to

have been recovered during investigation, the subject goods imported by M/s. Hazel Mercantile Ltd. in said vessels viz. MT Aston-I, MT Tuna and MT Arihant were mis-declared in the import documents and Bills of Entry field with Customs House, Kandla with respect to port/country of shipment , details of shipper etc. On being asked who had prepared the Bills of Lading and who had mentioned the description/classification of goods, Shri Illa Giri Visweswarao stated that as per the normal practice, these Bills of Lading were prepared by the load port agents but looking to the manipulation noticed in the load port documents, he was not in position to comment in this regard that who had prepared the Bills of Lading in this case. He assured to inquire from the owner/charterer/agent/broker of vessels in this regard and to revert back within 02 days but he did not do so.

43.6. On being asked to provide documents having correct material particulars and also to provide export documents submitted with respective Customs Authorities such as Export declaration form/shipping bills, insurance documents etc. pertaining to said three vessels, Shri Illa Giri Visweswarao stated that these documents had not been supplied to them by the owners/charterers/brokers/agents of the said three vessels. He assured to inquire from the owner/charterer/agent/broker of vessels in this regard and to revert back within 02 days but he did not do so.

43.7. Shri Illa Giri Visweswarao was shown copy of statement dated 12.04.2021 of Shri Nitin Kumar Didwania, Managing Director of M/s. Hazel Mercantile Ltd. and the content of illustrative Whatsapp chat conversations mentioned in the statement. On being asked, Shri Illa Giri Visweswarao stated that he did not know any members of such chat conversations except Shri Nitin Kumar Didwania and he did not have any conversation with Shri Nitin Kumar Didwania; that he used to communicate with Shri Satish Gaichor, AGM-Logistics for official dealing with this importer. After going through the Chat conversations available in the statement of Shri Nitin Kumar Didwania, Shri Illa Giri Visweswarao stated that the vessel MT Tuna was brought to Kandla switching off the AIS system but he was not aware why the same was switched off; that he would inquire in the matter and revert back within 02 days. He added that he also found that the timings of vessel Tuna were concocted and manipulated and various other material particulars of all three vessels including the HS Codes for the goods imported per vessel MT Tuna, were manipulated and were false and fabricated; that he found it apparent from these Whatsapp Chat conversations that the vessel MT Tuna did not even berth at Sohar, Oman.

43.8. Shri Illa Giri Visweswarao was shown following Test Report/clarification/re-test reports in respect of representative samples drawn from the goods imported by M/s. Hazel Mercantile Ltd. in the said three vessels. On perusing the same, Shri Illa Giri Visweswarao stated

that as per these Test Report/clarification/re-test report, the subject products imported by M/s. Hazel Mercantile Ltd. per following vessels were found as mentioned in Column 4 of below table.

S. No .	Name of the vessel	Test Report/clarification/re-test No. and date	report	Goods found in the Test Report/clarific
(1)	(2)	(3)	(4)	ation/re-test reports as
1	MT Aston-I	C. No. 27-Cus./C-08/2021-22 dated 01.06.2021 of CRCL, New Delhi	Natural Gasoline Liquid (NGL)	
2	MT Tuna	6454 2659863/6-2-21 dated 15.02.2021 readwith KDL/01/Misc-Corrs/KDL-Mundra/01/08-09/1169 dated 19.02.2021 and C.No. 27-Cus./C-08/2021-22 dated 28.05.2021	Natural Gasoline Liquid (NGL)	
3	MT Arihant	C. No. 27-Cus./C-08/2021-22 dated 01.06.2021 of CRCL, New Delhi and 27-Cus./C-08/2021-22 dated 19.07.2021 C.No.	Special Point (SBPS)	Boiling Spirit

43.9. Shri Illa Giri Visweswarao further deposed that from the test report/re- test report/clarifications shown to him, the subject goods imported by M/s. Hazel mercantile Ltd. per vessels MT Aston-I, MT Tuna and MT Arihant were mis-declared as Naphtha and the same were NGL, NGL and SBPS respectively.

43.10. On being asked, Shri Illa Giri Visweswarao stated that as an authorized career, they were responsible for collecting the correct and complete details of the cargo they were booking and after confirming correctness thereof also required to declare the same on all declarations and customs papers with their subscribing about correctness thereof; that in case any incorrect details are found they are supposed to inform the Customs department about such instances. He added that they are also required to advise their clients including other counterpart offices at foreign port to comply with the statutory provisions Indian law demands from them; that they were also required to keep proper record and track of movement all the cargo arrived at port and were responsible for safety, security and delivery of the imported, exported or coastal goods in their custody. He further deposed that in the instant case, they had relied upon the Bills of Lading and other details received vide emails from the owners/charterers/agents/brokers and filed IGM accordingly. On being asked, he assured to provide copy of authorized career registration details of his company and bond/security furnished by them in this regard, within 02 days but he did not do so.

44. Inquiries were also carried out with the declared overseas suppliers of subject goods viz. M/s. Delta Shipping and Trading LLC, Oman and M/s. Aureole Trading LLC, UAE vide Summons mentioned above.

These parties were requested to provide the complete set of their export documents such as invoices, packing list, Bills of Lading, Analysis Reports, Certificate of Origin alongwith Shipping Bills, Export declaration forms, Insurance Certificates, contract/agreements and other related documents pertaining to the goods exported by them per vessels MT Aston-I, MT Tuna and MT Arikant during the year 2020-21. However, no response was received from these overseas entities.

45. Similarly, the overseas entity M/s. Jabal As Aswad, Iraq who appeared to be the actual supplier of subject goods on the basis of investigation, was also issued Summons. Other overseas parties/persons who were noticed during investigation as connected/associated to the subject import consignment were

also issued Summons and asked to provide the details and documents relating to the supply of subject goods vide 03 vessels including MT Tuna but no reply/response received from either the declared suppliers, or the tentative actual suppliers of subject goods.

46. Statement of Shri Satish Gaichor, Associate General Manager-Logistics of M/s. HML was recorded on 17.02.2022 (RUD No. 51). In his statement, Shri Satish Gaichor interalia stated that he being Associate General Manager-Logistics of his company, used to look after logistics related work and report his day to day official activities to Shri Nitin Kumar Didwania, Managing Director (MD) of M/s. HML; that he was also supervising overall activities of their Gandhidham branch office for which the subject import consignment pertained. He was asked to provide the details of a buyer about whom he had whatsapp discussion on 11.02.2021 with Shri Nitin Kumar Didwania, Managing Director of M/s. HML, regarding supply of Gasoline and Gasoil by M/s. HML as per requirement (specifications) from the buyer. In this regard, Shri Satish Gaichor stated that he could not recall and gather the details of such buyer, and deliberately not provided the same. He also did not provide the specifications/report discussed in that said Whatsapp Chat conversation. As regards the conversations held on 29.12.2020 between him and Shri Ashok Desai, VP (Logistics) of M/s. HML, in which Shri Ashok Desai discussed about 35 KT Gasoline, was said to be relating to inquiry of freight outside India. On being apprised that the above aspects indicated that M/s. HML was dealing with sale-purchase of Gasoline, Shri Satish Gaichor stated that the above discussions were relating to market inquiries and claimed that they had not implemented the same.

46.1. On being asked, Shri Satish Gaichor stated that he was not aware what was the end use of the subject product stating that the buyers could reply for what purpose they had purchased / used the product. On being asked as to whether their buyers were having license to purchase/sale/trading goods declared as Light Naphtha, he stated that the buyers could reply in this regard as such Licenses are required to be issued by the jurisdictional state authorities to the buyers only. Shri Satish Gaichor stated that he would check their records in this regard and revert within 03 days but he did not respond.

46.2. Shri Satish Gaichor was shown copy of Test Memo bearing no. 46/2020 dated 15.04.2021 issued from DRI, Gandhidham Regional Unit and concerned re-test report C. No. 27-Cus/C-08/2021-22 dated 01.06.2021 said to be pertaining to the second sample of goods declared as Light Naphtha as imported by M/s. HML per vessel MT Aston-I, as per which the concerned sample is a low boiling liquid extracted from natural gas; that it was „Natural Gasoline Liquid“. On being asked to comment upon this re-test report as it suggests that the subject goods were not Naphtha but were „Natural Gasoline Liquid“, Shri Satish Gaichor stated that as per the said re-test report shown to him, the subject goods pertaining to such sample were „Natural Gasoline Liquid“, however, he was not belonging to chemical background and not aware about actual chemical composition of subject goods and hence, their Managing Director Shri Nitin Kumar Didwania was the right person to comment upon the re-test report.

As regards the genuineness of Naphtha License of M/s. HML, Shri Satish Gaichor stated that he was not aware and he would inquire into the matter with their Managing Director and revert within 03 days but he did not respond. He offered comments with respect to following members of the Whatsapp group „Light Naphtha“:-

- (i) Mr. Omid:- Not aware
- (ii) Shri Alex Abby and Shri Vishal Goyal were employees of their UAE office of M/s. Versaco FZE and M/s. Hazel Middle East FZE respectively
- (iii) Mr. Ali Trilliance:- Not aware
- (iv) Mr. Saba Trilliance:- Not aware
- (v) Ms. FJ (Fehimah):- Not aware
- (vi) Shri Nitin Kumar Didwania (NKD), MD of M/s. HML

46.3. Shri Satish Gaichor was shown the statement of Shri Nitin Kumar Didwania and related Whatsapp Chat conversations. After going through the Chat conversations available in the statement of Shri Nitin Kumar Didwania, he stated that the vessel MT Tuna was brought to Kandla switching off the AIS system; that the vessel MT Tuna did not even berth at Sohar, Oman. He added that he was not aware why the AIS of MT Tuna was switched off, why the HS Codes of subject goods were changed and why the timing of vessel were manipulated as the vessel was hired on CFR basis i.e. Cost and Freight basis and the supplier /owner was directly dealing with the vessel agent i.e. M/s. Samudra Marine Services Pvt. Ltd. in the instant case.

46.4. On being asked what was the country of origin, actual shipper/supplier, actual port of loading and correct description of goods imported by my company per vessel MT Aston-I, MT Tuna and MT ARIHANT declaring the same as Light Naphtha, Naphtha and Naphtha respectively, Shri Satish Gaichor stated that he was not aware as the supplier arranged the goods on CFR basis and the entire matter was being dealt with by Shri Nitin Kumar Didwania, MD of his company M/s. HML.

46.5. Shri Satish Gaichor was also shown the data contained in his mobile phone which was extracted under Panchnama dated 08.03.2021 to 11.03.2021. After seeing the data, he deposed that this data included the data of his mobile phone which was surrendered by him during Statement dated 25.02.2021. I explained the specific Whatsapp Chats and documents recovered from his mobile phone as under:-

Chat No. 1789 with Shri Abby-Alex:-

Chat Details	Body	My comment/submissions on the body/content of chat
From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 27-01-2021 12:49:27 PM(UTC+0) Source App: WhatsApp	<i>"Body: have u passed on this message for Arihant</i>	<i>"This was the direction/inquiry of our MD Shri Nitin Kumar Didwania regarding goods imported by us in vessel MT Arihant.</i>
From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 27-01-2021 12:49:39 PM(UTC+0) Source App: WhatsApp	<i>Body: also please advice what is BL qty for Arihant</i>	
From: 971501159789@s.whatsapp.net HME - Abby Alex Timestamp: 27-01-2021 1:42:31 PM(UTC+0) Source App: WhatsApp	<i>Body: We are arranging Iraq docs for her, will arrive Sohar in 3 days then we will arrange Omani docs for kandla discharge</i>	<i>Mr. Alex Abby, our UAE counter part informed that they were arranging documents showing Iraq origin of subject goods and then documents showing Oman origin of goods were for Kandla discharge. I am not aware why the two types of documents i.e. Iraqi and Omani documents were prepared. Mr. Alex Abby or</i>

<p>From: 971501159789@s.whatsapp.net HME - Abby Alex</p> <p>Timestamp: 27-01-2021 1:42:51 PM(UTC+0)</p> <p>Source App: WhatsApp</p>	<p><i>Body:</i></p> <p>Above message for Arihant docs</p>	<p>our MD Shri Nitin Kumar Didwania can explain about the same.</p>
<p>From: 918291990409@s.whatsapp.net SG (owner)</p> <p>Timestamp: 30-01-2021 1:37:32 PM(UTC+0)</p> <p>Source App: WhatsApp</p>	<p><i>Body:</i></p> <p>VV IMP: 1. We need a full survey of quality with the oxygenates. Same has to be done on priority and reports to be shared on priority prior vessel sailing to Kandla.</p> <p>2. WATER CONTENT ANALYSIS REPORT TO BE SEPARATELY INFORMED (NOT PART OF MAIN REPORT).</p> <p>3. All docs must mention "NAPHTHA" as product</p>	<p>This direction was from Shri Nitin Kumar Didwania, MD of M/s. HML to analyze the specifications/parameters of goods etc. in import related documents. I just forwarded the message received from Shri Nitin Kumar Didwania to concerned persons including Mr. Abby Alex. Our MD Shri Nitin Kumar Didwania can explain why he specifically directed that all docs must mention "NAPHTHA" as product.</p>

<p>From: 971501159789@s.whatsapp.net HME - Abby Alex</p> <p>Timestamp: 02-02-2021 5:18:14 AM(UTC+0)</p> <p>Source App: WhatsApp</p>	<p><i>Attachments:</i></p> <p># 1: chats\WhatsApp Native\attachments1789 \BILL OF LADING..pdf</p> <p><i>(The sender sent Bill of Lading for MT Tuna containing port of loading as Basrah, Iraq)</i></p>	<p><i>Mr. Abby Alex sent Bill of Lading and other related documents pertaining to MT Tuna. This Bill of Lading and concerned Certificate of Origin contains Country of origin as Iraq and Port of Loading Basrah, Iraq for 20110.767 MT goods. The goods were the same which</i></p>
		<p><i>were imported to Kandla India per vessel MT Tuna. I am not aware the purpose of declaring the country of origin as Oman in the documents submitted with Customs House, Kandla. Our MD Shri Nitin Kumar Didwania can explain the reason for same.</i></p>
<p>From: 971501159789@s.whatsapp.net HME - Abby Alex</p> <p>Timestamp: 03-02-2021 8:58:41 AM(UTC+0)</p> <p>Source App: WhatsApp</p>	<p><i>Body:</i></p> <p><i>Also please let me know if you are OK with the below timings for Tuna.</i></p> <p><i>NOR Sohar Jan 30th</i></p> <p><i>48 hours of loading</i></p> <p><i>Completion of loading Feb 2nd early AM hours</i></p>	<p><i>I am not aware why did these timings were created though the vessel MT Tuna did not berth at Oman as per Whatsapp chat conversations. Our MD Shri Nitin Kumar Didwania can explain the reason for same.</i></p>

<p>From: 918291990409@s.whatsapp.net SG (owner)</p> <p>Timestamp: 04-02-2021 9:52:18 AM(UTC+0)</p> <p>Source App: WhatsApp</p>	<p><i>Body:</i></p> <p>1. HS CODE CHANGED IN ALL OBLS.</p> <p>2. LC DETAILS ADDED IN 6 & 7</p>	<p><i>These messages were only forwarded by me as received from our MD Shri Nitin Kumar Didwania. I am not aware about the purpose of changing HS Code, actual details which HS Code was changed and requirement of two Certificates of Origin.</i></p>
<p>From: 918291990409@s.whatsapp.net SG (owner)</p> <p>Timestamp: 04-02-2021 10:20:03 AM(UTC+0)</p> <p>Source App: WhatsApp</p>	<p><i>Body:</i></p> <p>We will require Certificates of origin</p> <p>1. For BL# 1,2,3,4,5</p> <p>2. Certificate of Origin for BL# 6 & 7</p>	<p><i>Our MD Shri Nitin Kumar Didwania can explain the reason for same.</i></p>
<p>From: 971501159789@s.whatsapp.net HME - Abby Alex</p> <p>Timestamp: 04-02-2021 11:03:19 AM(UTC+0)</p> <p>Source App: WhatsApp</p>	<p><i>Body:</i></p> <p>@971501159789</p> <p>As per your instruction, Tuna is sailing towards the discharge port with AIS turned off."</p>	<p><i>Mr. Abby Alex sent this message informing that as per instructions of our MD of M/s. HML, the AIS of vessel MT Tuna was switched off while moving towards Kandla, India to discharge the goods.</i></p>

46.6. Shri Satish Gaichor was also shown set of following documents pertaining to the said 03 vessels vide which goods were imported by M/s. HML. He despoed that these documents were recovered from his mobile phone from which the same were extracted/exported to the said external Hard Disc Drive. He was also shown the copy of corresponding documents submitted by M/s. HML with Customs Authorities, Kandla for clearance of subject goods imported per said three vessels including MT Tuna. He deposed that as per these documents, the material particulars of subject import consignment were found by him as under:-

MT Tuna:-

	<p>As per Bills of Lading no. 1 to 7 dated 02.02.2021 submitted by us with Customs, Kandla</p> <p>As per documents (other than Bills of Lading) said to have been produced alongwith concerned Bills of Lading No. TN-100019-21 dated 24.01.2021, Cargo Manifest of concerned Bills of Lading No. N-100081-21 dated 24.01.2021, Certificate of Origin dated 4.01.2021, Commercial Invoice no. N-100081-21 dated 24.01.2021, Free Zone Bill of Lading No. dated 8.01.2021)</p>		
Shipper/Supplier/Consignee	M/s. Shipping Trading LLC, Sohar, Oman	Delta and LLC, AE	Aureole trading LLC, Dubai, UAE
Port of Loading	Sohar, Oman	Sohar, Oman	Basrah, Iraq
Country of Origin	Not mentioned	Oman	Iraq
HS Code/CTH of Product	271011229	27101229	27075000
Qty. (MT)	20110.767	20110.767	20110.767

46.7. On being asked to comment which one document is having correct material particulars and why did M/s. HML not disclose the correct material particulars of said consignments to Customs, Shri Satish Gaichor stated that their MD Shri Nitin Kumar Didwania could explain the reason behind same; that they had just followed his instructions regarding preparation of documents and submission of the same with Customs Authorities. On being asked to provide documents having correct material particulars and also to provide corresponding export documents submitted by actual overseas supplier/shipper with respective Customs Authorities such as Export declaration form/shipping bills, insurance documents etc. pertaining to goods exported to India per said three vessels, Shri Satish Gaichor stated that these documents were not available with him; that their MD Shri Nitin Kumar Didwania is the right person to provide the same.

46.8. On being asked to provide payment particulars alongwith copy of bank statement highlighting related transactions in respect of the goods imported by

M/s. HML per vessel MT Aston-I, MT Tuna and MT Arihant and sold/re-exported the same, Shri Satish Gaichor assured to arrange these details through concerned dealing hand of his company within 03 days but he did not arrange.

47. TO SUM UP: -

47.1. The following one import consignment is covered under present Investigation Report: -

S. N o.	Name of vessel	Goods declared as	Declared TH	Qty. declared (MT)	Qty. received (MT)	Goods found as	Appropriate CTH
1	MT Tuna	Naphtha	27101229 (i.e. for Full Range Naphtha)	20110.77	19990.541	NGL	27101290

47.2. M/s. HML had imported 20110.77 MT goods in vessel MT Tuna declaring the same as Naphtha vide 07 Bills of Entry all dated 06.02.2021 filed at Customs House, Kandla. They had not specified the category of Naphtha (Light, Heavy or Full Range) in the Bills of Entry but declared the classification of the same under CTH No. 27101229 which is linked with Full Range Naphtha. This anomaly in the description of subject goods was also noticed in the contract with so called supplier M/s. Aureole Trading LLC, Oman and Letter of Credit gathered during investigation as M/s. HML mentioned description of goods as Light Naphtha [CTH No. 27101221] also. However, on testing of samples drawn at KANDLA, the Custom House Laboratory Kandla vide Test Report dated 15.02.2021 read with clarification dated 19.02.2021 has opined that the subject goods were Natural Gasoline Liquid. Accordingly, the subject goods imported by M/s. HML per MT Tuna were seized under Customs Act, 1962 on 26.02.2021. M/s. HML challenged the seizure as well as the Test Report and clarification of the Custom House Laboratory Kandla before Hon'ble Gujarat High Court. On orders of Hon'ble Gujarat Court dated 05.04.2021, fresh samples from the subject goods were drawn and sent for re-testing at CRCL, New Delhi. The CRCL New Delhi vide re-test report dated 28.05.2021 opined that the subject goods were Natural Gasoline Liquid. Thus, it appears that the subject goods were mis-declared and mis-classified with respect to description of goods as the same being NGL was classifiable under CTH No. 27101290 of Customs Tariff and import of goods classifiable under CTH No. 27101290 including NGL was restricted to STEs only as per Condition 5 of import policy for Ch. 27. The Whatsapp Chat conversations and other evidences gathered during investigation also indicate that M/s. HML used to manipulate the nature/specifications of goods by way of blending/mixing/altering the description and classification /HS Code in the documents are also manipulated fraudulently by specifically insisting to mention the product as „Naphtha“ in all documents.

47.3. The country of origin of subject goods was declared by M/s. HML as Oman and port of loading was declared as Sohar, Oman. However, from the

Whatsapp Chat conversations and other evidences gathered during investigation such as Certificate of Origin dated 24.01.2021, Commercial Invoice no. TN-100081-21 dated 24.01.2021 etc., it appears that the vessel MT Tuna did not even berth at Sohar, Oman and the country of origin of subject goods was Iraq. From the Bill of Lading No. TN-100019-21 dated 24.01.2021, Certificate of Origin dated 24.01.2021, Cargo Manifest dated 24.01.2021, Commercial Invoice no. TN-100081-21 dated 24.01.2021 and Delivery Order No. 2021-007732 dated 28.01.2021 etc and whatsapp chat conversations retrieved during investigation, it appears that the port of loading was Basrah, Iraq. Shri Nitin Kumar Didwania, Managing Director of

M/s. HML also admitted the mis-declaration of Country of Origin in his statement dated 12.04.2021. It further appears that in order to avoid the country of origin/route of journey and other violations of statutory provisions, the vessel MT Tuna came to India after deliberately switching off the Automatic Identification System (AIS).

47.4. The shipper/supplier of subject goods has been declared as M/s. Delta Shipping & Trading LLC, Sohar, Oman in the corresponding Bills of Lading and M/s. Aureole Trading LLC, UAE in the Bills of Entry filed with Customs Authorities at Kandla. However, investigation revealed that both the said names of shipper/supplier are concocted and mentioned in the documents during hatching of conspiracy as apparent from the Whatsapp Chat conversations held among the key persons of M/s. HML and their other associates. In the Whatsapp Chat conversations, it was discussed either to use Iraqi documents for clearance of goods from Customs Kandla or to use name of M/s. Aureole Trading LLC, UAE in the import documents. M/s. HML never disclosed such Iraqi documents with Customs, Kandla and the investigating officers of DRI. However, certain documents such as Bill of Lading No. TN- 100019-21 dated 24.01.2021, Certificate of Origin dated 24.01.2021, Cargo Manifest dated 24.01.2021, Commercial Invoice no. TN-100081-21 dated 24.01.2021 and Delivery Order No. 2021-007732 dated 28.01.2021 etc retrieved from the mobile phone of Shri Nitin Kumar Didwania, Managing Director of M/s. HML and Shri Satish Gaichor, indicate that M/s. HML imported subject goods from Iraq per vessel MT Tuna using name of M/s. Delta Shipping & Trading LLC, Sohar, Oman and M/s. Aureole Trading LLC, UAE. The Whatsapp Chat conversations retrieved during investigation also indicate that M/s. HML in connivance of other associates used to blend/alter/manipulate the nature/specifications of subject goods. Finally, the goods arrived at Kandla and discharged from the vessel MT Tuna were Natural Gasoline Liquid. Thus, it appears that M/s. HML have mis-declared the name of shipper/supplier in the Bills of Entry filed by them at CH, Kandla for clearance of subject goods.

47.5. The received quantity of subject goods provided by Shri Bharat Goswami, Terminal Manager, FSWAI in Litres is 31183563 Litres (**RUD No. 52**). Considering the market rate of Gasoline at Rs. 88.92 per litre as on 01.02.2021 as per website globalpetrolprces.com, the market value of received quantity 19990.541 MT i.e. 31183563 Litres (out of declared qty. 20110.77 MT) subject goods is calculated as approximately Rs. 278,95,19,113/- (**RUD No. 53**). Whereas, M/s. HML has declared the assessable value in the Bills of Entry as Rs. 79,63,76,540/- only which is much lesser even after further value additions on account of customs duty, other taxes and other expenses.

47.6. From above, it appears that the subject goods imported by M/s. HML per vessel MT Tuna were mis-declared with respect to description, value, country of origin, port of loading, shipper/supplier details etc. and illegally imported by way of fraud, collusion, willful mis-statement and suppression of facts. The facts and major evidences collected so far in this regard, are tabulated here:

Materi al particulars	Declared with Customs in the Bs/E and supportin g document	As per investig ation	Evidences in support of outcome of investigation

Description	Naphtha (No specific category Light or Heavy or Full Range, declared)	NGL	Test Report dated 15.02.2021 read with clarification dated 19.02.2021 of Customs House Laboratory, Kandla, Re-Test Report dated 28.05.2021 of CRCL, New Delhi and Whatsapp Chat conversations indicating the manipulation in the nature of goods. The statement of Shri Nitin Kumar Didwania in which he deposed that the subject goods imported by them seemed to be extracted from Natural Gas.
CTH	27101229 (i.e. for Full Range Naphtha)	2710129 0	Customs Tariff
Value	Rs. 79,63,76,540/- (declared assessable value)	Rs. 278,95,19,113/- (approximate market value)	Website Globalpetrolprices.com
Country of Origin	Oman	Iraq	Certificate of Origin dated 24.01.2021, Commercial Invoice no. TN-100081-21 dated 24.01.2021, Statement of Shri Nitin Kumar Didwania,
Port of Loading	Sohar	Basrah	Bill of Lading No. TN- 100019-21 dated 24.01.2021, Cargo Manifest dated 24.01.2021, Commercial Invoice no.

			TN-100081-21 dated 24.01.2021
Shipper/Consigner	Aureole Trading LLC (as per Bs/E) Delta (as per Bs/L)	Jabal Al-Aswad Company	Bill of Lading No. TN- 100019-21 dated 24.01.2021, Cargo Manifest dated 24.01.2021, Certificate of Origin dated 24.01.2021, Commercial Invoice no. TN-100081-21 dated 24.01.2021

As narrated in foregoing paras, M/s. HML re-exported the subject goods on furnishing Bank Guarantee of Rs. 15 Crore (reduced amount Rs. 8 Crore) in terms of Order dated 27.01.2022 of Honorable Gujarat High Court.

48. NATURE /DESCRIPTION OF SUBJECT GOODS: -

48.1. Whereas, the subject import goods imported by M/s. HML have been reported to be NGL by Customs House Laboratory, Kandla and CRCL, New Delhi. NGL is defined as: -

From above discussed definitions of NGL, it transpires that NGL/Natural Gas Liquid (NGL) **is extracted from Natural Gas** by processing such as absorption, condensation, adsorption, cooling etc

48.2. As per U.S. Energy Information Administration (EIA), **Natural gasoline and Natural Gas Liquid (NGL)** are defined as under: -

“Natural gasoline: A term used in the gas processing industry to refer to a mixture of liquid hydrocarbons (mostly pentanes and heavier hydrocarbons) **extracted from natural gas**. It includes isopentane.”

48.3. As per Hess Corporation's Safety Data Sheet of Natural Gasoline, Natural Gasoline is a complex mixture of petroleum hydrocarbons **separated as a liquid from natural gas** and/or natural gas liquids from which methane, ethane, propane, butane, and possibly pentane have been extracted. It consists of hydrocarbons with carbon numbers predominantly in the range C₅ to C₈. It is a liquid at atmospheric temperature and pressure.

48.4. NGL was defined in Supplementary Notes of Ch. 27 of ITC (HS), that the subject products were covered under the definition of NGL that “NGL is a low- boiling liquid petroleum product extracted from Natural Gas.

48.5. In the instant case, on being specifically asked in the statement dated 12.04.2021 of Shri Nitin Kumar Didwania, Managing Director of M/s. HML, he stated that the subject goods imported by them declaring as Naphtha were seems to be extracted from Natural Gas. The re-test report dated 28.05.2021 of CRCL, New Delhi suggests that the

sample is mainly composed of lighter mineral hydrocarbon oil more than 70% by weight and conclusion of the re-test

report reads as "The sample is a low boiling liquid extracted from natural gas. It is „NGL“."

48.6. From the above definitions and as specially elaborated supplementary note of Chapter-27, test results of Customs House Laboratory, Kandla vide Test Report dated 15.02.2021 read with clarification dated 19.02.2021 and conclusive observations of chemical examiners of CRCL, New Delhi conveyed vide re-Test Reports dated 28.05.2021 for the goods imported per vessel MT Tuna, it is revealed that the subject product was a mixture of hydrocarbon, a low boiling petroleum product and was extracted from Natural Gas. Thus, it appears that the subject product imported by M/s. HML per vessels MT Tuna by declaring the same as Naphtha was nothing but NGL (NGL).

48.7. The 04 Test Reports relied upon by M/s. HML in their support appear to be not reliable and maintainable on the following grounds:-

(1) **Test Report/Certificate of Quality of M/s. Muscut International Shipping & Logistics LLP (MIS) said to be the load port report:-** There appear sufficient evidences which indicate that the port of loading declared by M/s. HML i.e. Sohar, Oman is not correct. Similarly, the shipper/supplier/consignee declared by M/s. HML as M/s. Aureole Trading LLC is also merely on papers and were not the actual supplier/shipper/consigner. In such a circumstances, when supplier/shipper/consigner are not correct, the so called load port report of **M/s. MIS** lost its genuineness and the same cannot be relied upon as a valid document.

(2) **Test Report of M/s. TUV India Pvt. Ltd.:-** As narrated in foregoing para 13 that M/s. HML relied on a Test Report of M/s. TUV India Pvt. Ltd. claiming that the report was pertaining to samples drawn by their surveyor M/s. TUV India Pvt. Ltd. and that the Test Report indicated the subject goods as Naphtha. Whereas, the Test Report was not authentic and not relating to the subject goods as no permission from Customs authorities was admittedly taken by M/s. HML or M/s. TUV India Pvt. Ltd. for drawing of samples from the warehoused goods. Thus, there appeared no evidential value for the Test Report of M/s. TUV India Pvt. Ltd. referred by M/s. HML in support of their claim.

(3) **Test Report of M/s. Geochem Laboratories Pvt. Ltd. :-** M/s. HML vide letter dated 16.04.2021 said to have sent the samples of subject goods to M/s. Geo-Chem Laboratories Pvt. Ltd. and specified the subject of this request letter dated 16.04.2021 as "testing of Naphtha samples" . They had influenced the laboratory by making wrong and vague submissions stating that "*The goods were declared as Naphtha and meant for manufacturer of Poly-Olefins and the product is high paraffinic Naphtha but the Department has reservations on the quality and wishes to reverify the same. We request you to analyse the same and certify that the goods confirm to Naphtha or otherwise and oblige*". Thus, it appears that M/s. HML had not only attempted to get biased report in their favour but also, they suppressed the actual contention of Department and also mis-represented the facts by stating that the Department has reservations on the quality of Naphtha. Accordingly the test report based on such query /requests cannot be relied upon and considered as evidence.

(4) **Test Report of IIP, Dehradun:-** As it appears from the similar request letter dated 16.04.2021 of M/s. HML addressed to IIP Dehradun in which also the importer had attempted to influence the laboratory by way of making wrong and vague representation and succeeded to get biased report as apparent from the terminology used by

IIP Dehradun about the testing as illustrated below:-

Project Title: - Studies on Sealed Naphtha Samples

Report No.: ASD 417:2021: Sealed sample of Naphtha (Marked as S5 with Seal No. 715255), Location: MT Tuna with letter having subject "Testing of sealed samples of naphtha dated 16.04.2021 Naphtha".

Introduction: Studies on Sealed Naphtha Samples from M/s. Hazel Mercantile Limited, Mumbai

Standard Test Methods: Naphtha samples (Marked as S5 with Seal No. 715255, Location MT Tuna was analysed in our laboratory...)

Results: Naphtha Sample (Marked as S5 with Seal No. 715255 Location: MT Tuna) Report.....

Conclusion: "Based on the above observations/results, this sealed naphtha sample (Marked as S5 with Seal No. 715255, Location MT Tuna) falls under the light naphtha range."

As it narrated in foregoing paras that the the conclusions of said two reports of M/s. Geo Chem Laboratories Pvt. Ltd. and IIP Dehradun were not in conformity to each other and these reports were not based on the factual parameters/queries to be tested from the NGL aspect based on the misleading facts provided by M/s. HML and accordingly the same appear to be non-maintainable.

48.8. The subject goods imported by M/s. HML vide aforesaid 07 Bills of Entry were not Naphtha as it was specifically asked vide Test Memos No. 17/08/02/2021 dated 08.02.2021 and another Test Memo bearing no. 44/2021 dated 15.04.2021 to Customs House Laboratory, Kandla and CRCL, New Delhi respectively, as to whether the subject goods were "Naphtha", or otherwise? But after necessary testing both the said laboratories did not confirm the subject goods as Naphtha. Further, Shri Nitin Kumar Didwania in his statement dated 12.04.2021 indicated that the subject goods appeared to be extracted from Natural Gas, which is indicating the subject goods were not Naphtha but the same are NGL.

49. CLASSIFICATION OF SUBJECT IMPORT GOODS: -

49.1. In Order to decide the appropriate classification of subject goods, the factual developments related to the statutory classification of various grades of Naphtha vis-à-vis NGL in brief is herein below:

49.2. Vide Notification No. **36/2015-20**, dtd. **17.01.2017**, the Central Government notified the ITC (HS) Classification of relevant period, under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992, prescribing therein the scheme of classification of goods as well as the provisions relating to Import/Export of each of such items. In terms of said ITC

(HS) Classification, 2017, the following are the relevant entries under Chapter 27 of Schedule I pertaining to the Import Policy:

E xim Code	Item Description	Polic y	Polic y conditions
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2 710	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 basis constituents of the preparations other than those containing biodiesel and other than waste oil		
2 71012	Light oils and Preparations:		
	Motor spirit		
2 710 12 11 to 2710121 9		State Tradi ng Enterprises	Imp ort as per Policy condition (5)
2 7101220	NGL (NGL)	State Tradi ng Enterprises	Imp ort as per Policy condition (5)
2 7101290	Other	State Tradi ng Enterprises	Imp ort as per Policy condition (5)

49.3. From the above provisions of ITC (HS) Classification, it is apparent that there was no specific entry for goods described as "Naphtha" of different grades. There were no entries for the different grades of solvents, Aviation Gasoline etc. Thus, Naphtha was then classifiable under other category i.e. 27101290. The goods described as "NGL" as per the supplementary Note (b) provided in Chapter 27 of the ITC (HS), was falling at Exim Code 27101220, which was restricted for import by the Policy as well as Policy condition provided against the said Exim Code. As per the Policy, the item NGL falling under Exim Code 27101220 could be imported by STEs and as per the Policy condition (5) prescribed in Chapter 27, the import of said item is allowed through IOC subject to para 2.20 of the FTP, except for the companies, who have been granted rights for marketing of transportation fuels in terms of Ministry of P&G's Resolution No. P-23015/1/2001-MKT, dtd.08.03.2002 including HPCL, BPCL & IBP, who have been marketing transportation fuels before the date.

49.4. Vide Notification No. **41/2015-2020, dtd.05.12.2017**, the Central Government had notified the revised Foreign Trade Policy 2015-20 under the

provisions of Section 5 of the Foreign Trade (Development and Regulation) Act, 1992, which came into effect from 05.12.2017.

(a) In terms of Para 2.01 of the revised Foreign Trade Policy 2015-20, all imports should be free, unless regulated by way of "prohibition", "restriction" or "exclusive trading through State Trading Enterprises (STEs), as laid down in the ITC (HS) Classification.

(b) It was clearly stipulated in Para 2.01 of the FTP 2015-20 that there are some items, which are free for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force.

(c) In Para 2.02 of the FTP 2015-20, it was clarified that the ITC (HS) is aligned at 6-digit level with the international Harmonized System goods Nomenclature maintained by World Customs Organization. However, it was further clarified in said Para 2.02 of the FTP 2015-20 that India maintains national Harmonized System of goods at 8-digit level.

(d) It was also prescribed vide Para 2.02 of the FTP 2015-20 that the import/export policy for all goods are indicated against each item in ITC (HS).

(e) As provided vide Para 2.20 of the FTP 2015-20, any goods, import or export of which is governed through exclusive or special privilege granted to STEs may be imported or exported by the concerned STEs, as per the conditions specified in the ITC (HS). Although it was also provided in Para 2.20 of the FTP 2015-20 that the DGFT, may, grant an authorisation to any other person to import or export any of the goods notified for exclusive trading through STEs.

49.5. Later on, w.e.f. 01.01.2020, the following changes were introduced in respect of the entries available in Chapter 27 of the Customs Tariff:

2710 12	-	Light Oils and Preparations
	--	Naphtha
2710 1221	---	Light Naphtha
2710 1222	---	Heavy Naphtha
2710 1229	---	Full Range Naphtha
	--	Solvent 60/80, solvent 50/120 and solvent 145/205 (petroleum hydrocarbon solvents) as specified under standard IS 1745:
2710 1231 to 2710 1239	---	
	--	Motor gasoline confirming to standard IS 2796, IS 17021 or IS 17076:
2710 1241 to 2710 1249	---	
2710 1250	--	Aviation Gasoline conforming to standard IS 1604
2710 1290	--	Other

49.6. Thus, pursuant to the above changes, the specific entries were provided

for the goods of the categories of Naphtha, Solvent, Motor Gasoline and Aviation Gasoline, which were earlier classified under residuary entry of "Others", whereas the entry of NGL earlier available vide CTH No. 27101220 was removed and accordingly the NGL seemingly became classifiable under the residuary entry of 27101290.

49.7. The Central Government vide Notification No. **38/2015-20, dtd.01.01.2020** issued under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 read with Para 2.01 of the FTP 2015-20, introduced following changes in respect of the entries available in Chapter 27 of the ITC (HS): -

Exim Code	Item Description	Policy	Policy conditions
271012	Light Oils and Preparations		
	Naphtha		
1 2710122	Light Naphtha	State Trading Enterprises	Import as per Policy condition (5) of Chapter 27
2 2710122	Heavy Naphtha	State Trading Enterprises	Import as per Policy condition (5) of Chapter 27
9 2710122	Full Range Naphtha	State Trading Enterprises	Import as per Policy condition (5) of Chapter 27
	Solvent 60/80, solvent 50/120 and solvent 145/205 (petroleum hydrocarbon solvents) as specified under standard IS 1745:		
1 to 9 2710123		State Trading Enterprises	Import as per Policy condition (5) of Chapter 27

		Motor gasoline confirming to standard IS 2796, IS 17021 or IS 17076:		
1 9	2710124 to 2710124 9		State Trading Enterprises	Import as per Policy condition (5) of Chapter 27
0	2710125	Aviation Gasoline conforming to standard IS 1604	State Trading Enterprises	Import as per Policy condition (5) of Chapter 27
0	2710129	Other	State Trading Enterprises	Import as per Policy condition (5) of Chapter 27

49.8. In light of the above, it appears that Naphtha, by virtue of Policy condition (1) of the Chapter 27, became importable through STEs. Further, the commodities, which were falling under residuary entry of "Others" category were became classifiable with the specific entries provided.

49.9. Later on, vide Notification No. **51/2015-20, dtd.18.03.2020**, issued under Section 3 of the Foreign Trade (Development and Regulation) Act, 1992

read with Para 1.02 and 2.01 of the FTP 2015-20, the Import Policy for three categories of Naphtha and other items were amended. The product Naphtha, which was earlier importable by the STEs only was made freely importable. Apparently, there was no such change of Policy provided for NGL falling under Exim Code 27101290.

49.10. Vide Notification No. **60/2015-20, dtd.31.03.2021** issued under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 read with Para 1.02 of the FTP 2015-20, the Central Government extended the validity of said FTP 2015-20 from 31.03.2021 to 30.09.2021.

49.11. It would be pertinent to mention here that even prior to the date of deletion of said entry of CTH 27101220, the import of NGL was continuously being allowed through State Trading Enterprises only as per Condition No. 5 of Import Policy for Ch. 27. Further, from the evidences gathered during the investigation, it seems that Shri Nitin Kumar Didwania, Managing Director of M/s. HML and other key persons involved in the import of goods, hatched the conspiracy of illegal import and were well aware about the actual nature of goods being imported by M/s. HML. It further appears that the subject goods being described as NGL being light mineral hydrocarbon oil having low boiling point and extracted from Natural Gas as confirmed in the test reports, the same is appropriately classifiable under „Others“ category with Tariff Heading of CTH 27101290 in the existing tariff and ITC (HS) Classification. However, during the course of investigation and vide their submissions

made before Hon'ble Gujarat High Court, M/s. HML challenged the classification of subject goods under CTH 27101290. In this regard, the following further submissions are pertinent to be added here.

49.12. The entries prescribed under sub-heading 271012 („Light Oils and preparations“) of Customs Tariff at the time of import of subject goods are as under: -

- 2710 1221 ----- *Light naphtha*
- 2710 1222 ----- *Heavy naphtha*
- 2710 1229 ----- *Full range naphtha*
- 2710 1231 ----- *Solvent 60/80,*
- 2710 1232 ----- *Solvent 50/120*
- 2710 1239 ----- *Solvent 145/205*
- 2710 1241 ----- *Motor gasoline conforming to standard IS 2796*
- 2710 1242 ----- *E 20 fuel conforming to standard IS 17021*
- 2710 1249 ----- *M15 fuel conforming to standard IS 17076*
- 2710 1250 ----- *Aviation gasoline conforming to standard IS 1604*
- 2710 1290 ----- *Other*

49.13. In the instant case, after receipt of Test Report dated 15.02.2021 read with clarification dated 19.02.2021 from the Customs Laboratory, Kandla (which were further supported with Re-Test Report of CRCL, New Delhi), there is no alternative to find matching category of specifically described goods, as provided within the general sub-heading of 271012, hence the classification of goods as various grades of Naphtha under the heading of 271012 as provided vide CTH No./HS Code 27101221, 27101222, 27101229 is not available for the instant goods. The goods were also not specified in the said Test Reports as Solvents, Motor Gasoline or Aviation Gasoline also, so as to classify the same under CTH/HS Code 27101231, 27101232, 27101239, 27101241, 27101242,

27101249 or 27101250. In that case, for the goods falling under heading 271012 has been left with only option of getting classification under the residuary entry of “Others” under CTH/HS Code 27101290.

Thus, it appears that the subject goods NGL are appropriately classifiable under CTH No. 27101290 of Customs Tariff.

49.14. Therefore, it seems that the goods imported by M/s. HML by declaring the same as Naphtha (under CTH No. 27101229 i.e. for Full Range Naphtha) are actually NGL and the same was appropriately classifiable under Customs Tariff Heading 27101290 of Customs Tariff. The classification of subject goods adopted by M/s. HML under the said CTH 27101229 is thus required to be rejected and the same are required to be re-classified under its appropriate CTH 27101290.

50. Whereas on the facts and evidences discussed above and keeping in view the related statutory provisions of Customs Act, 1962 and other regulations, it appears that M/s. HML have suppressed the actual transaction values and have declared lower value of the above-mentioned import consignment. The assessable value declared by M/s. HML is

not in consonance with the current market price of similar goods being sold in the Indian market. Since no data of the import of Natural Gasoline Liquidis noticed, the prevailing rates of similar Goods (Gasoline)are considered for ascertaining the approximate market value of the subject goods on the basis of rates of Gasoline available on website globalpetrolprces.com. The received quantity of subject goods provided by Shri Bharat Goswami, Terminal Manager, FSWAI in Litres is 31183563 Litres. Considering the market rate of Gasoline at Rs. 88.92 per litre as on 01.02.2021 as per website globalpetrolprces.com, the market value of received quantity 19990.541 MT i.e. 31183563 Litres (out of declared qty. 20110.77 MT) subject goods is calculated as approximately Rs. 278,95,19,113/- Whereas, M/s. HML has declared the assessable value in the Bills of Entry as Rs. 79,63,76,540/- only which is much lesser even after further value additions on account of customs duty, other taxes and other expenses.

51. In view of the above a SCN dated 28.03.2023 was issued to M/s. Hazel Mercantile and others.

52. **RECORD OF PERSONAL HEARING-**

- 52.1. Opportunities of personal hearing were provided on various occasions i.e. 08.01.2025, 22.04.2025, 23.04.2025, 06.06.2025 and 17.06.2025.
- 52.2. Shri Vikas Mehta appeared for personal hearing on 23.04.2025 on behalf of Hemjyot Agency and Shri Pramod Soneta and reiterated the submission made earlier and requested to drop the proceedings.
- 52.3. Shri Vikas Mehta appeared for personal hearing on 24.04.2025 on behalf of Samudra Marine services Ltd and reiterated the submission made earlier and requested to drop the proceedings.
- 52.4. Miss Renita Alex appeared for personal hearing on 06.06.2025 on behalf of M/s. Geochem Laboratories Pvt. Ltd. and requested to drop the proceedings considering their submission.
- 52.5. Mr. Tarang Koppal appeared for personal hearing on 17.06.2025 on behalf of M/s. TUV India Pvt. Ltd and reiterated the submission dated 13.06.2025 and requested to drop the proceedings and not to initiate any further action against TUV.
- 52.6. Shri Suyog Bhave appeared for personal hearing on 22.04.2025 and 23.04.2025 on behalf of M/s. Hazel Mercantile and persons associated with it and M/s. Aureole Trading LLC respectively.

WRITTEN SUBMISSION-

53. M/s. HML vide their submission, interalia, submitted that-

- The imported goods are Naphtha and not NGL, as is evident from the test reports and the contracts for import and re-export
- It is submitted that undisputedly, Naphtha and NGL are two different products having distinct chemical composition.
- It is submitted that in the present case, four independent agencies have provided detailed test reports certifying that the imported goods satisfy the chemical composition and other parameters attributable to Naphtha.
- Further, both the contract for import of the goods and the contract for export of the goods covers transactions of Naphtha only.
- Test Reports issued by four independent agencies certifying that the imported goods are Naphtha
- Consequently, vide test report dated 11.05.2021 issued by Geo Chem and test report dated 18.05.2021 issued by IIP, Dehradun, it is once again certified that the said samples, admittedly drawn from the imported goods, are samples of Naphtha.
- Vide our letters dated 16.04.2021, we had forwarded the samples to both the independent agencies. Irrespective of the subject or the context disclosed in the said letters, our direct and concise request / query to the said agencies has been reproduced below:
 - ***"We request you to analyse the same and certify that the goods confirm to Naphtha or otherwise and oblige".***

- Further, it is submitted that both the agencies are independent and in no manner related to us. More particularly, neither we nor any of our employees / directors have any influence or control over the decision-making or day-to- day operations of either of the agencies.
- IIP, Dehradun operates directly under the umbrella of the Council of Scientific and Industrial Research ("CSIR"). The CSIR - IIP, Dehradun is in turn managed and controlled by Ministry of Science and Technology, Government of India. The President of the CSIR is the Hon'ble Prime Minister of India. Further, IIP, Dehradun is accredited with ISO 9001: 2015 certificate and having the advance technology of testing and better infrastructure. A copy of the screenshot of the website of the CSIR is hereto annexed as Annexure "53"
- It is submitted that the said allegation is factually incorrect in as much as both the reports conclude that the samples are Naphtha. It is submitted that merely because the report issued by Geo Chem does not mention the quality of Naphtha (Light, Heavy or Full Range) that by itself does not make the two test reports in contradiction of each other.
- Test Reports issued by Customs Authorities are cryptic and based on incomplete parameters.
- Subsequently, vide letter dated 19.02.2021, the CRCL Kandla test report is clearly cryptic inasmuch as the same purportedly draws the conclusion that the sample is NGL by merely referring to the alleged analysis by the chemist and "available technical literatures on chemistry". The test report does not refer to any test methodology, tested parameters or the analysis.
- Vide the test report dated 28.05.2021, the CRCL Delhi has concluded that the sample is a low boiling liquid extracted from natural gas and that it is NGL. The said test report refers to 14 parameters claimed to be tested. However, the said test report also does not provide any details of the test methodology used.
- From a perusal of the captioned test report dated 15.02.2021 issued by CRCL Kandla and test report dated 28.05.2021 issued by CRCL Delhi, it is pertinent to note that neither report gives details of the test methodology used.
- In Fomento Resources Pvt. Ltd. v. Commissioner of Cus., Vijayawada [2019 (370) ELT 1381 (Tri.- Hyd.)]
- In PLG Impex v. Commissioner of Customs, Jodhpur [2022 (382) ELT 353 (Tri.- Del.)],
- In this regard, it is pertinent to note that the Bureau of Indian Standards ("BIS") has notified the standards for Naphtha, namely, IS 17794:2022 in March 2022. A copy of the BIS issued IS 17794:2022 is hereto annexed as Annexure "54".
- However, both CRCL, Kandla and CRCL, New Delhi have tested only two and five parameters
- There is no misdeclaration as regards the port of loading or shipper in the subject Bills of Entry
- The assessable value of the imported goods is correct and cannot be rejected based on an ad-hoc value.
- In Union of India v. Garware Nylons Ltd. [1996 (87) ELT 12 (SC)]
- The statements of the various persons cannot be relied upon since the procedure prescribed under Section 138B of the Act has not been followed
- In Commissioner of Central Excise, Meerut-I v. Parmarth Iron Pvt. Ltd. [2010 (260) ELT 514 (All.)]
- In any event, the imported Naphtha is not liable for confiscation under Section 111 of the Act
- In any event, no penalty can be imposed on the Noticee under Section 112 of the Act

54. M/s. Aureole trading LLC, vide their submission, interalia, submitted that-

- 54.1. For the fulfillment of order of Naphtha to be supplied to Hazel, they had sourced the said Naphtha from Delta. Further they had instructed Delta to ship directly the goods from Oman to Hazel in India.
- 54.2. Accordingly, the goods were shipped by Delta to Hazel under "To Order" Bills of Lading signifying that the BoLs had been consigned to the order of the original shipper. The said BoL as well as invoices raised by them on Hazel had been subsequently endorsed by the bankers of Hazel at the time of completion of payment terms as per LoC. The said endorsements also demonstrate that the transaction between them and Hazel were recognized and passed the strict scrutiny of the bankers.
- 54.3. No penalty can be imposed under Sec. 112 of the Act as the goods are not liable for confiscation.
- 54.4. No penalty can be imposed under S. 114AA of the Act, 1962 no such contravention is done.
- 54.5. No penalty is imposable under S. 117 of the Act, 1962.

DISCUSSION AND FINDINGS-

55. I find that the Show cause notice was issued by Additional Commissioner, Kandla. However, in pursuance of order dated 18.01.2024, the Hon'ble High Court of Gujarat directed the Commissioner to Customs to adjudicate the show cause notice as the issue of provisional release under Section 110A was decided by the Commissioner of Customs being an adjudicating authority.

56. I have carefully gone through the show cause notice, written submissions, Records of Personal hearing and all the evidences available on record.

57. I find that the Hon'ble High Court of Gujarat vide order dated 15.09.2021 have taken into consideration the contentions of the department in respect of validity of Test reports and the results thereof.

58. I find that the Show cause notice has listed various evidences, as given below:-

- Statements of various persons;
- Chats and other datas retrieved from the mobile phones of concerned;
- Test Reports of CRCL Kandla and CRCL Delhi while examining the validity of Test reports submitted by M/s. HML;

59. Before proceeding further, it is important to reproduce the relevant extracts of the order dated 15.09.2021 of the Hon'ble High Court of Gujarat (R/SCA/7840/2021) vide which the Hon'ble Court had allowed the provisional release of goods and noted some relevant findings in respect of Test reports etc.:-

“2.1 It is the case of the petitioner that it entered into contract with Aureole Trading (U.A.E) for supply of product Naphtha. The shipment was loaded from the port at Oman and was imported at the port Kandla. As per the Contract the subject goods were shipped through Delta Shipping and Trading LLC on Vessel MT Tuna ide 7 Bills of Lading.

2.2. The case of the petitioner is that prior to exporting the concerned consignment of Naphtha from the Port at Oman the subject goods were tested and a certificate of Quality was given by Muscat International Shipping & Logistics certifying that this consignment was of Naphtha. The vessel thereafter arrived at Kandla.

2.7 The petitioner approached this court by filing SCA No. 4803 of 2021 with the prayers for provisional release etc., However the Counsel confined the Petition only to the limited request that the respondents may get a retesting carried out after drawing fresh samples from the seized goods which are in the custody of the department. The Court disposed of the petition directing that let a fresh application be filed by the petitioner before the competent authority for drawing samples and thereafter retesting be carried out from the different laboratories at the choice of the department as also the petitioner. Armed with this order, the petitioner got Sample 4 re-tested at Geo Chem Laboratories Private Limited which by its report dated 11.05.2021 confirmed that the goods were “Naphtha”. The Sample 5 was tested at the Indian Institute of Petroleum (IIPM) and according to the report of the IIPM, dated 22.2.2021 the conclusion was that the Naphtha sample falls under light naphtha range.

2.8 The petitioner accordingly made a representation to the Chairman of the Central Board of Indirect Taxes and Customs that the laboratory report of the Custom House Laboratory dated 15.02.2021 was inconclusive. That though the authorities claimed that the subject goods were “Natural Gasoline Liquid” the scope of the test was to find out whether the sample falls under the category of light solvents such as Light Naphtha etc. The case of the petitioner before the CBIC was that “Natural Gasoline Liquid” has been omitted from Chapter 27 of the Customs Tariff Act, 1975 hence the seizure memo classifying the subject goods as Natural Gasoline was illegal in view of the Test Reports of Geo Chem and IIPM. The goods therefore need not be detained by the Customs Authorities at Kandla and be forthwith released or at least be provisionally released subject to further investigation.

3.3 Mr. Nankani, learned Senior Counsel, would further submit that the seizure memo is bad inasmuch as the only material available with the DRI was “opinion” of the Chemical Examiner based on an inconclusive Test Report.

5. Having considered the submissions made by the learned counsels for the respective parties and having heard Mr. Vikram Nankani, learned Senior Counsel for the petitioner and Mr. Devang Vyas, learned ASG for the respondents, we propose to hold as under:

(ii) In other words, what the petitioner wants this Court to hold, is to weigh the validity of various reports i.e. the test reports on record submitted on behalf of the petitioner and on behalf of the respondents and based on the scientific analysis hold the test reports in favor of the petitioner as a valid test report. The question is whether this Court in exercise of powers under Article 226 can undertake such an exercise.

8. Based on the correspondences that have been undertaken post the order passed by this Court on 05.04.2021 permitting drawing of samples for a re-test on 08.04.2021, the Directorate of Revenue Intelligence addressed a letter to the Managing Director of M/s. Hazel Mercantile Limited, the petitioner, requesting them to make necessary arrangement to make an authorized representative available for sampling proceedings. *The petitioner proposed that the material be drawn by sample and be re tested at certain laboratories namely 5 in number and also proposed certain parameters based on which such tests be carried out on the preferred methods. A clarification was issued on 15.04.2021 reiterating the parameters to be followed for re-test and the preferred methods at the laboratories.* According to the petitioner, most of the parameters listed by them were standard specifications required in the industry and should be followed for re-testing of seized goods. What is evident from the communications annexed to the petition is that the petitioner independently forwarded the samples for re-testing to the Geochem Laboratory and to the IIPM without consulting the statutory authorities. Based on the order dated 05.04.2021 passed by the Court, it appears that the petitioner by its letters supplied a long list of 66 parameters proposed to be tested which was subsequently changed to a proposal of 49 parameters for testing. From reading of the affidavit-in-reply of the respondent, it appears that no parameters were suggested by the petitioner pertaining to the test of goods as Natural Gasoline Liquid. Even if the letters dated 16.02.2021 and 17.02.2021 which are pressed into service by Mr. Nankani are considered as creating a doubt about the Custom House Laboratory what is indicated is that though the lines of investigation was in context of whether the goods was Naphtha, the CRCL report dated 28.05.2021 (page 447 of the paperbook) in accordance with the parameters prescribed by the authorities in the test memo indicate unequivocally that the consignment is that of Natural Gasoline Liquid.

9. The validity of the test reports of M/s. Geochem Laboratories Private Limited and of the Indian Institute of Petroleum have been disputed by the authorities on the ground–

- (i) That the test results have been influenced by providing misleading and biased content and parameters in the petitioner's close ending request letters.
- (ii) That the conclusion of the two reports supplied by the petitioner are different and contradictory to each other.
- (iii) The test certificate dated 11.05.2021 of M/s. Geochem Laboratories is vague in nature and does not specify even the category of Naphtha. The test report of the Indian Institute of Petroleum is not specific as it concludes “the sample marked as S5 falls under the light Naphtha range” which only indicates the range and not the goods.
- (iv) In contrast thereof there is a test report of the CRCL dated 28.05.2021, an accredited laboratory which shows that the consignment is that of Natural Gasoline Liquid.

11. What is evident therefore in context of the pleadings in the petition and the response of the Union of India is that this court in exercise of powers under Article 226 is called upon to decide the legality and validity of a seizure memo by weighing the pros and cons of the test reports on the quality of the product, reports divergent which are produced by the petitioner and the respondent. We are afraid then when the validity of the reports are disputed inasmuch as it is the case of the Union of India through its investigating agency that the parameters and

scientific analysis of the reports on which the petitioner seeks reliance are contradictory, this Court would be loathe in weighing its options on such disputed questions of fact and disturbing the seizure memo an exercise which cannot be undertaken in the midst of an investigation.

SUMMARY OF FINDINGS/OBSERVATIONS OF HON'BLE COURT-

60. In this case, the petitioner (Hazel Mercantile Ltd.) challenged the seizure of the imported consignment initially declared as *Naphtha* but sought to be classified by Customs authorities as *Natural Gasoline Liquid (NGL)*. The petitioner relied on test reports from Geo Chem Laboratories and the Indian Institute of Petroleum, both suggesting the product was Naphtha or within its range. However, the Customs' CRCL (Central Revenue Control Laboratory), an accredited government laboratory, conducted a retest and conclusively opined in its report dated 28.05.2021 that the consignment was Natural Gasoline Liquid (NGL).
61. The Hon'ble High Court noted that the petitioner had independently sent samples for retesting to private labs (Geo Chem and IIPM) without consulting the statutory authorities, and had also suggested a detailed list of 66 testing parameters, later reduced to 49 and from Affidavit-in-Reply of the respondents, the Court found that no parameters were suggested by the importer for test of goods as NGL; and noted that CRCL unequivocally found the goods to be NGL. The petitioner sought judicial intervention under Article 226 to weigh the validity of these reports and quash the seizure. The Hon'ble High Court declined while holding that it cannot undertake a comparative analysis of disputed scientific reports or interfere in technical classification matters during the course of an investigation. The Court emphasized that such determinations fall within the domain of statutory authorities and cannot be preemptively adjudicated in writ jurisdiction.

EVIDENCE AVAILABLE ON RECORD-

62. Proceeding further, I refer to the following evidences available on record as referred in the Show cause notice.
 - (i) Statements
 - (ii) Chats
 - (iii) Test Reports

DISCUSSION ON EVIDENCE FROM STATEMENTS REFERRED IN THE SCN-

63. Statement of Shri Satish Gaichor, Associate General Manager- Logistics of M/s. HML was recorded on 25.02.2021 (RUD No. 12) wherein he, interalia, stated that-
 - 63.1. their Managing Director Shri Nitin Kumar Didwania and Marketing team consisting of Shri Minesh Shah, Director, Shri Saurabh Rajput, Shri Sreyas Choudhary were looking after overall activities relating to placing of orders to overseas suppliers , negotiation of rates, making payments etc.;
 - 63.2. As regards one Whatsapp Chat dated 11.02.2021 between Shri Satish Gaichor and Shri Nitin Kumar Didwania, Managing Director of M/s. HML, he stated that vide this Chat, he had asked their Managing Director regarding supply of Gasoline and Gasoil by M/s. HML as per requirement (specifications) from the buyers; that their Managing Director asked him for report/specifications. On being asked, Shri Satish Gaichor, stated that it was not remembered to him whether any further development took place in this regard and whether the said party had supplied them the report/specifications of Gasoline and Gasoil. He added that the details of concerned buyer and said attached specifications, were also not readily remembered /available with him.
 - 63.3. In the Whatsapp printouts taken by Shri Satish Gaichor from his mobile phone, he told that some conversations were held by him with some brokers namely Shri Shyam Tiwari, CAFS (Coal & Freight Services), Ahmedabad, Shri Sreejith, Dubai, Nikhil of Braemer/La Mer, Shri Ranganatha Reshamwala, Dubai etc and Shri Ashok

Desai, Head of Department-Logistics of M/s. HML; that he did not have complete address, email Id of any of these brokers and assured to provide the same. He further stated that these brokers and Shri Ashok Desai had discussed with him through these Whatsapp chat messages regarding supply of Gasoline and Gasoil and last cargos etc. (RUA No. 2)

64. Shri Nitin Kumar Didwania, Managing Director, M/s. HML during his statement, interalia, stated that-

64.1. when apprised that as per Bills of Lading bearing no. 01 to 07 all dated 02.02.2021, for import of 20110.77 MT subject goods in vessel MT Tuna, the shipper was mentioned as M/s. Delta Shipping & Trading LLC, Sohar, Oman whereas in the concerned commercial Invoice/Packing List, the shipper was mentioned as M/s. Aureole Trading LLC, UAE. On being asked to explain, Shri Nitin Kumar Didwania stated that their supplier for 20110.77 MT subject goods in vessel MT Tuna was M/s. Aureole Trading LLC, UAE, accordingly in concerned commercial Invoice/Packing List, the shipper was mentioned as M/s. Aureole Trading LLC, UAE. He expressed that it was possible that M/s. Aureole Trading LLC, UAE had arranged the said goods through M/s. Delta Shipping & Trading LLC, Sohar, Oman, accordingly, the Bills of Lading were containing shipper details as M/s. Delta Shipping & Trading LLC, Sohar, Oman.

64.2. when shown statement dated 25.02.2021 of Shri Satish Gaichor, Associate General Manager-Logistics of M/s. HML and on being asked to comment regarding correctness of facts stated by him, Shri Nitin Kumar Didwania stated that the facts relating to him/M/s. HML mentioned in the statement were true. As regards the Whatsapp Chat dated 11.02.2021 between Shri Satish Gaichor and Shri Nitin Kumar Didwania regarding supply of Gasoline and Gasoil by M/s. HML as per requirement (specifications) from the buyers, Shri Nitin Kumar Didwania stated that there are several business activities Shri Satish Gaichor was doing as he was looking after logistic work, and he (Shri Nitin Kumar Didwania) had asked the report like parameters of Gasoline/Naphtha which the buyers intended to buy/sell. On being further asked who were the buyers requested for supply of Gasoline in that case and from whom/where they/M/s. HML used to arrange Gasoline, Shri Nitin Kumar Didwania stated that neither Shri Satish Gaichor had told him, nor he was aware who was the buyer in that case; that they had not supplied Gasoline to any buyer.

64.3. On being asked how many consignments of Gasoline/NGL M/s. HML had imported during last five years, Shri Nitin Kumar Didwania replied in negative stating that they had not imported Gasoline/NGL during last five years. He also denied to have supplied any consignment of Gasoline/NGL in transit through India and/or fully outside India during the last five years. Shri Nitin Kumar Didwania was apprised that in his statement dated 25.02.2021, Shri Satish Gaichor explained that some brokers namely Shri Shyam Tiwari, CAFS (Coal & Freight Services), Ahmedabad, Shri Sreejith, Dubai, Nikhil of Braemer/La Mer, Renganath of Reshamwala, Dubai etc and Shri Ashok Desai, Head of Department-Logistics of M/s. HML had discussed with him regarding supply of Gasoline and Gasoil and last cargos etc. through Whatsapp chat messages. On being asked to provide the details of Gasoline imported/purchased/arranged by M/s. HML from/through these brokers/persons during last five years, Shri Nitin Kumar Didwania stated that they had not imported/purchased/arranged Gasoline from/through these brokers/persons during last five years.

65. Statement of Shri Bharat J. Goswami, Terminal Manager of M/s. FSWAI, Khar Rohar Road, Kandla, Kutch, wherein, he interalia, stated that-

65.1. he was working as Terminal Manager in M/s. FSWAI, Khar Rohar Road, Kandla; that his firm was in the business of storage and warehousing as liquid terminals and acting as public warehouse and their liquid terminal was declared as landing place under Section 8(a) of Customs Act, 1962 and appointed as "Public Bonded Warehouse" under Section 57 of Customs Act, 1962.

65.2. On being asked further, he stated that their firm started storage/warehousing for consignments of M/s. HML before his joining in FSWAI firm and he used to contact Shri Satish Gaichor of M/s. HML for business activities. He further stated that the

intimation of arrival of vessels carrying import goods for M/s. HML with respect to three import consignments imported in vessel MT Aston-I, MT Tuna and MT ARIHANT were given to them by the said importer vide email dated 02.11.2021, 04.02.2021 and 19.02.2021 respectively; that the said importer declared the description of import goods in those email as Naphtha (Light), Naphtha and Naphtha respectively. Shri Bharat J. Goswami further stated that they allotted them (M/s. HML) the tanks prescribed for Naphtha/Light Naphtha by the competent authority. He also provided Tank wise quantity received in their terminal with respect to said three consignments as under: -

S. No.	Name of the vessel	Goods declared By importer	Quantity declared by importer in email intimation (MT)	Quantity Actually received (MT)	Quantity Actually received (Ltr)	Tanks allotted
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	MT Aston-I	Naphtha (Light)	26801.637	26151.519	39788988	302,320,3 22,411,42 5,428,502, 504,509,5 12,527,52 9,537,539
2	MT Tuna	Naphtha	20110.77	19990.541	28972281. 6	324,425,5 10,527,52 9,530,536, 537,539
3	MT ARIHANT	Naphtha	9621.26	9704.504	13062665. 3	319,531,5 33,538

65.3. On being asked further, he stated that at the time of storage of goods imported vide said three vessels by M/s. HML, there was no goods stored in the Tanks mentioned above; that as on date no stock of goods imported in vessel MT Aston-I was there and in case of other tanks mentioned above, no goods other than the goods mentioned above were stored in comingled state. On being further asked whether all the above-mentioned Tanks were authorized/nominated by competent authority to store goods declared as Naphtha (Heavy/Light/Full Range), Shri Bharat J. Goswami stated that all the tanks mentioned above were authorized/nominated by Naphtha License issued by District Magistrate, Kachchh-Bhuj. In this regard, he submitted copy of such Naphtha License and (Petroleum and Explosive Safety Organization (PESO) Licenses issued by Controller of Explosives, Vadodara to their firm, duly signed by him.

65.4. During his statement, Shri Bharat J. Goswami was shown copy of Naphtha License dated 13.11.2020 issued by District Magistrate, Kachchh- Bhuj issued to M/s. HML and asked that in this License, their terminal's Tank No. 531, 533 and 536 were not mentioned/nominated/allowed to store goods declared as Naphtha, whereas they had stored the subject goods in those three tanks too. In reply to the same he stated that his firm received a Naphtha License dated 13.11.2020 issued by District Magistrate, Kachchh-Bhuj in which the Tank numbers were mentioned as „any available tank“. He was further asked how and from whom, another Naphtha License was received, he stated that one Mr. Vinodbhai of M/s. HML working at Gandhidham Branch vide email dated 23.12.2021 sent that License to his firm.

65.5. On being asked, Shri Bharat J. Goswami stated that M/s. TUV India Pvt. Ltd. were surveyors appointed by M/s. HML for said three import consignments. He was further asked whether M/s. HML had informed him or his firm about re-export of goods imported by them (M/s. HML) in vessel MT Tuna and MT Arihant and stored at their terminal, he stated that no such intimation of re-export was received by him/or his firm from M/s. HML; that as regards the goods imported per vessel MT Aston-I and importer's request/intimation for re-export for major part, he stated that he would check their record and assured to revert back within 02 days but he did not revert back.

65.6. On being asked further why they had accepted the goods imported by M/s. HML per said vessels which were other than that of mentioned in their Licenses issued by competent authority, Shri Bharat Goswami stated that they had accepted the goods on the basis of email received from the importer wherein they had declared the subject goods as Naphtha (Heavy/ Light/Full Range) instead of NGL/SBPS; that declaring the product as Naphtha (Heavy/ Light/Full Range) in the relevant documents was not the decision of his firm/terminal. He further added that in the documents provided by the importer and/or their appointed Customs Broker as later stage also, those documents were also containing product name as Naphtha (Full Range Naphtha)/Light Naphtha so they were not aware about the actual nature/description of the subject goods.

65.7. On being asked whether his firm/terminal was authorized to store/warehouse goods such as NGL (NGL) and Special Boiling Point Spirit (SBPS) and if so what further cautions/arrangement were required to be made for storing warehousing such goods in their terminal, he stated that he was not aware about the same; that he would discuss with his management and would revert within 02 days but no further response was received from him.

66. Statement of Shri Pramod Dharamshi Soneta, Partner of Customs Broker firm M/s. Hemjyot Agency, wherein, he interalia, stated that-

66.1. he was looking after the overall supervision and control on the business activities of M/s Hemjyot Agency; that his firm was in the business of Customs clearance of import and export consignments at Kandla, Mundra and Nhava Sheva ports as Customs Broker having CHA License No. 11/0859 (PAN based Registration No. AAAFH2124ECH002). He stated that his firm M/s. Hemjyot Agency started work of Customs clearance of consignments of M/s. HML as Customs Broker for Kandla and Mundra port in the year 2000; that he used to contact Shri Nitin Kumar Didwania, Managing Director of M/s. HML

66.2. On being asked, Shri Pramod Soneta stated that as a normal practice with other importers, his firm used to send check lists to importer/exporter before finalizing every Bill of Entry and Shipping Bill and only after receipt of approval of the same from concerned importer/exporter, they filed the Bill of Entry and Shipping Bill. He provided copy of the check list and approval thereof from M/s. HML with respect to three import consignments pertaining to M/s. HML imported in vessel MT Aston-I, MT Tuna and MT Arihant. He also provided sample copy/printouts of email communications held with M/s. HML in respect of said three import consignments.

66.3. On being asked being a Customs Broker why he had not suggested the importer to file the Bill of Entry for goods importer per vessel MT Arihant within the stipulated time period, Shri Pramod Soneta stated that he had repeatedly requested Shri Nitin Kumar Didwania, Managing Director of M/s. HML to file the Bill of Entry but he (Shri Nitin Kumar Didwania) had given directions not to file the Bill of Entry until and unless he directed to do so; that on 30.03.2021, Shri Nitin Kumar Didwania asked him (Shri Pramod Soneta) to send check list and accordingly they (M/s. Hemjyot Agency) sent the same and on receipt of approval from the said importer, the warehousing Bill of Entry was filed. On being asked further to provide the reasons/reply /application made by M/s. HML in connection to waiver of action under Section 48 of Customs Act, 1962, he stated that he would check their record and provide the same within 03 days but he did not provide.

66.4. On being asked why they had declared the subject goods imported by M/s. HML per said vessels as Naphtha/Light Naphtha instead of NGL/SBPS, Shri Pramod Soneta stated that while preparing the Check List for filing of Bill of Entry and Shipping Bill (in the case of re-export), they followed the description mentioned in the import documents provided by the said importer and also the directions of the importer who had approved the check list for filing of Bills of Entry and Shipping Bills as the case may be; that due to same declaring the product as Naphtha/Light Naphtha in the import documents was not the decision of his firm but it was decided by the importer.

66.5. On being asked who had decided classification of goods in respect of import/re-export made by M/s. HML in relation to the goods imported per vessel MT Aston-I, MT Tuna and MT Arihant, Shri Pramod Soneta stated that as per the import documents and directions of the M/s. HML, classification was declared. Further, based on subsequent approval of importer for Check List for filing of Bills of Entry/Shipping Bills, they declared the classification and filed those documents.

66.6. On being asked further about appropriate classification of goods NGL (NGL) and Special Boiling Point Spirit (SBPS), Shri Pramod Soneta stated that both those products were light oils and preparations (CTH 271012) and as on date there was no specific entry for both those products in the Customs Tariff, hence the same were appropriately classifiable under „others“ category of CTH 271012 i.e. 27101290 as per Customs Tariff.

66.7. He was also shown documents said to had been received from Punjab National Bank, Foreshore Road Branch, Mumbai regarding Letter of Credit bearing no. 84670FLC0000421 dated 28.01.2021 opened by M/s. HML in favour of Aureole Trading LLC (UAE) in respect of goods imported in vessel MT Tuna. After perusal of the said documents he stated that he in the application form, Contract dated 11.01.2021 with M/s. Aureole Trading LLC and other supporting documents, the product to be imported was mentioned as „Light Naphtha“ (HS Code 27101221) whereas in the Bills of Entry the same was mentioned as Naphtha (HS Code 27101229) i.e. linked with for Full Range Naphtha; that as regards the difference in the description of goods and CTH mentioned in the all LC documents and Bills of Entry, he stated that he had not seen the LC and supporting documents earlier, so he could not alert or suggest the importer about

the same.

67. Statement of Shri Illa Giri Visweswarao, Manager of M/s. Samudra Marine Services Pvt. Ltd., wherein, he interalia, stated that-

67.1. M/s. Samudra Marine Services Pvt. Ltd. was engaged in the business activities of clearance of import /export consignments acting as vessel agency and Customs Broker; their Head Office is in Mumbai and branch offices are at Sikka, Gandhidham, Pipavav and Budgebudge; that they do not have any office/establishment outside India. On being asked, Shri Illa Giri Visweswarao stated that they did not have any fix principal shipping line, so they were not working as agent of any shipping line on permanent basis and neither they had entered into agreement with any shipping line. He added that they were getting orders from different shipping lines/vessel owners to assist their vessel operations at Kandla, Mundra and Mumbai sea ports. He explained the step by step procedure to handle import of bulk liquid cargo.

67.2. They received nomination for this vessel MT Tuna from one M/s. Swiss Carriers S.A., Nafsiakas 24, Athens 16673, Voula vide email dated 03.02.2021. He produced copy of some email conversations and documents. On being asked, Shri Illa Giri Visweswarao stated that he was not aware as to whether M/s. Swiss Carriers S.A. was the actual owner/charterer of the vessel MT Tuna as it may be agent/broker of the owner/charterer. He assured to inquire in the matter and to revert back within 02 days. He further stated that he was also not aware who was the actual shipper/supplier/consigner party of the 20110.767 MT cargo and who had booked the cargo in the said vessel and what documents were provided initially to the vessel owner by the overseas shipper/supplier/consigner party; that Mr. Cruz. Eduardo Sts. Ana was the Master of vessel MT Tuna at her arrival at Kandla. As regards the load port of the cargo imported at Kandla per vessel MT Tuna, Shri Illa Giri stated that as per the documents received by them from M/s. Swiss Carriers S.A., the port of loading of the cargo imported at Kandla per vessel MT Tuna was Sohar, Oman, however, he was not aware about the actual port of loading. He assured to inquire in the matter and to revert back within 02 days. On being asked whether the 20110.767 MT cargo imported at Kandla port per vessel MT Tuna was loaded from Iraq or Iran, he stated that he was not aware and assured to inquire in the matter and to revert back within 02 days but he did not do so.

67.3. On being asked, Shri Illa Giri Visweswarao stated that he did not know any members of such chat conversations except Shri Nitin Kumar Didwania and he did not have any conversation with Shri Nitin Kumar Didwania; that he used to communicate with Shri Satish Gaichor, AGM-Logistics for official dealing with this importer. After going through the Chat conversations available in the statement of Shri Nitin Kumar Didwania, Shri Illa Giri Visweswarao stated that the vessel MT Tuna was brought to Kandla switching off the AIS system but he was not aware why the same was switched off; that he would inquire in the matter and revert back within 02 days. He added that he also found that the timings of vessel Tuna were concocted and manipulated and various other material particulars of all three vessels including the HS Codes for the goods imported per vessel MT Tuna, were manipulated and were false and fabricated; that he found it apparent from these Whatsapp Chat conversations that the vessel MT Tuna did not even berth at Sohar, Oman.

67.4. On being asked, Shri Illa Giri Visweswarao stated that as an authorized career, they were responsible for collecting the correct and complete details of the cargo they

were booking and after confirming correctness thereof also required to declare the same on all declarations and customs papers with their subscribing about correctness thereof; that in case any incorrect details are found they are supposed to inform the Customs department about such instances. He added that they are also required to advise their clients including other counterpart offices at foreign port to comply with the statutory provisions Indian law demands from them; that they were also required to keep proper record and track of movement all the cargo arrived at port and were responsible for safety, security and delivery of the imported, exported or coastal goods in their custody. He further deposed that in the instant case, they had relied upon the Bills of Lading and other details received vide emails from the owners/charterers/agents/brokers and filed IGM accordingly. On being asked, he assured to provide copy of authorized career registration details of his company and bond/security furnished by them in this regard, within 02 days but he did not do so.

DISCUSSION ON EVIDENCE FROM CHATS AND OTHER EVIDENCE RETRIEVED BY DRI-

68. I find that the Chat has been retrieved from the device of Shri Nitin Kumar Didwania, the details and his explanation are as given below:-

Sr. No.	Chat Details	Body /content of Chat	Supplementary Question and /or Comments/explanation of Shri Nitin Kumar Didwania
1	<p>Start Time: 18-07-2020 09:14:52(UTC+0) Last Activity: 25-02-2021 08:04:38(UTC+0)</p> <p>Participants: 989127025761@s.whatsapp.net Omid, 971501159789@s.whatsapp.net Alex Aby. Hif, 989123377852@s.whatsapp.net Ali. Trilliance, 989127401664@s.whatsapp.net Saba.trilliance. Ali, 989035386365@s.whatsapp.net FJ, NitinDidwania</p> <p>System Message System Message Timestamp: 18-07-2020 09:14:52(UTC+0) Source App: WhatsApp</p>	<p>989127401664@s.whatsapp.net created group "Light Naphtha ops"</p>	<p>Q:- Who created the said Whatsapp Group and please inform about the members of the said group alongwith their whereabouts?</p> <p>Ans:- This group was created by Ms. Saba of Trilliance Petrochemical Ltd., one of the group representative of suppliers.</p> <p>Other members /Participants of this Whatsapp group are as follow:-</p> <p>989123377852@s.whatsapp.net Ali. Trilliance, 989127025761@s.whatsapp.net Omid and</p>

			<p>989035386365@s.whatsapp.net FJ are other representatives of suppliers group. I am not aware about their full name and other whereabouts.</p> <p>971501159789@s.whatsapp.net Alex Aby. Hif, and me are representative of our company.</p>
2	<p>From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 13:50:57(UTC+0) Source App: WhatsApp</p>	<p>for tuna, since AIS will be off. is it ok to do dox of oman without entering to sohar anchorage? i afraid vessel arrest order is circulated in all GCC countries</p>	<p>Q:- When MT Tuna did not reach Oman, why port of loading was mis-declared as Sohar, Oman for subject goods imported in vessel MT Tuna?</p>
			<p>Ans: - The Bills of Entry were filed by us as per the documents received from the supplier. We have just placed orders for supply of Naphtha. No benefit of country of origin was availed by us, and there is no revenue implication and hence there was no malafide intention on our part behind this.</p>
3	<p>From: Nitin Didwania (owner) Timestamp: 31-01-2021 13:58:43(UTC+0) Source App: WhatsApp</p>	<p>Do we have Iraq doxs for this</p>	<p>Q: - What did you manage with Iraq documents? Please provide such documents.</p>
4	<p>From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 13:59:30(UTC+0) Source App: WhatsApp</p>	<p>yes we have</p>	<p>Ans: - I will ask the suppliers to provide such Iraqi documents if possible and will revert back accordingly within a week time.</p>
5	<p>From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 14:01:58(UTC+0) Source App: WhatsApp</p>	<p>shall we come with iraq dox to kandla?</p>	
6	<p>From: Nitin Didwania (owner) Timestamp: 31-01-2021 16:01:21(UTC+0) Source App: WhatsApp</p>	<p>Yes. We will manage</p>	
7	<p>From: Nitin Didwania (owner) Timestamp: 01-02-2021 09:17:45(UTC+0)</p>	<p>Saba, my logistic says that for tuna, we cannot do Iraq. We need loadport on</p>	<p>Q: - It shows all acts of mis-declaration were done with your active consent and</p>
	<p>Source App: WhatsApp</p>	<p>bl to be either sohar, khorfakkan, or sharjah. I do not need other docs like coo etc.</p>	<p>supervision. Why did you do so. Please comment.</p> <p>Ans: - The Bills of Entry were filed by us as per the documents received from the supplier. We have just placed orders for supply of Naphtha. No benefit of country of origin was availed by us, and there is no revenue implication and</p>

			<i>hence there was no malafide intention on our part behind this.</i>
8	From: 989127401664@s.whatsapp.net .net Saba.trilliance. Ali Timestamp: 01-02-2021 11:15:21(UTC+0) Source App: WhatsApp	And idont feel safe for entering into port limits of sohar	<p><i>Q: - Why did you not provide the documents to Customs having correct material particulars?</i></p> <p><i>Ans: - The Bills of Entry were filed by us as per the documents received from the supplier. We have just placed orders for supply of Naphtha. No benefit of country of origin was availed by us, and there is no revenue implication and hence there was no malafide intention on our part behind this. The import was legitimately done and the purchase was under LC from Indian bank.</i></p>
9	From: Nitin Didwania (owner) Timestamp: 01-02-2021 11:34:38(UTC+0) Source App: WhatsApp	Ais is manageable, but even in india they may ask for last port clearance.	
10	From: Nitin Didwania (owner) Timestamp: 01-02-2021 11:35:33(UTC+0) Source App: WhatsApp	Sts may be difficult try. If nothing else works out, we will bring the cargo to India with Iraq and I will mange but that is the last option.	
11	From: 989127401664@s.whatsapp.net .net Saba.trilliance. Ali Timestamp: 01-02-2021 11:53:49(UTC+0) Source App: WhatsApp	We can still get sohar dox.	
12	From: 989127401664@s.whatsapp.net .net Saba.trilliance. Ali Timestamp: 01-02-2021 11:54:10(UTC+0) Source App: WhatsApp	Maybe we use last port clearance as iraq pc?	
13	From: Nitin Didwania (owner) Timestamp: 01-02-2021 11:55:27(UTC+0) Source App: WhatsApp	Seems fine. This may work. Pls go ahead	
14	From: 989127025761@s.whatsapp.net .net Omid Timestamp: 03-02-2021 05:44:43(UTC+0) Source App: WhatsApp	I'm preparing Sohar docs. Will share them with you once ready	
15	From: 989127025761@s.whatsapp.net .net Omid Timestamp: 03-02-2021 10:39:33(UTC+0) Source App: WhatsApp	@971501159789 is it possible to change the name of the shipper? The guy who provides these docs in Sohar for us uses their company and issues docs usually and can later support those docs this way to be safe	<p><i>Q: - Who was the guy and his company who used to provide you the documents having manipulated/incorrect material particulars?</i></p> <p><i>Ans: - I am not aware. I will inquire with the sender of this message and will revert within a week time.</i></p>
16	From: 971501159789@s.whatsapp.net .net Alex Aby. Hif Timestamp: 03-02-2021 10:50:35(UTC+0) Source App: WhatsApp	@989127025761 as discussed, we can use Delta shipping and trading LLC as the Shipper. We did the same last time for Aston 1, which went to india	<p><i>Q: - It appears that similar mal-practice of mis-declaration of material particulars was being done for subject goods imported in vessels MT</i></p>

17	From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 03-02-2021 10:51:18(UTC+0) Source App: WhatsApp	Also as discussed, pls ask the Delta team only to change the shipper and balance all to remain same as per the DI provided	<p><i>Aston I, MT Tuna and MT Aribant?</i> <i>Please comment. What is the actual role of Delta shipping and trading LLC in the import made by you/your company in said three vessels viz. MT Aston I, MT Tuna and MT Aribant?</i></p> <p><i>Ans: - As stated above, it is possible that M/s. Aureole Trading LLC, UAE had arranged the said goods through M/s. Delta Shipping & Trading LLC, Sohar, Oman, accordingly, the Bills of Lading are containing shipper details as M/s. Delta Shipping & Trading LLC, Sohar, Oman</i></p>
18	From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 04-02-2021 10:25:03(UTC+0) Source App: WhatsApp	Attachments: #1: chats\WhatsApp_Native\attachments576\thumb_Tuna_BL_02 (3000 MT) -1.jpg Body:	
19	From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 04-02-2021 10:25:03(UTC+0) Source App: WhatsApp	3. HS CODE CHANGED IN ALL OBLS. 4. LC DETAILSADDED IN 6 & 7	<p><i>Q: - What was actual /original HS Code which was changed?</i></p> <p><i>Ans: - The change was in the CTH of light Naphtha and Full Range Naphtha.</i></p>

69. The Whatsapp group „Light Naphtha Ops“, entire conspiracy of mis-declaration and manipulation of documents is discussed among the key persons including Shri Nitin Kumar Didwania, Managing Director of M/s. HML and their overseas associates. The illustrative chat messages of said Whatsapp group „Light Naphtha Ops“ appear to be pertaining to subject goods imported per vessel MT Tuna are tabulated hereunder: -

Chat details	Body /Chat content
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 22-01-2021 07:09:13(UTC+0) Source App: WhatsApp	Also pls find below documentry instructions for 20 KT Kharg vessel mt Tuna
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 27-01-2021 05:59:57(UTC+0) Source App: WhatsApp	@989127025761 @989127401664 pls share the docs for Tuna and the shipment docs
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 27-01-2021 06:00:09(UTC+0) Source App: WhatsApp	Pls aslo share the load port quality report

From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 28-01-2021 05:20:34(UTC+0) Source App: WhatsApp	@989127025761 pls advise on the status of MT Tuna
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 28-01-2021 05:20:45(UTC+0) Source App: WhatsApp	Also the documentation for the same
From: Nitin Didwania (owner) Timestamp: 28-01-2021 06:36:07(UTC+0) Source App: WhatsApp	Omid, in the quality analysis, they have missed the oxygenates, can you pls try to get the same.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 28-01-2021 07:25:33(UTC+0) Source App: WhatsApp	Hi Mr Nitin, they have recently operational issue in Abadan and that's why cargo is on deep discount. I had not experience of their heavy cargo before. But their light cargo has like 1000 ppm oxy. Better we test in India and see.
From: Nitin Didwania (owner) Timestamp: 29-01-2021 12:33:17(UTC+0) Source App: WhatsApp	Noted. Good. Only problem is that this cargo is high oxy, I could have blended partial cargo as the oxy of kharg was high.
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 29-01-2021 12:39:45(UTC+0) Source App: WhatsApp	We need to do internal transfer documentation first
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 29-01-2021 12:39:56(UTC+0) Source App: WhatsApp	In the name of Aureole
From: Nitin Didwania (owner) Timestamp: 30-01-2021 07:36:07(UTC+0) Source App: WhatsApp	Since the tuna is under problem, it is best that we take possession of our material as early as possible.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 04:47:29(UTC+0) Source App: WhatsApp	Hi @971501159789 has tuna been accepted in kandla?
From: Nitin Didwania (owner) Timestamp: 31-01-2021 07:59:01(UTC+0) Source App: WhatsApp	Tuna to kandla seems to be ok.
From: Nitin Didwania (owner) Timestamp: 31-01-2021 08:05:08(UTC+0) Source App: WhatsApp	Let me know if finally we are planning for tuna to come to India. We have sold some cargoes locally And arihant is further delayed.

From: Nitin Didwania (owner) Timestamp: 31-01-2021 08:05:41(UTC+0) Source App: WhatsApp	Also, do not forget to pressurize kharg for rebate because of off spec cargo to us.
From: Nitin Didwania (owner) Timestamp: 31-01-2021 08:12:25(UTC+0) Source App: WhatsApp	Since the delivery to jg summit and yncc is delayed. we will have to sail out asap. Actually topping up is a practical and cost effective mechanism but we will not be able to justify delay and origin as well
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 09:15:40(UTC+0) Source App: WhatsApp	Shall we keep ais off till kandla?
From: Nitin Didwania (owner) Timestamp: 31-01-2021 09:47:00(UTC+0) Source App: WhatsApp	Yes pls
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 13:50:57(UTC+0) Source App: WhatsApp	for tuna, since AIS will be off. is it ok to do dox of oman without entering to sohar anchorage? i afraid vessel arrest order is circulated in all GCC countries
From: Nitin Didwania (owner) Timestamp: 31-01-2021 13:58:43(UTC+0) Source App: WhatsApp	Do we have Iraq doxs for this
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 13:59:30(UTC+0) Source App: WhatsApp	yes we have
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 31-01-2021 14:01:58(UTC+0) Source App: WhatsApp	shall we come with iraq dox to kandla?
From: Nitin Didwania (owner) Timestamp: 31-01-2021 16:01:21(UTC+0) Source App: WhatsApp	Yes. We will manage
From: Nitin Didwania (owner) Timestamp: 01-02-2021 09:17:45(UTC+0) Source App: WhatsApp	Saba, my logistic says that for tuna, we cannot do Iraq. We need loadport on bl to be either sohar, khorfakkan, or sharjah. I do not need other docs like coo etc.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 01-02-2021 11:15:21(UTC+0) Source App: WhatsApp	And idont feel safe for entering into port limits of sohar

From: Nitin Didwania (owner) Timestamp: 01-02-2021 11:34:38(UTC+0) Source App: WhatsApp	Ais is manageable, but even in India they may ask for last port clearance.
From: Nitin Didwania (owner) Timestamp: 01-02-2021 11:35:33(UTC+0) Source App: WhatsApp	Sts may be difficult..... try. If nothing else works out, we will bring the cargo to India with Iraq and I will manage but that is the last option.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 01-02-2021 11:53:49(UTC+0) Source App: WhatsApp	We can still get Sohar dox.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 01-02-2021 11:54:10(UTC+0) Source App: WhatsApp	Maybe we use last port clearance as Iraq PC?
From: Nitin Didwania (owner) Timestamp: 01-02-2021 11:55:27(UTC+0) Source App: WhatsApp	Seems fine. This may work. Pls go ahead
From: 989127025761@s.whatsapp.net Omid Timestamp: 03-02-2021 08:58:00(UTC+0) Source App: WhatsApp	Also please let me know if you are OK with the below timings for Tuna. NOR Sohar Jan 30th 48 hours of loading Completion of loading Feb 2nd early AM hours
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 03-02-2021 09:32:40(UTC+0) Source App: WhatsApp	@989127025761 pls find attached the draft BL and DI for MT Tuna
From: 989127025761@s.whatsapp.net Omid Timestamp: 03-02-2021 10:39:33(UTC+0) Source App: WhatsApp	@971501159789 is it possible to change the name of the shipper? The guy who provides these docs in Sohar for us uses their company and issues docs usually and can later support those docs this way to be safe
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 03-02-2021 10:50:35(UTC+0) Source App: WhatsApp	@989127025761 as discussed we can use Delta shipping and trading LLC as the Shipper. We did the same last time for Aston 1, which went to India
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 03-02-2021 10:51:18(UTC+0) Source App: WhatsApp	Also as discussed, pls ask the Delta team only to change the shipper and balance all to remain same as per the DI provided

From: Nitin Didwania (owner) Timestamp: 03-02-2021 14:22:52(UTC+0) Source App: WhatsApp	Saba, is it possible to get a typical of the balance light with the oxy and olefin.
From: 989127401664@s.whatsapp.net Saba.trilliance. Ali Timestamp: 04-02-2021 05:26:41(UTC+0) Source App: WhatsApp	They are using the light nap for blending of gasoline
From: 989127025761@s.whatsapp.net Omid Timestamp: 04-02-2021 07:31:40(UTC+0) Source App: WhatsApp Attachments: #1: chats\WhatsApp_Native\attachment s576 \DRAFT DOCS.pdf	----
From: 989127025761@s.whatsapp.net Omid Timestamp: 04-02-2021 07:32:06(UTC+0) Source App: WhatsApp Attachments: #1: chats\WhatsApp_Native\attachment s576 \TUNA BLS.pdf	----
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 04-02-2021 10:25:03(UTC+0) Source App: WhatsApp	3. HS CODE CHANGED IN ALL OBLS. 4. LC DETAILS ADDED IN 6 & 7
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 04-02-2021 10:25:04(UTC+0) Source App: WhatsApp	We will require 2 Certificates of origin 3. For BL#1,2,3,4,5 4. Certificate of Origin for BL#6 & 7
From: 971501159789@s.whatsapp.net Alex Aby. Hif Timestamp: 04-02-2021 10:26:14(UTC+0) Source App: WhatsApp	Dear Omid kindly ask delta to revise the OBL as per above. Also to issue 2 sets of Certificate of origin as per BL nos

70. Further relevant documents were also recovered from the mobile phone of Shri Nitin Kumar Didwania (**RUD No. 46**): -

- A document having title „Free Zone Bill of Entry“, Hamriyah Free Zone dated 28.01.2021 showing port of loading Basrah, Iraq, vessel name-Tuna, Qty. 20110767 KG
- One document having title Supplier Analysis Report containing Port/location-Basrah/Iraq and vessel Name- MT Tuna

71. On the basis of above chats and documents discussed above that the subject goods were loaded from Basrah Iraq and were originated in Iraq whereas the same were mis-declared in the import documents submitted with Kandla Customs as loaded from Sohar, Oman and originated from Oman.

72. I find that the following relevant Whatsapp Chat conversations have been retrieved from the mobile phone of Shri Satish Gaichor.

Chat No. 2139 with Shri Nitin Kumar Didwania: -

Sr. No.	Chat Details	Body
1	From: 919821026617@s.whatsapp.net HML - NKD Timestamp: 31-01-2021 7:21:34 AM(UTC+0) Source App: WhatsApp	Body: Hi @971501159789 has tuna been accepted in kamdla?
2	From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 11-02-2021 7:28:23 AM(UTC+0) Source App: WhatsApp	Body: Do u have reliable supplier in uae for Gasoil and Gasoline?
3	From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 11-02-2021 7:28:23 AM(UTC+0) Source App: WhatsApp	Body: Kindly confirm if they can supply the Gasoil and Gasoline as per the attached specification
4	From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 11-02-2021 7:28:23	Body: Can hazel supply
	AM(UTC+0) Source App: WhatsApp	
5	From: 919821026617@s.whatsapp.net HML - NKD Timestamp: 11-02-2021 10:20:22 AM(UTC+0) Source App: WhatsApp	Body: Need report
6	From: 919821026617@s.whatsapp.net HML - NKD Timestamp: 22-02-2021 6:16:10 AM(UTC+0) Source App: WhatsApp	Attachments: #1: chats\WhatsApp Native\attachments2139\IMG-20210222-WA0009.jpg (Content of Clarification dated 19.02.2021 given by Customs House Laboratory, Kandla suggesting that the sample under reference was Natural Gasoline Liquid)

Chat No. 1789 with Shri Abby-Alex:-

Sr. No.	Chat Details	Body
	From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 30-01-2021 1:37:32 PM(UTC+0) Source App: WhatsApp	Body: VV IMP: 1. We need a full survey of quality with the oxygenates. Same has to be done on priority and reports to be shared on priority prior vessel sailing to Kandla. 4. WATER CONTENT ANALYSIS REPORT TO BE SEPARATELY INFORMED (NOT PART OF MAIN REPORT). 5. All docs must mention "NAPHTHA" as product
	From: 971501159789@s.whatsapp.net HME Abby Alex Timestamp: 02-02-2021 5:18:14 AM(UTC+0) Source App: WhatsApp	Attachments: #1: chats\WhatsApp Native\attachments1789\BILL OF LADING...pdf (The sender sent Bill of Lading for MT Tuna containing port of loading as Basrah, Iraq)
	From: 971501159789@s.whatsapp.net HME Abby Alex Timestamp: 03-02-2021 8:58:41 AM(UTC+0) Source App: WhatsApp	Body: Also please let me know if you are OK with the below timings for Tuna. NOR Sohar Jan 30th 48 hours of loading
		Completion of loading Feb 2nd early AM hours
	From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 04-02-2021 9:52:18 AM(UTC+0) Source App: WhatsApp	Body: 3. HS CODE CHANGED IN ALL OBLS. 4. LC DETAILS ADDED IN 6 & 7
	From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 04-02-2021 10:20:03 AM(UTC+0) Source App: WhatsApp	Body: We will require 2 Certificates of origin 3. For BL#1,2,3,4,5 4. Certificate of Origin for BL#6 & 7
	From: 971501159789@s.whatsapp.net HME Abby Alex Timestamp: 04-02-2021 11:03:19 AM(UTC+0) Source App: WhatsApp	Body:@971501159789 As per your instruction, Tuna is sailing towards the discharge port with AIS turned off

73. Following further relevant documents also recovered from the mobile phone of Shri Satish Gaichor (RUD No. 47 Col"ly): -

- 73.1. Bill of Lading No. TN-100019-21 dated 24.01.2021
- 73.2. Free Zone Bill of Entry dated 28.01.2021, Hamriyah Free Zone, Sharjah, UAE (vessel MT Tuna, Bill of Lading No. TN-100019-21)
- 73.3. Cargo Manifest dated 24.01.2021
- 73.4. Certificate of Origin dated 24.01.2021
- 73.5. Commercial invoice no. TN-100081-21 dated 24.01.2021
- 73.6. Delivery order no. 2021-007732 dated 28.01.2021

74. As per these documents recovered from the mobile phone of Shri Satish Gaichor, the shipper/consignee was mentioned as M/s. Jabal Al-Aswad Co., Notify address was mentioned as M/s. Aureole Trading (LLC), Hamriyah Free Zone, Sharjah, UAE, vessel Name was MT Tuna, Qty. was 20110.767 MT, Port of Loading was Basrah (Iraq), Shipper's description of goods was „Naphtha“ and the HS Code for the goods was mentioned as 27075000.

75. From the above mentioned documents recovered from the mobile phone of Shri Satish Gaichor, the name of shipper/consigner appeared as M/s. Jabal Al-Aswad Co., Iraq for the 20110.767 MT goods being transported in vessel MT Tuna. It is further observed that the subject goods were loaded from Basrah, Iraq. This aspect is also corroborated with the facts of Whatsapp Chat conversations held among key persons who were discussing to get clearance of the cargo on the basis of some Iraqi Document. In these documents, the description of goods was mentioned as „Naphtha“ but the HS Code for the same was mentioned as 27075000. It is pertinent to refer here that from the Chat conversations, it is apparent that the key persons had specifically insisted the concerned dealing hand to mention the product name as „Naphtha“ in all documents. In order to get the content of these documents explained, Shri Satish Gaichor was issued Summons directing him to tender statement to get explained the content of above-mentioned conversations and other evidences /documents/images appeared relevant in the ongoing investigation but he avoided to provide any details/information/documents in this regard. This act of reluctance and non-cooperation on his part clearly indicated the aspect of manipulation of import documents.

76. From the evidences /documents/images/Whatsapp chat conversations retrieved from the mobile phone data of Shri Nitin Kumar Didwania and Shri Satish Gaichor, it is clear that the subject goods were originated in Iraq and were brought to India via Hamariyah, Sharjah, UAE in vessel MT Tuna. It further appears that in order to suppress the actual material particulars such as nature/description of subject goods, country of origin, shipper, port of loading etc., the conspirators prepared documents showing the supplier/shipper as M/s. Aureole Trading LLC, UAE in commercial invoice and M/s. Delta Shipping LLC in the concerned Bills of Lading. As discussed above that the product name as „Naphtha“ was mentioned on being specifically insisted by the key persons of M/s. HML. specifically The port of loading and country of origin were declared as Sohar (Oman) and Oman respectively, whereas, it is apparent from the Whatsapp Chat conversations retrieved from the mobile phone of Shri Nitin Kumar Didwania, Managing Director of M/s. HML and other key persons that the vessel MT Tuna even did not berth at Sohar, Oman.

77. It is further observed that M/s. Verasco FZE, Hamriyah Free Trade Zone, UAE (previously known as Hazel International FZE), was having Tank storage terminal and processing plant in Sharjah, UAE. In order to get explained the matter and examine the role of M/s. Verasco FZE in manipulation of subject goods with respect to its nature by blending/processing and manipulation of documents with respect to their material particulars, Summons were issued to M/s. Hazel International FZE/ M/s. Verasco FZE, but they did not respond.

78. Shri Satish Gaichor was also shown the data contained in his mobile phone which was extracted under Panchnama dated 08.03.2021 to 11.03.2021. After seeing the

data, he deposed that this data included the data of his mobile phone which was surrendered by him during Statement dated 25.02.2021. I explained the specific Whatsapp Chats and documents recovered from his mobile phone as under:-

Chat No. 1789 with Shri Abby-Alex:-

Chat Details	Body	My comment/submissions on the body/content of chat
From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 27-01-2021 12:49:27 PM(UTC+0) Source App: WhatsApp	"Body: have u passed on this message for Arihant	"This was the direction/inquiry of our MD Shri Nitin Kumar Didwania regarding goods imported by us in vessel MT Arihant.
From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 27-01-2021 12:49:39 PM(UTC+0) Source App: WhatsApp	Body: also please advice what is BL qty for Arihant	
From: 971501159789@s.whatsapp.net HME - Abby Alex Timestamp: 27-01-2021 1:42:31 PM(UTC+0) Source App: WhatsApp	Body: We are arranging Iraq docs for her, will arrive Sohar in 3 days then we will arrange Omani docs for kandla discharge	Mr. Alex Abby, our UAE counter part informed that they were arranging documents showing Iraq origin of subject goods and then documents showing Oman origin of goods were for Kandla discharge. I am not aware why the two types of documents i.e. Iraqi and Omani documents were prepared. Mr. Alex Abby or our MD Shri Nitin Kumar Didwania can explain about the same.
From: 971501159789@s.whatsapp.net HME - Abby Alex Timestamp: 27-01-2021 1:42:51 PM(UTC+0) Source App: WhatsApp	Body: Above message for Arihant docs	
From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 30-01-2021 1:37:32 PM(UTC+0) Source App: WhatsApp	Body: VV IMP: 1. We need a full survey of quality with the oxygenates. Same has to be done on priority and reports to be shared on priority prior vessel sailing to Kandla. 4. WATER CONTENT ANALYSIS REPORT TO BE SEPARATELY INFORMED (NOT PART OF MAIN REPORT). 5. All docs must mention "NAPHTHA" as product	This direction was from Shri Nitin Kumar Didwania, MD of M/s. HML to analyze the specifications/ parameters of goods etc. in import related documents. I just forwarded the message received from Shri Nitin Kumar Didwania to concerned persons including Mr. Abby Alex. Our MD Shri Nitin Kumar Didwania can explain why he specifically directed that all docs must mention "NAPHTHA" as product.

<p>From: 971501159789@s.whatsapp.net HME - Abby Alex Timestamp: 02-02-2021 5:18:14 AM(UTC+0) Source App: WhatsApp</p>	<p>Attachments: # 1: chats\WhatsApp Native\attachments1789 \BILL OF LADING..pdf</p> <p>(The sender sent Bill of Lading for MT Tuna containing port of loading as Basrah, Iraq)</p>	<p>Mr. Abby Alex sent Bill of Lading and other related documents pertaining to MT Tuna. This Bill of Lading and concerned Certificate of Origin contains Country of origin as Iraq and Port of Loading Basrah, Iraq for 20110.767 MT goods. The goods were the same which</p>
		<p>were imported to Kandla India per vessel MT Tuna. I am not aware the purpose of declaring the country of origin as Oman in the documents submitted with Customs House, Kandla. Our MD Shri Nitin Kumar Didwania can explain the reason for same.</p>
<p>From: 971501159789@s.whatsapp.net HME - Abby Alex Timestamp: 03-02-2021 8:58:41 AM(UTC+0) Source App: WhatsApp</p>	<p>Body: Also please let me know if you are OK with the below timings for Tuna. NOR Sohar Jan 30th 48 hours of loading Completion of loading Feb 2nd early AM hours</p>	<p>I am not aware why did these timings were created though the vessel MT Tuna did not berth at Oman as per Whatsapp chat conversations. Our MD Shri Nitin Kumar Didwania can explain the reason for same.</p>
<p>From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 04-02-2021 9:52:18 AM(UTC+0) Source App: WhatsApp</p>	<p>Body: 3. HS CODE CHANGED IN ALL OBLS. 4. LC DETAILS ADDED IN 6 & 7</p>	<p>These messages were only forwarded by me as received from our MD Shri Nitin Kumar Didwania. I am not aware about the purpose of changing HS Code, actual details which HS Code was changed and requirement of two Certificates of Origin.</p>
<p>From: 918291990409@s.whatsapp.net SG (owner) Timestamp: 04-02-2021 10:20:03 AM(UTC+0) Source App: WhatsApp</p>	<p>Body: We will require 2 Certificates of origin 3. For BL# 1,2,3,4,5 4. Certificate of Origin for BL# 6 & 7</p>	<p>Our MD Shri Nitin Kumar Didwania can explain the reason for same.</p>
<p>From: 971501159789@s.whatsapp.net HME - Abby Alex Timestamp: 04-02-2021 11:03:19 AM(UTC+0) Source App: WhatsApp</p>	<p>Body: @971501159789 As per your instruction, Tuna is sailing towards the discharge port with AIS turned off."</p>	<p>Mr. Abby Alex sent this message informing that as per instructions of our MD of M/s. HML, the AIS of vessel MT Tuna was switched off while moving towards Kandla, India to discharge the goods."</p>

79. During the statement, Shri Satish Gaichor was asked to comment on the following discrepancies:-

	As per Bills of Lading no. 1 to 7 dated 02.02.2021 submitted by us with Customs, Kandla	As per documents (other than Bills of Lading) said to have been produced by us alongwith concerned Bills of Entry	As per documents recovered during investigation (Bill of Lading No.TN-100019-21 dated 24.01.2021, Cargo Manifest dated 24.01.2021, Certificate of Origin dated 24.01.2021, Commercial Invoice no. TN-100081-21 dated 24.01.2021, Free Zone Bill of Entry dated 28.01.2021)
Shipper/Supplier /Consignee	M/s. Delta Shipping and Trading LL C, Sohar, Oman	M/s. Aureole Trading LLC, Dubai, UAE	Jabal Al- Aswad Company, Iraq
Port of Loading	Sohar, Oman	Sohar, Oman	Basrah, Iraq
Country of Origin	Not mentioned	Oman	Iraq
HS Code/CTH of Product	271011229	27101229	27075000
Qty. (MT)	20110.767	20110.767	20110.767

80. Shri Satish Gaichor stated that their MD Shri Nitin Kumar Didwania could explain the reason behind same; that they had just followed his instructions regarding preparation of documents and submission of the same with Customs Authorities. On being asked to provide documents having correct material particulars and also to provide corresponding export documents submitted by actual overseas supplier/shipper with respective Customs Authorities such as Export declaration form/shipping bills, insurance documents etc. pertaining to goods exported to India per said three vessels, Shri Satish Gaichor stated that these documents were not available with him; that their MD Shri Nitin Kumar Didwania is the right person to provide the same.

DISCUSSION ON EVIDENCE FROM TEST REPORTS-

81. Relying on various Test reports that were referred to in the order of the Hon'ble High Court of Gujarat, SCN alleged that the goods to be Natural Gasoline Liquid and the noticee submitted that the goods are Naphtha. The Show cause notice has alleged that M/s. Hazel Mercantile Ltd. (M/s. HML) imported 20110.77MT Natural Gasoline Liquid (NGL)/Motor Gasoline in the guise of goods declared as 'Naphtha' classifying the same under CTH 27101229. The import of NGL/Motor Gasoline is a restricted item and can be imported through State Trading Enterprise (STEs) only in terms of policy condition of Chapter 27. The noticee argues that the goods are Naphtha under CTH 27101229 as per Test reports of Geo Chem and IIP, Dehradun.

82. I find that the department as well as the importer has relied upon various Test reports/Certificates. The Test reports relied upon in the SCN are as follows:-

(1) TEST REPORT AND OPINION OF CHEMICAL EXAMINER-

Test report bearing No. 6454/2659863/06.02.2021 dated 15.02.2021 (**RUD-3**), which is reproduced below:-

77

TEST RESULT	
Test Report No.	2659863/8-27.R.Bate
Lab No.	Lab Date
Examined ID	
<p>The Sample as received is in the form of colorless liquid. It is composed of mixture of hydrocarbons having following concn:-</p> <p>1) Density at 15°C → 0.6474 g/ml.</p> <p>2) Initial boiling point → 40°C</p> <p>3) 10% distill v/v → 42°C</p> <p>4) 50% distill v/v → 52°C</p> <p>5) 90% distill v/v → 119°C</p> <p>6) Flash point → Below 25°C</p>	
<p>Analysed and returned to the Asstt. Commissioner or _____ and the Result Technical opinion as above.</p> <p>Remain Sample Fully Consumed/Retaubed/Returned.</p>	
<p>Date : _____</p> <p><i>Chilaka Nareesh</i> CHILAKA NARESH, रसायन परीक्षक ग्रेड-II Chemical Examiner Grade-II कर्मसु लालस राजस्थानी गोदान राजस्थान राज्य सरकारी बोर्ड, कंडला</p> <p>CHEMICAL EXAMINER/DY.CHEIF CHEMIST</p> <p><i>MD 25/2</i></p>	
P ₁ :	<i>P. C. Arora</i> 25/02/21
P ₂ :	<i>M. J. Joshi</i> 25/02/2021

T.19.140.

IPR. 17/08/2021.2021 Dated. 08/02/2021

(TO BE FILLED BY IMPORTERS / EXPORTERS / CHA)

THE FOLLOWING SAMPLES ARE FORWARDED FOR FAVOUR OF ANALYSIS

Group 1 B/E NO. 2659863 Date. 06/02/2021 Type IMPORT CHA NO. HEMIYOT AGENCY

Manufacturer's Name _____
Supplier's Name M/s. AUREOLE TRADING(LLC)

Name and Address of Importers / Exporters M/s. HAZEL MERCANTILE LIMITED.

Country OMAN Vessel's Name MT. TUNA
Import / Export IMPORT
Marks & Numbers IN BULK
Description NAPHTHA (CTH NO: 27101228)
Specification _____

Brand _____ Literature Enclosed _____

FOR OFFICE USE ONLY

Key Word 1 NATURE Key Word 2 COMPOSITION
Test Query 1. VEV DESCRIPTION 2. Whether it is naphtha -
3. Flash point 4. or otherwise
5. Distillation Range

Conditions of Release : 1. Against Bond (A) Bond No. _____ (B) Exp.Date _____
2. Partial Release Rate Released _____

T.R. Validity in Months _____ ASSTT.COMMISSIONER OF CUSTOMS
Signature of Shed P.O. _____ (GROUP) _____

P.O. (D.E.J)
C.H. KANDLA
MD 25/2

PRAKASH KATH
Supervisor, I.M.D (Gr.1)
Customs, Kandla

(2) **TEST REPORT BY CRCL, DELHI-** In pursuance of the direction of Hon'ble High Court, the department forwarded the sample to CRCL, Delhi for retesting vide letter dated 15.04.2021 under Test Memo No. 44/2021-22 dated 15.04.2021 (**RUD No. 26**). In the Test Memo, the laboratory was asked to examine the sample with respect to all possible descriptions of goods including Naphtha as declared by M/s. HML. The queries raised vide Test Memo No. 44/2021-22 are as under:-

- “Whether the representative sample confirms to description/Characteristics/Specifications/properties of “Naphtha” i.e. “Full Range Naphtha” as per Customs Tariff heading (CTH) 27101229?
- Whether the representative sample is mixture/blended item of Light Naphtha (CTH- 27101221) and/or Heavy Naphtha (CTH- 27101222) and/or Full Range Naphtha (CTH- 27101229) with or without any other goods and falling under ‘Others’ category goods as per CTH 27101290.
- Whether the representative sample confirms to Characteristics/Specifications/properties of “Natural Gasoline Liquid”?
- Whether the representative sample confirms to Characteristics/Specifications/properties of “Motor Gasoline” as per CTH 27101241?
- Whether the representative sample is mixture/blended item of any of the goods mentioned at Sr. No. 2 to 5 above with or without any other goods and falling under ‘Others’ category goods as per CTH 27101290 of Customs Tariff.
- Whether the representative sample is other than that of mentioned at Sr. No. 2 to 6 above? If so, details /identification thereof?”

(3) The CRCL, New Delhi provided the test results vide Re-Test Report bearing C.No. 27-Cus/C-08/2021-22 dated 28.05.2021(**RUD No. 27**).

<p>भारत सरकार वित्त मन्त्रालय, राजस्व विभाग केन्द्रीय राजस्व विभाग केन्द्रीय राजस्व विभाग हिंसाइडरोड, पूर्णा, नई दिल्ली - 110012</p>		<p>Government of India Ministry of Finance, Department of Revenue Central Board of Indirect Taxes & Customs Central Revenues Control Laboratory Hillside Road, Puna, New Delhi - 110012 Tel: 011-21520122/21520123; Fax: 011-25843495; Email: dir.crci-cbec@nic.in Website: http://crci.gov.in</p>																																																															
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<p>Date: 28.05.2021</p>																																																																	
<p>To</p>																																																																	
<p>The Additional Director Directorate of Revenue Intelligence, Regional Unit, Plot No. 193 Sector - IV OSLO, Gandhidham (Kutch) - 370 201</p>																																																																	
<p>Sir,</p>																																																																	
<p>Sub: - Testing/retesting of sample reg.-</p>																																																																	
<p>Please refer to your office letter F.No. DRI/AZU/GRU/Hazl/INT-06/2021/5557, dated 15.04.2021 and letter of even no. Dt. 11.05.2021, forwarding therewith 03 intact sealed sample for retesting. Out of these three samples, following one sample has been analysed and test report is as under.</p>																																																																	
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<p><i>28/5/21</i> (Dr T. A. Sreenivasa Rao) Joint Director (NFSG)</p>																																																																	
<p>Copy To: The joint Director, C.H. Laboratory, Kandla</p>																																																																	
<p>Scanned by CamScanner</p>																																																																	

The conclusion of Re-Test Report of the CRCL, New Delhi with respect to the sample drawn from the subject goods on 09.04.2021 is reproduced hereunder: -

*"The sample is in the form of clear colourless liquid having. it is mainly composed of lighter mineral hydrocarbon oil, having mineral hydrocarbon oil content more than 70% by Wt. It is having following characteristics.....**The sample is a low boiling liquid extracted from natural gas. It is 'NGL.'**"*

83. The noticee/importer relies on the following Test reports-

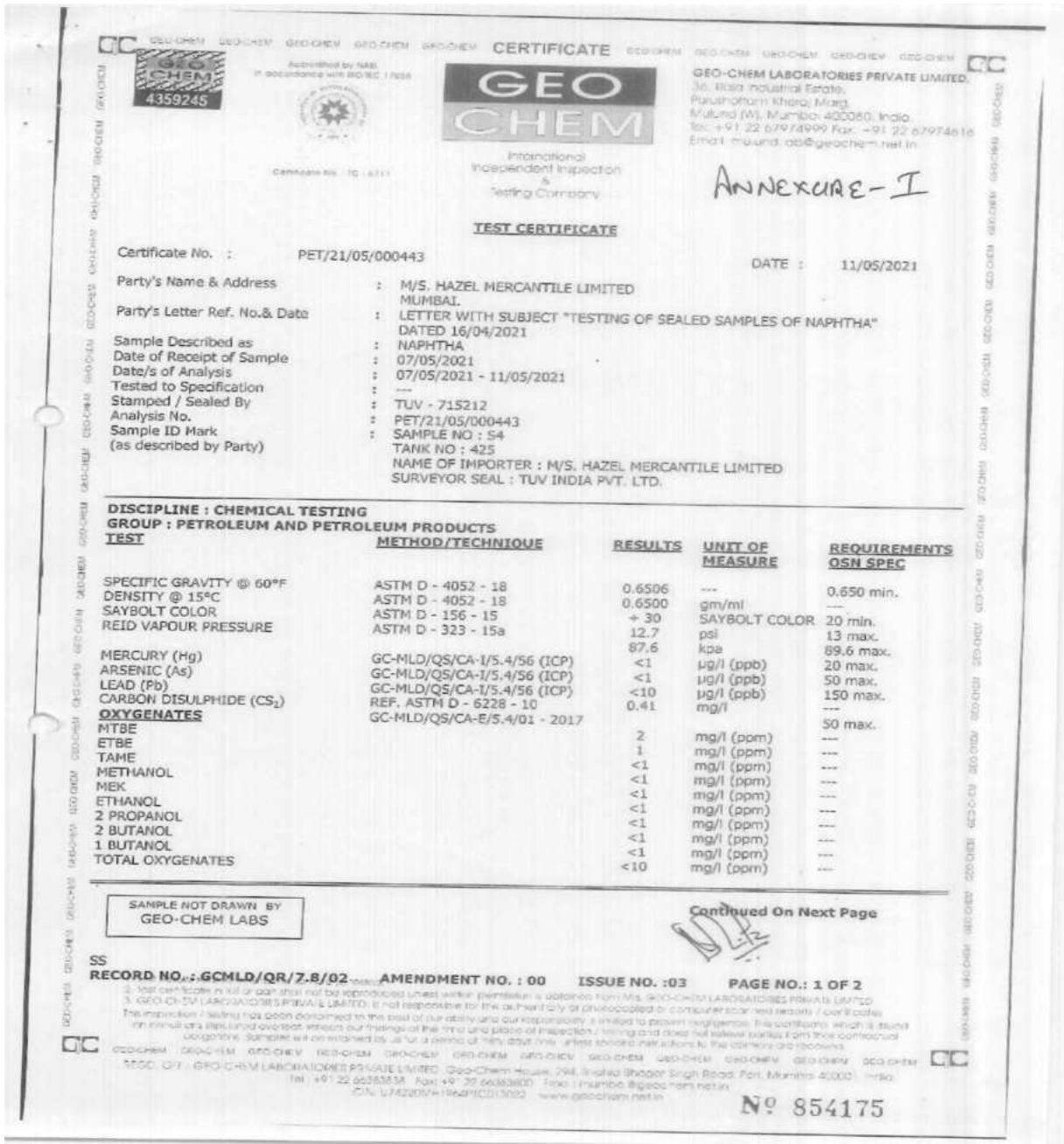
(1) **Test Report/Certificate of Quality of M/s. Muscut International Shipping & Logistics LLP (MIS) said to be the load port report:-** I find that there are sufficient evidences in the form of chats and documents which indicate that the port of loading declared by M/s. HML i.e. Sohar, Oman is not correct. Similarly, the shipper/supplier/consignee declared by

M/s. HML as M/s. Aureole Trading LLC were not the actual supplier/shipper/consigner. Therefore, the load port report of **M/s. MIS** loses its authenticity and the same cannot be relied upon as a valid document while deciding the issue of classification.

(2) **Test Report of M/s. TUV India Pvt. Ltd.:-** I find that M/s. HML relied on a Test Report of M/s. TUV India Pvt. Ltd. claiming that the report was pertaining to samples drawn by their surveyor M/s. TUV India Pvt. Ltd. and that the Test Report indicated the subject goods as Naphtha. I find that no permission was sought from Customs authorities while drawing the samples, thus the same can not be relied upon.

(3) RE-TESTING BY M/s. HML AS PER ORDER OF HON'BLE HC OF GUJARAT-

In Pursuance of the order dated 05.04.2021 of the Hon'ble High Court of Gujarat, samples marked as S4& S5, were submitted to M/s. Geo Chem Laboratories Pvt. Ltd and IIP, Dehradun respectively by the importer. The test report provided by M/s. Geochem is as under:-



CERTIFICATE

GEO CHEM

International
Independent Inspection
&
Testing Company

TEST CERTIFICATE

Certificate No. : PET/21/05/000443 DATE : 11/05/2021

TEST	METHOD/TECHNIQUE	RESULTS	UNIT OF MEASURE	REQUIREMENTS OSN SPEC
DISTILLATION :	ASTM D - 86 - 18			
INITIAL BOILING POINT		35	°C	24 Min.
5% RECOVERY		39	°C	---
10% RECOVERY		40	°C	---
20% RECOVERY		41	°C	---
30% RECOVERY		42	°C	---
40% RECOVERY		44	°C	---
50% RECOVERY		47	°C	---
60% RECOVERY		51	°C	---
70% RECOVERY		53	°C	---
80% RECOVERY		63	°C	---
90% RECOVERY		80	°C	---
95% RECOVERY		106	°C	---
FINAL BOILING POINT		120	°C	204 Max.
RECOVERY		98.0	% vol.	---
LOSS		1.5	% vol.	---
RESIDUE		0.5	% vol.	---

REMARKS : CONFORMS TO OSN SPECIFICATIONS OF NAPHTHA WITH RESPECT TO THE TESTS CARRIED OUT.

NOTE 1 : Test Certificates for the said sample are issued as PET/21/05/000443 & PET/21/05/000443-I

SAMPLE NOT DRAWN BY
GEO-CHEM LAB

For GEO-CHEM LABORATORIES PVT. LTD.

MANGESH SHINDE
MANAGER
(CHEMICAL ANALYSIS- ENERGY)
(AUTORISED SIGNATORY)

U/L No. : TCV/11210H07730H/P

-END OF CERTIFICATE-

SS RECORD NO. : GCHLD/QR/7-8/02 AMENDMENT NO. : 00 ISSUE NO. : 03 PAGE NO. : 2 OF 2

No. 854176

CERTIFICATE

GEO CHEM

International
Independent Inspection
&
Testing Company

TEST CERTIFICATE

Certificate No. : PET/21/05/000443-I DATE : 11/05/2021

Party's Name & Address	M/S. HAZEL MERCANTILE LIMITED MUMBAI.		
Party's Letter Ref. No. & Date	LETTER WITH SUBJECT "TESTING OF SEALED SAMPLES OF NAPHTHA" DATED 16/04/2021		
Sample Described as	NAPHTHA		
Date of Receipt of Sample	07/05/2021		
Date/s of Analysis	07/05/2021 - 11/05/2021		
Tested to Specification	---		
Stamped / Sealed By	TUV - 715212		
Analysis No.	PET/21/05/000443-I		
Sample ID Mark	SAMPLE NO : 54		
(as described by Party)	TANK NO : 425 NAME OF IMPORTER : M/S. HAZEL MERCANTILE LIMITED SURVEYOR SEAL : TUV INDIA PVT. LTD.		

DISCIPLINE : CHEMICAL TESTING
GROUP : PETROLEUM AND PETROLEUM PRODUCTS

TEST	METHOD/TECHNIQUE	RESULTS	UNIT OF MEASURE	REQUIREMENTS OSN SPEC
SULPHUR (S)	ASTM D - 4294 - 16	157	mg/kg (ppm)	550 max.
FLASH POINT	IP 170	BELOW 0	°C	---
BENZENE CONTENT	ASTM D - 5134 - 08	0.29	% vol.	---
ORGANIC CHLORIDE	ASTM D - 4929B	<1	ppm wt.	1 Max.
EXISTENT GUM :				
UNWASHED	ASTM D - 381 - 19	0.7	mg/100ml	---
WASHED	ASTM D - 381 - 19	<0.5	mg/100ml	---
PIONA + CARBON BREAKUP :	ASTM D - 5134 - 08			
TOTAL PARAFFIN		94.18	% vol.	65.0 min.
N-PARAFFIN		47.93	% vol.	30.0 min.
ISO PARAFFIN		46.25	% vol.	---
AROMATICS		0.87	% vol.	---
NAPHTHENES		4.91	% vol.	---
OLEFINS		0.05	% vol.	1.0 max.

REMARKS : CONFORMS TO OSN SPECIFICATIONS OF NAPHTHA WITH RESPECT TO THE TESTS CARRIED OUT.

NOTE 1 : Test Certificates for the said sample are issued as PET/21/05/000443 & PET/21/05/000443-I

NOTE 2 : ORGANIC CHLORIDE TEST IS SUBCONTRACTED.

SAMPLE NOT DRAWN BY
GEO-CHEM LAB

For GEO-CHEM LABORATORIES PVT. LTD.

MANGESH SHINDE
MANAGER
(CHEMICAL ANALYSIS- ENERGY)
(AUTORISED SIGNATORY)

-END OF CERTIFICATE-

SS RECORD NO. : GCHLD/QR/7-8/02 AMENDMENT NO. : 00 ISSUE NO. : 03 PAGE NO. : 1 OF 1

No. 103597

(4) The Test report provided by IIP, Dehradun is reproduced hereinbelow:-

Indian Institute of Petroleum, Dehradun

Confidential

1.0 INTRODUCTION

Studies on Sealed Naphtha samples from M/s Hazel Mercantile Limited, Mumbai.

2.0 STANDARD TEST METHODS

Naphtha sample (Marked as S5 with Seal No.715255, Location: MT-Tuna) was analyzed in our laboratory for the following tests using respective standard test methods.

S.No.	Properties	Standard method
1	Specific Gravity @ 60°F	ASTM D4052
2	Density @15 °C	ASTM D4052
3	Colour Saybolt	ASTM D156
4	RVP @37.8 °C	ASTM D6378
5	Total Sulfur(ppm)	ASTM D4294
6	RON	GC method
7	MON	GC method
8	Existent Gum	ASTM D381
9	Distillation, °C	ASTM D86
	IBP	
	5%(v/v)	
	10%(v/v)	
	20%(v/v)	
	30%(v/v)	
	40%(v/v)	
	50%(v/v)	
	60%(v/v)	
	70%(v/v)	
	80%(v/v)	
	90%(v/v)	
	95%(v/v)	
	FBP	
	Recovery	
	Residue	
	LOSS	
10	Composition, liquid vol%	ASTM D6730
	Total Paraffins	
	n-Paraffins	

Indian Institute of Petroleum, Dehradun

Confidential

	Olefins	
	Naphthenes	
	Aromatics	
11	Benzene	UOP 744
12	Carbon Di Sulphide	ASTM D5623
13	MTBE	ASTM D4815
	ETBE	
	TAME	
	DIPE	
	Methanol	
	Ethanol	
	Isopropanol,	
	n-propanol	
	isobutanol	
	tert-butanol	
	sec -butanol	
	n-butanol	
	Total Oxygenates	

3.0 RESULTS

3.1. Naphtha Sample (Marked as S5 with Seal No.715255, Location: MT-Tuna) Report:

3.1.1. Physico-Chemical Properties and Composition:

S.No.	Properties	Report
1	Specific Gravity @ 60/60°F	0.6514
2	Density @15 °C (g/c³)	0.6513
3	Colour Saybolt	>+30
4	RVP @37.8 °C(kPa)	85.8
5	Total Sulfur(mg/kg)	210
6	RON (by GC method)	69.9
7	MON (by GC method)	67.8
8	Existent Gum(mg/100 mL)	1.7
9	Distillation, °C	
	IBP	27.0
	5%(v/v)	36.5
	10%(v/v)	41.0
	20%(v/v)	42.0
	30%(v/v)	43.0
	40%(v/v)	45.0
	50%(v/v)	46.5

<i>Indian Institute of Petroleum, Dehradun</i>		<i>Confidential</i>
	60%(v/v)	49.0
	70%(v/v)	52.5
	80%(v/v)	59.0
	90%(v/v)	72.5
	95%(v/v)	87.5
	FBP	115.5
	Recovery%(v/v)	96.0
	Residue%(v/v)	1.0
	Loss%(v/v)	3.0
10	Composition, liquid vol%	Volume %
	Total Paraffins(Normal & iso)	95.10
	Naphthenes	3.86
	Olefins	0.22
	Aromatics	0.82
	n-Paraffins	48.35
11	Composition, liquid vol%	Volume %
	Benzene	0.37
12	Composition, liquid (mg/kg)	mg/kg
	Carbon Di Sulfide	6.06
13	Composition, liquid vol%	Volume %
	MTBE	0.01
	ETBE	0.00
	TAME	0.02
	DIPE	0.00
	Methanol	0.00
	Ethanol	0.00
	Isopropanol,	0.00
	n-propanol	0.00
	isobutanol	0.00
	tert-butanol	0.00
	sec -butanol	0.00
	n-butanol	0.00
	Total Oxygenates	0.03

3.1.2. Carbon number wise analysis (% volume) based on ASTM D6730 method:

Carbon No.	Paraffin			Naphthenes	Olefins	Aromatics
	Normal	Iso	Total Paraffin			
1	--	--	--	--	--	--
2	0.04	--	0.04	--	--	--
3	--	--	--	--	--	--
4	1.12	--	1.12	--	--	--
5	34.07	28.39	62.46	0.93	0.00	--
6	9.92	12.88	22.80	1.32	0.01	0.28
7	2.42	3.67	6.09	1.15	0.21	0.32
8	0.67	1.55	2.22	0.40	0.00	0.22
9	0.11	0.26	0.37	0.06	0.00	--
10	--	--	--	--	--	--
11	--	--	--	--	--	--
12	--	--	--	--	--	--
Total	48.35	46.75	95.10	3.86	0.22	0.82

3.1.3. Conclusion:

Based on the above observations/results, this sealed naphtha sample (Marked as S5 with Seal No.715255, Location: MT-Tuna) falls under the light naphtha range.

Kindly note that the analysis results given above cannot be deemed to be a certificate on your product. These are the results of analysis performed on samples provided to us.

84. I find that the Hon'ble High Court of Gujarat vide order dated 15.09.2021, while deciding the issue of validity of test reports made some important observations as reproduced below:-

"What is evident from the communications annexed to the petition is that the petitioner independently forwarded the samples for re-testing to the Geochem Laboratory and to the IIPM without consulting the statutory authorities. Based on the order dated 05.04.2021 passed by the Court, it appears that the petitioner by its letters supplied a long list of 66 parameters proposed to be tested which was subsequently changed to a proposal of 49 parameters for testing. From reading of the affidavit-in-reply of the respondent, it appears that no parameters were suggested by the petitioner pertaining to the test of goods as Natural Gasoline Liquid. Even if the letters dated 16.02.2021 and 17.02.2021 which are pressed into service by Mr. Nankani

are considered as creating a doubt about the Custom House Laboratory what is indicated is that though the lines of investigation was in context of whether the goods was Naphtha, the CRCL report dated 28.05.2021 (page 447 of the paperbook) in accordance with the parameters prescribed by the authorities in the test memo indicate unequivocally that the consignment is that of Natural Gasoline Liquid.

We are afraid then when the validity of the reports are disputed inasmuch as it is the case of the Union of India through its investigating agency that the parameters and scientific analysis of the reports on which the petitioner seeks reliance are contradictory, this Court would be loathe in weighing its options on such disputed questions of fact and disturbing the seizure memo an exercise which cannot be undertaken in the midst of an investigation."

85. The Hon'ble Court observed that the test reports relied upon by the petitioner (M/s. HML) were contradictory in nature in respect of analysis, parameters and conclusions and also opined that the samples were forwarded to the laboratories without consulting the statutory authorities. The Hon'ble Court further noted that M/s. HML did not suggest any parameter for testing of sample as "NGL". It was further stressed upon by the Hon'ble Court that the CRCL report dated 28.05.2021 in accordance with the parameters prescribed by the authorities in the test memo indicate unequivocally that the consignment was that of Natural Gasoline Liquid.

86. Without prejudice to the above findings, I proceed to examine the parameters tested by Geochem and IIPL as given below:-

MT TUNA (NAPHTHA ANALYSIS COMPARISON)					
		GEOCHEM		IIPL	
Sr No	Parameters	Method	Result	Method	Result
0	Appearance				
1	Specific Gravity @ 60°F	ASTM D4052:2018	0.65	ASTM D4052	0.6514
2	Density @ 15°C		0.6506 g/ml		0.6513 g/c3
3	Colour Saybolt	ASTM D156:2015	Greater than 30	ASTM D156	Greater than +30
4	Reid Vapour Pressure (RVP)	ASTM D323:2020	12.7 psi/87.6 kpa	ASTM D6378	85.8 kPa
5	Sulphur	ASTM D4294:2016	157 ppm	ASTM D4294	210 mg/kg
6	Flash Point	IP-170 2013	Below 0 deg C		
7	Distillation: I.B.P. **	ASTM D86:2020	35 deg C	ASTM D86	27.0 deg C
	5% Recovered		39 deg C		36.5 deg C
	10% Recovered		40 deg C		41.0 deg C
	20% Recovered		41 deg C		42.5 deg C
	30% Recovered		42 deg C		43.0 deg C
	40% Recovered		44 deg C		45.0 deg C
	50% Recovered		47 deg C		46.5 deg C
	60% Recovered		51 deg C		49.0 deg C
	70% Recovered		53 deg C		52.5 deg C
	80% Recovered		63 deg C		59.0 deg C
	90% Recovered		80 deg C		72.5 deg C
	95% Recovered		106 deg C		87.5 deg C
	Distillation: F.B.P. **		120 deg C		115.5 deg C
8	Recovery	ASTM D5134:2008	98.0 % vol	ASTM D6730	96.0 % vol
	Residue		1.5 % vol		1.0 % vol
	LOSS		0.5 % vol		3.0 % vol
	Total Paraffins		94.18 % (v/v)		95.10 % (v/v)
	N-Paraffins		47.93 % (v/v)		48.35 % (v/v)
	Olefins		0.05 % (v/v)		0.22 % (v/v)
	Naphthalenes		4.91 % (v/v)		3.86 % (v/v)
	Aromatics		0.87 % (v/v)		0.82 % (v/v)
	Benzene		0.29 % (v/v)		0.37 % (v/v)
	Total Organic Chloride	ASTM D4929 B	< 1 PPB		
	Mercury		< 1 PPB		
	Arsenic	GC-MLD/QS/CA-I/5.4/56 (ICP)	< 1 PPB		
	Lead Content		< 10 PPB		
	Carbon Di Sulphide	ASTM D6228:10	0.41 mg/l	ASTM D5623	6.06 mg/kg
19	DFE	GC-MLD/QS/CA-E/5.4/01-2017		ASTM D4815	
	AA				
	ETBE		1 mg/l		0.00 % (v/v)
	MTBE		2 mg/l		0.01 % (v/v)
	DIPE				0.00 % (v/v)
	PA				
	TAME		< 1 mg/l		0.02 % (v/v)
	PE				
	IBA				
	Methanol		< 1 mg/l		0.00 % (v/v)
	Acetone				
	VA				
	MEK		< 1 mg/l		
	Ethanol		< 1 mg/l		0.00 % (v/v)
	N-Propanol		< 1 mg/l		0.00 % (v/v)
	TBA				
	N-Butanol		< 1 mg/l		0.00 % (v/v)
	Total Oxygenates		< 10 mg/l		0.03 % (v/v)
20	RON	ASTM D2699		ASTM D2699	69.9
21	MON	ASTM D2700		ASTM D2700	67.8
22	Existent Gum	ASTM D381		ASTM D381	1.7
23	Acidity				
24	Ash				
25	API gravity				
26	Water Content				
27	Reactive Sulphur				
28	% Evaporated at 60 Deg C				
29	% Evaporated at 135 Deg C				
30	Total C1 Hydrocarbons				0.00 % (v/v)
31	Total C2 Hydrocarbons				0.04 % (v/v)
32	Total C3 Hydrocarbons				0.00 % (v/v)
33	Total C4 Hydrocarbons				1.12 % (v/v)
34	Total C5 Hydrocarbons				63.39 % (v/v)
35	Total C6 Hydrocarbons				24.41 % (v/v)
36	Total C7 Hydrocarbons				7.77 % (v/v)
37	Total C8 Hydrocarbons				2.84 % (v/v)
38	Total C9 Hydrocarbons				0.43 % (v/v)
39	Total C10 Hydrocarbons				0.00 % (v/v)
40	Total C11 Hydrocarbons				0.00 % (v/v)
41	Total C12 Hydrocarbons				0.00 % (v/v)

87. I find that both the labs (Geo Chem and IIP, Dehradun) have tested samples for "Naphtha". As evident from the test reports, they neither tested any parameter for NGL nor were they asked to do so. It is clearly observed by the Hon'ble Court also that the samples were sent to these labs without consulting the statutory authorities. It is further seen that IIP Dehradun has carried out Carbon Number wise analysis based on ASTM D6730 method, however, the same has not been done by Geo Chem laboratory, though the Geochem lab has done Carbon Break up as Total Paraffin, N-Paraffin, Iso Paraffin etc. Thus, the findings of the Hon'ble Court and the department's contention that the two reports are contradictory in terms of parameters and analysis have merit.

88. Natural gasoline is defined as a liquid hydrocarbon mixture condensed from natural gas, composed mostly of C5-C6 alkanes (e.g. ~67% pentane, ~22% hexane) and also containing isopentane—components not typical in naphthas whereas Petroleum naphtha has broader carbon range (C5-C9 to C10) and often contains significant aromatics and naphthenes.

89. As per U.S. Energy Information Administration (EIA), Natural gasoline and Natural Gas Liquid (NGL) are defined as under: -

"Natural gasoline: A term used in the gas processing industry to refer to a mixture of liquid hydrocarbons (mostly pentanes and heavier hydrocarbons) extracted from natural gas. It includes isopentane."

90. As per Hess Corporation's Safety Data Sheet of Natural Gasoline, Natural Gasoline is a complex mixture of petroleum hydrocarbons separated as a liquid from natural gas and/or natural gas liquids from which methane, ethane, propane, butane, and possibly pentane have been extracted. It consists of hydrocarbons with carbon numbers predominantly in the range C5 to C8.

91. From the perusal of Test report of IIP Dehradun, it is seen that the said samples had more concentration of C5-C6 only and the remaining Carbon numbers were very less which indicate that the imported goods were having characteristics of NGL and not naphtha.

92. Further on perusal of the Test report by CRCL, Delhi, I find that the said Test report incorporates not only the parameters of NGL but also of Naphtha. The said Test report tested parameters like Distillation, Flash point, API gravity etc, which are the parameters meant for Naphtha and also tested parameters viz. % Evaporated at 60°C, % evaporated at 135 °C, total C5 and C6 hydrocarbons among others which are the parameters for testing of Natural Gasoline Liquid. On the basis of careful analysis of the parameters meant for NGL as well as Naphtha, the Joint Director opined that the sample was a Natural gasoline Liquid, whereas IIP Dehradun and Geochem had neither been advised nor directed to test the samples for parameters of NGL.

93. In view of the above discussion and findings, I find that the test report of CRCL, Delhi is more comprehensive to ascertain whether the imported goods were Naphtha or Natural Gasoline Liquid and the findings of % of C5-C6 hydrocarbons recorded in IIP, Dehradun supports the conclusion that presence of lower hydrocarbon i.e. C5(63%) and C6(24%) hydrocarbons is sufficient to treat the goods as NGL.

CHANGE IN TARIFF-

94. Vide Notification No. 36/2015-20, dtd. 17.01.2017, the Central Government notified the ITC (HS) Classification of relevant period, under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992, prescribing therein the scheme of classification of goods as well as the provisions relating to Import/Export of each of such items. In terms of said ITC(HS) Classification, 2017, the following are the relevant entries under Chapter 27 of Schedule I pertaining to the Import Policy:

Exim Code	Item Description	Policy	Policy conditions
2710	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 basis constituents of the preparations other than those containing biodiesel and other than waste oil		
271012	Light oils and Preparations:		
	Motor spirit		
2710 12 11 to 27101219		State Trading Enterprises	Import as per Policy condition (5)
27101220	NGL (NGL)	State Trading Enterprises	Import as per Policy condition (5)
27101290	Other	State Trading Enterprises	Import as per Policy condition (5)

95. From the above provisions of ITC (HS) Classification, it is apparent that there was no specific entry for goods described as "Naphtha" of different grades. There were no entries for the different grades of solvents, Aviation Gasoline etc. Thus, Naphtha was then classifiable under other category i.e. 27101290. The goods described as "NGL" as per the supplementary Note (b) provided in Chapter 27 of the ITC (HS), was falling at Exim Code 27101220, which was restricted for import by the Policy as well as Policy condition provided against the said Exim Code. As per the Policy, the item NGL falling under Exim Code 27101220 could be imported by STEs and as per the Policy condition (5) prescribed in Chapter 27, the import of said item is allowed through IOC subject to para 2.20 of the FTP, except for the companies, who have been granted rights for marketing of transportation fuels in terms of Ministry of P&G's Resolution No. P-23015/1/2001-MKT, dtd.08.03.2002 including HPCL, BPCL & IBP, who have been marketing transportation fuels before the date.

96. Vide Notification No. 41/2015-2020, dtd.05.12.2017, the Central Government had notified the revised Foreign Trade Policy 2015-20 under the provisions of Section 5 of the Foreign Trade (Development and Regulation) Act, 1992, which came into effect from 05.12.2017.

97. In terms of Para 2.01 of the revised Foreign Trade Policy 2015-20, all imports should be free, unless regulated by way of "prohibition", "restriction"

or “exclusive trading through State Trading Enterprises (STEs), as laid down in the ITC (HS) Classification.

98. It was clearly stipulated in Para 2.01 of the FTP 2015-20 that there are some items, which are free for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force.

99. In Para 2.02 of the FTP 2015-20, it was clarified that the ITC (HS) is aligned at 6-digit level with the international Harmonized System goods Nomenclature maintained by World Customs Organization. However, it was further clarified in said Para 2.02 of the [FTP 2015-20](#) that India maintains national Harmonized System of goods at 8-digit level.

100. It was also prescribed vide Para 2.02 of the FTP 2015-20 that the import/export policy for all goods are indicated against each item in ITC (HS).

101. As provided vide Para 2.20 of the FTP 2015-20, any goods, import or export of which is governed through exclusive or special privilege granted to STEs may be imported or exported by the concerned STEs, as per the conditions specified in the ITC (HS). Although it was also provided in Para 2.20 of the FTP 2015-20 that the DGFT, may, grant an authorisation to any other person to import or export any of the goods notified for exclusive trading through STEs.

102. Later on, w.e.f. 01.01.2020, the following changes were introduced in respect of the entries available in Chapter 27 of the Customs Tariff:

271012	--	Light Oils and Preparations
	---	Naphtha
27101221	----	Light Naphtha
27101222	----	Heavy Naphtha
27101229	----	Full Range Naphtha
	---	Solvent 60/80, solvent 50/120 and solvent 145/205 (petroleum hydrocarbon solvents) as specified under standard IS 1745:
27101231 to 27101239	----	
	---	Motor gasoline confirming to standard IS 2796, IS 17021 or IS 17076:
27101241 to 27101249	----	
27101250	---	Aviation Gasoline conforming to standard IS 1604
27101290	---	Other

103. Thus, pursuant to the above changes, the specific entries were provided for the goods of the categories of Naphtha, Solvent, Motor Gasoline and Aviation Gasoline, which were earlier classified under residuary entry of “Others”, whereas the entry of NGL earlier available vide CTH No. 27101220 was removed and accordingly the NGL seemingly became classifiable under the residuary entry of 27101290.

104. The Central Government vide Notification No. 38/2015-20, dtd.01.01.2020 issued under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 read with Para 2.01 of the FTP 2015-20, introduced following changes in respect of the entries available in Chapter 27 of the ITC (HS): -

Exim Code	Item Description	Policy	Policy conditions
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271012	Light Oils and Preparations		
	Naphtha		
27101221	Light Naphtha	State Trading Enterprises	Import as per Policy condition (5) of Chapter 27
27101222	Heavy Naphtha	State Trading Enterprises	Import as per Policy condition (5) of Chapter 27
27101229	Full Range Naphtha	State Trading Enterprises	Import as per Policy condition (5) of Chapter 27
	Solvent 60/80, solvent 50/120 and solvent 145/205 (petroleum hydrocarbon solvents) as specified under standard IS 1745:		
27101231- 27101239		State Trading Enterprises	Import as per Policy condition (5) of Chapter 27
	Motor gasoline confirming to standard IS 2796, IS 17021 or IS 17076:		
27101241 27101249		State Trading Enterprises	Import as per Policy condition (5) of Chapter 27
27101250	Aviation Gasoline conforming to standard IS 1604	State Trading Enterprises	Import as per Policy condition (5) of Chapter 27
27101290	Other	State Trading Enterprises	Import as per Policy condition (5) of Chapter 27

105. In light of the above, it is proposed in the SCN that Naphtha, by virtue of Policy condition (1) of the Chapter 27, became importable through STEs. Further, the commodities, which were falling under residuary entry of “Others” category became classifiable with the specific entries provided.

106. Later on, vide Notification No. 51/2015-20, dtd.18.03.2020, issued under Section 3 of the Foreign Trade (Development and Regulation) Act, 1992 read with Para 1.02 and 2.01 of the FTP 2015-20, the Import Policy for three categories of Naphtha and other items were amended. The product Naphtha, which was earlier importable by the STEs only was made freely importable. Apparently, there was no such change of Policy provided for NGL falling under Exim Code 27101290

NO AMENDMENT IN SUPPLEMENTARY NOTE-

107. I find that Supplementary note (b) to Chapter 27 defined NGL as “low boiling liquid petroleum product extracted from Natural Gas”. It is pertinent to mention that despite the deletion of entry 27101220 for NGL from the tariff

w.e.f 01.01.2020, the supplementary note (b) has neither been amended nor deleted. This clearly shows that even though the Tariff Entry 27101220 NGL has been removed the commodity NGL is still defined under Customs Tariff Act, 1962 which implies that w.e.f 01.01.2020 tariff entries under 2710 have been enlarged incorporating Various classes of Naphtha, Solvent, Motor Gasoline, Aviation Gasoline and others.

108. I find that the noticee has relied upon the decision of Reliance Industries Ltd.

Versus Commissioner of Customs, Ahmedabad (2024) 25 Centax 195 (Tri.-Ahmd.) to argue that the imported goods are classifiable as Naphtha and not as NGL.

109. I find that the said decision of the Hon'ble Tribunal was in respect of allowing benefit of exemption from payment of applicable duties of customs, in terms of Notification Nos. 18/2015-Cus and 21/2015-Cus, both dated 01.04.2015 against Advance Authorizations. On going through the decision, I find that the Hon'ble Tribunal held that-

4.7 We find that as discussed above the NGL is also a "Naphtha? and therefore, allowed to be cleared under Advance Authorisation, The revenue also contended that ITC HS code of Naphtha and NGL is different, hence, Advance Authorisation having different ITC HS code, i.e. 27101290 and NGL being under 27101220 the clearance of goods cannot be allowed under the Advance Authorisation. We find that as per above discussion, we expressed our view that NGL is also a type of "Naphtha?. So long description is correctly mentioned if ITC HS code is under dispute, clearance under such Advance Authorisation is allowable in view of the judgment in the case of Condor Footwear (I) Limited v. Commr. of Customs, Ahmedabad 2019 (367) E.L.T. 653 (Tri.-Ahmd) which is reproduced below:-

"5. We have gone through the rival submissions. We find that appellants are holder of license issued for availment of benefit under Notification No. 93/2004-Cus. It is not disputed that the description in the SION norms covers the goods imported by the appellant. However, the Revenue is of the view that the goods are classifiable under Chapter Heading 3920 49 00 as against the Heading 5903 10 90 mentioned in the license. Though the license has been amended, the Revenue rejected the amendment on the ground that such amendments did not have retrospective effect. The Revenue has relied on the decision of the Tribunal in the case of *Square D. Textiles Exports Limited (supra)* and the decision of Hon'ble High Court of Punjab & Haryana in the case of *Vikrant Overseas (supra)*.

5.1 It is seen that SION norms did not prescribe any heading against the description of the goods. A perusal of the Notification No. 93/2004-Cus. also shows that there is no mention of sub-heading or heading against the goods permitted for import against license. Ld. Counsel has argued that the classification of the goods has no bearing for admissibility of import under the notification. The appellant have also produced the minutes of meeting held on 11-6-2009 wherein their case for amendment of licenses was considered by the licensing authority. In the minutes of the said meeting, the Ministry of Commerce has held as follows :-

Case No. 208	M/s. Condor Footwear (India) Limited Surat
NC.11/10 dated 116-2009	F. No. 1/84/162/42/AM10-DES-V
Request for import against Advance Authorisation No. 5210021658, dated 6-6-2007 - under Para 4.7 of HBP (Vol. 1) 2004-2009	

"Decision : The Committee considered the case as per agenda and along with other relevant papers and heard Sh. Rakesh Adnani, Director and Sh. Surendra Gandhi, an authorized representative of the firm, who appeared for personal hearing before NC. They explained the case along with relevant papers and sample of the export item. In this case advance authorization in question was issued on 6-6-2007 to the applicant firm and input output norms were ratified by norms Committee by allowing the inputs as per SION at S. No. A-3541. In this case firm imported Synthetic cloth for Uppers (Non-Woven/Woven/Knitted/Laminated with PVC/PU) HSW-KN06B-LP. The Committee felt that as per SION, A-3541, it is clearly specified that the import item viz., Synthetic cloth for Uppers (Non-Woven/Woven/ Knitted/Laminated with PVC/PU) and Synthetic cloth for Insole (Non-Woven/Woven/Knitted/Laminated with PVC/PU) are to be used for Uppers & Insole of the export product Synthetic Slippers/Sandals with PU Sole of all sorts irrespective of ITO (HS) Code, It has been observed that description of import item was classified under ITC (HS) Code 5903 10 90 with effect from the date of issue of the advance authorization. It was observed that in this case, the SION permitted the import item as per Bill of Entry and description covered under ITO (HS) Code 5903 10 90. The sample submitted by the firm has a clear view that item's description allowed under SION at S. No. A-3541 are classified under ITC (HS) Code 3920 49 00 instead of ITC (HS) Code 5903

10 90. Thus, Committee after detailed deliberations in consultation with the representatives of technical authorities present in the meeting felt that in both the heading of ITC (HS) code, the description of item of import and export are the same as per relevant SION, the condition of matching of ITC (HS) Code does not arise here. Hence, in this case, it is clarified that change in the ITC (HS) Code has no bearing on the benefits to be given under advance authorization issued under Para 4.7 of HBP."

From the above, it is apparent that as far as the benefit of Notification No. 93/2004-Cus. is concerned, the classification of goods specified in SION norms is not relevant unless it is specifically mentioned in the SION norms. The committee at Ministry of Commerce has also clarified that any change in the ITC (HS) Code has no bearing on the benefits to be given under advance authorization issued under Para 4.7 of HBP.

5.2 The Revenue has relied on the decision of Hon'ble High Court of Punjab & Haryana in the case of *Vikram Overseas (supra)*. It is seen that the facts in the said case are significantly different. In the said case, the amendment was substantial in nature whereas in the present case it is of procedural in nature. The Hon'ble High Court of Bombay in the case of *Bhilwara Spinners Limited v. UOI - 2011 (267) E.L.T. 49 (Bom.)* distinguished the decision of Punjab & Haryana High Court in the case of *Vikrant Overseas (supra)* on the ground that license was amended with a clear intention of having a retrospective effect. In the instant case the committee has clarified that any change in the ITC (HS) Code has no bearing on the benefits to be given under advance authorization issued under Para 4.7 of HBP. In this circumstance, we hold that amendment made to the license will have a retrospective effect and the benefit of the notification cannot be denied on the ground that the classification of the goods did not match the classification specified in the advance license as long as the description of the goods matches with that prescribed in the license.

6. In view of the above, appeals are allowed."

4.8 In view of above decision, even if ITC HS code is different but so long description is correct, the clearance of import is allowed. Accordingly, irrespective of dispute raised by revenue on classification, the appellant is otherwise eligible for clearance of goods under Advance Authorisation, therefore, the impugned order is not sustainable on this ground alone.

110. I find that the issue involved in the matter of M/s. Reliance Industries, referred above, was eligibility for clearance of goods under Advance Authorisation and the Hon'ble Tribunal held that even if the classification dispute remains, the benefit of Advance authotisation is allowed. Thus, the decision of Hon'ble Tribunal can not be taken as a basis for classification of goods.

TEST OF 'MOST AKIN'-

111. As discussed in the foregoing paras, the imported goods have been declared as Naptha by the importer and department has proposed classification as "Natural Gasoline Liquid". On the basis of Test Report issued by Geo Chem and IIP, Dehradun, I find that the tests have been carried out in order to analyse the parameters of Naphtha and no parameter of NGL had been tested whereas CRCL, Delhi has tested parameters of Naptha viz. Distillation (IBP, 5% recovery, 10% recovery, 50% recovery, 90% recovery and Final Boiling Point), Density at 15 °C, Aromatics, Olefins etc. as well as parameters of Natural Gasoline Liquid viz. Total C5, C6 Hydrocarbons, % Evaporated at 60°C, % evaporated at 135°C, Reactive Sulphur etc.

112. On careful analysis of the parameters tested, I find that the parameters tested suggest that the imported goods are most akin to Natural Gasoline Liquid even when some of the parameters are also falling within the limit of Naphtha.

113. I find that the in case of a quandary as to the real nature of goods, test of most akin or closest resemblance has been held to be the valid test of classification by the Hon'ble Supreme Court of India in the matter of Gastrade International Versus Commissioner of Customs, Kandla (2025) 29 Centax 8 (S.C.)/2025 (392) E.L.T. 529 (S.C.), relevant paras of the same are reproduced below-

"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. By way of illustration, we may explain the position. If an importer classifies the imported goods as "X", which is disputed by the Customs authority and classifies the same as "Y", the test would be whether the goods imported are "most akin" to "X" or "Y" in terms of Rule 4 of the aforesaid Rules. The importer may also claim if he so wishes, that the goods are most akin to "Z", though it may be akin to "Y" also, if such claim is more beneficial to him. Thus, 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. In other words, the test will be whether the imported goods bear the closest resemblance or similarity with the specified good so that these can be considered to be "most akin" to the specified good. Certainly, the principle of preponderance of probability may fall short of the more heightened test of "most akin" for proper classification. The imported goods may bear resemblance to more than one specified goods, in which unless the high degree in the test of preponderance of probability is applied, there may be difficulties in the proper classification. However, the said difficulty may be overcome if the test of "most akin" is applied. If the attributes of the imported goods show that the goods are "most akin" to the specified goods amongst an array of other specified goods, these imported goods have to be classified as the specified goods with which these goods bear the most resemblance or most akinness. Thus, in our view, application of the principle of preponderance of probability does not provide an accurate test. The more accurate and precise test will be whether the goods in question are "most akin" or most similar to the specified goods, as provided under Rule 4 referred to above.

114. The importer declared the goods as Naphtha, while the department proposed their classification as Natural Gasoline Liquid (NGL). Test reports from Geo Chem and IIP focused only on Naphtha parameters, whereas CRCL, Delhi tested for both Naphtha and NGL parameters. Upon analyzing the full set of test results, the characteristics of the imported goods are found most closely resembled NGL, though some traits matched Naphtha. This conclusion aligns with the Supreme Court's ruling in Gastrade International vs. Commissioner of Customs (2025), which held that for classification, the correct test is not mere probability but determining to which product the goods are "most akin", i.e., the closest in resemblance among the possible classifications.

SUMMARY-

115. In view of the above discussion and findings, it is seen that the case pertains to the import of a petroleum product by M/s Hazel Mercantile Ltd. (HML), which was declared as "Naphtha" under Customs Heading 27101229. However, upon examination and testing—particularly by CRCL, Delhi—it was found that the imported goods were actually "Natural Gasoline Liquid" (NGL), a restricted item allowed to be imported only through State Trading Enterprises (STEs) as per the Foreign Trade Policy. The CRCL report, conducted under official direction and encompassing both Naphtha and NGL parameters, conclusively identified the product as "Natural Gasoline Liquid" or NGL. In contrast, private lab (Geo Chem and IIP, Dehradun) reports relied upon by the importer lacked statutory backing, did not test for NGL parameters.

116. It is also seen from the report of IIP, Dehradun that on account of predominance of pentane (63%) alongwith hexane (24%), goods are to be treated as NGL, more so when available literature on the NGL and Naphtha have overlapping constituents in the range of C4-C12, with lower range like the higher proportions of pentane indicating an item to be in the nature of NGL.

117. Despite the deletion of a specific tariff entry for NGL (27101220) from 01.01.2020, the supplementary note defining NGL remains intact, affirming that NGL is still a separately identified and restricted product under the Customs Tariff. The importer's reliance on the Reliance Industries Tribunal ruling is held misplaced, as that decision dealt with eligibility for Advance Authorisation rather than classification under import policy. Therefore, the

classification of the imported goods as NGL—restricted for import—stands legally and technically justified.

118. In view of the above findings and evidences placed on record, I hold that the imported goods are correctly classifiable as “Natural Gasoline Liquid” or NG under CTH 27101290.

CONFISCATION OF GOODS-

119. I find that the though being NGL falling under CTH No. 27101290, were mis-declared as Naphtha, under CTH No. 27101229 of Customs Tariff, by suppressing its correct description i.e. NGL. The condition stipulated for import through or by IOC as per the Foreign Trade Policy, were not at all complied with by the importer M/s. HML, in respect to the import of NGL made by them, which was sought clearance by them under the said Bills of Entry. Thus, there is evident mis-declaration with sole aim to circumvent the restrictions imposed on its import under the Foreign Trade Policy. The subject goods imported by M/s. HML per MT Tuna are therefore liable for confiscation under Section 111(o), 111(m) and 111(d) of Customs Act, 1962.

120. Further, even in the context of the Notification No. 105-Cus dtd. 06.08.1938, the goods in respect of which the restricting provisions of the Petroleum Act, 1934 and the rules made thereunder are applicable and where the compliance with those provisions is required from the importer of such goods; if non-compliance is observed on the part of the importer, then the same have to be treated as contravention of the deemed prohibition imposed on such goods in terms of Section 11 of the Customs Act, 1962. Import of NGL; further to this, if to be considered as classifiable as “Petroleum Class A”, then the Licence issued under the Petroleum Rules, 1976 is mandatory for import of goods falling under “Petroleum Class A” and only such Petroleum is allowed to be imported which are already in possession of Licence issued under the Petroleum Rules, 1976. As per Notification No. 105-Cus dtd. 06.08.1938, any import made in contravention of the provisions of the Petroleum Act, 1934 (30 of 1934) may have to be treated in deemed violation of the provisions of Section 11 of the Customs Act, 1962. Since the importer in the instant case has failed to follow such compliance, it is clear that they have also violated the provisions of Section 11 of the Customs Act, 1962, which makes such goods liable for confiscation under Section 111(d) and 111(p) of the Customs Act, 1962.

121. Since the goods have been released on provisional basis for the purpose of re-export, Redemption fine is imposable under Section 125 of the Customs Act, 1962.

VALUATION OF GOODS-

122. I find that the received quantity of subject goods provided by Shri Bharat Goswami, Terminal Manager, FSWAI in Litres is 31183563 Litres (RUD No. 52). Considering the market rate of Gasoline at Rs. 88.92 per litre as on 01.02.2021 as per website globalpetrolprces.com, the market value of received quantity 19990.541 MT i.e. 31183563 Litres (out of declared qty. 20110.77 MT) subject goods is calculated as approximately Rs. 278,95,19,113/- (RUD No. 53). Whereas, M/s. HML has declared the assessable value in the Bills of Entry as Rs. 79,63,76,540/- only which is much lesser even after further value additions on account of customs duty, other taxes and other expenses

ROLE PLAYED BY VARIOUS PERSONS AND PENALTIES THEREUPON-

M/s. Hazel Mercantile Limited: -

123. I find that M/s. HML has imported NGL of Iraq Origin and mis-declared the same as Naphtha vide aforesaid 07 Bills of Entry filed by them at Customs House, Kandla. They had not declared the actual description of subject goods and also mis-classified the same under the CTH 27101229 i.e. for Full

Range Naphtha instead of correct CTH 27101290. M/s. HML submitted invoices, Certificate of Origin, Bills of Lading and other related documents having incorrect material particulars in connivance with the declared shipper/suppliers, shipping line etc. and manipulated the import documents with respect to nature /description of goods, country of origin, shipper, port of loading etc. The Whatsapp Chat conversations among key persons of M/s. HML including their Managing Directors, overseas associates etc. are evidently reflecting their deliberate and malafide intention of mis-declaration of import goods with respect to material particulars. The entire conspiracy was hatched to suppress the actual description of goods as NGL being restricted item for import and prohibited in case of non-compliance of condition prescribed for import thereof, they were not entitled to import the same and thus they had illegally imported the same by means of fraud, collusion, willful mis-statement and suppression of facts in gross violation of import policy, provisions of Customs Act, 1962, Petroleum Act, 1934, FTDR Act, 1992 etc. Had the DRI not initiated the investigation, the gamut of illegal import of prohibited item would have been continued.

124. As per Section 112(a), 112(b) and 114AA of Customs Act, 1962, it is provided that any person, who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, shall be liable to penalty under Section 112(a) of Customs Act, 1962, or;

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 to penalty under Section 112(b) of Customs Act, 1962, or;

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 under Section 114AA of Customs Act, 1962.

125. The omission and commission on the part of M/s. HML i.e. misclassification and mis-declaration of subject goods by way of fraud, collusion, willful mis-statement and suppression of facts and illegal import of prohibited goods have rendered the subject imported goods NGL (Qty. of 20110.77 MT) liable to confiscation under section 111(d), 111(m), 111(p) and 111(o) of the Customs Act, 1962. Also, since M/s HML were knowingly dealing with such goods, accordingly they have rendered themselves liable to penalty under Section 112 (a) and Section 112(b) of the Customs Act, 1962. Since M/s. HML through their representative knowingly and intentionally made, signed or used Bills of Entry and other related documents, which were false or incorrect, in material particulars, for the purposes of illegal import of subject goods, therefore they are also liable to penalty under Section 114AA of the Customs Act, 1962. For various acts of non-cooperation and omission in furnishing data and records as summoned under Section 108 of Customs Act, 1962, as discussed hereinafter by its employees, M/s HML are liable to penalty under Section 117 ibid too.

Role and Culpability of Shri Nitin Kumar Didwania, Managing Director of M/s. HML: -

126. I find that Shri Nitin Kumar Didwania is Managing Director of M/s. HML and looking after overall supervision and control on the entire business operations of M/s. HML. He was very well aware about the characteristics, specification and classification of subject goods vis-a-vis provisions relating to Customs Act, other allied Acts and Import Policy. He had directly supervised all the matters related to the import in HML's dealings with the overseas suppliers and other associates and making documentation/submissions with Custom Authorities. From the facts and evidences gathered during investigation, it is clear that he had played a pivotal role in the deliberate mis-declaration of the subject imported goods

and had indulged in a well-planned conspiracy with a malafide intention to import NGL illegally by fraud, collusion, willful mis-statement, suppression of facts knowing very well that it would amount to violations as discussed above. He knowingly suppressed material facts regarding description and classification of the subject product and mis-declared & mis-classified the same as 'Naphtha'.

127. From the illustrative Whatsapp chats mentioned in foregoing paras, it is clear that Shri Nitin Kumar Didwania was not only allowing manipulation of material particulars of subject import goods, but also encouraging other fraudsters saying he would manage the manipulated documents at Kandla port and would disclose the correct documents having Iraq origin of subject goods as a last option only. He was supervising the entire Whatsapp group „Light Naphtha ops“ wherein others were discussing and implementing the conspiracy. On being asked in his statement to explain the manipulation of material particulars in Bills of Entry another import documents, he simply tried to shift responsibility on the declared shipper/supplier stating that they file Bills of entry on the basis of document received from the supplier though the investigation revealed that the name of supplier was also manipulated. At one instance, he insisted his associates that they should bring the naphtha with name as raffinate or condensate for future, which indicates his clear and malafide mindset for manipulation of description of goods. Shri Nitin Kumar Didwania had deliberately suppressed the description of the product and mis-classified the same in statutory records with malafide intention of illegal import of prohibited and inadmissible goods by M/s HML. Thus, it is clear that he deliberately allowed mis-representation, willful mis-statement and suppression of facts with malafide intention regarding nature and description of subject goods and mis-classification thereof which resulted in illegal import of NGL in contravention of provisions of Customs Act, 1962, Petroleum Act, 1934 and FTP. He had assisted and abetted the import of NGL which was prohibited in the absence of compliance of condition/s laid down under import policy. The above deliberate acts of commission and omission on his part has rendered the subject goods (NGL) (Qty. of 20110.77 MT), covered under aforesaid Bills of Entry, having total declared assessable value as Rs. 79,63,76,540/- and Market Value of Rs. 278,95,19,113/-, liable for confiscation under Section 111(d), (m), 111(p) and (o) of the Customs Act, 1962 and has also rendered him liable to penalty under Section 112 (a) and Section 112(b) of the Customs Act, 1962.

128. I find that the Bills of Entry for clearance of import goods were filed by M/s. HML with Customs, and declared within correct description and classification of the subject goods under the supervision & active guidance of Shri Nitin Kumar Didwania. They did not declare the particulars of subject goods in the Bills of Entry correctly to cover-up the prohibited nature of the subject goods. Since M/s. HML through their representatives including Shri Nitin Kumar Didwania knowingly and intentionally made, signed or used or caused to be made signed, or used the Bills of Entry and other related import documents, which were false or incorrect, in material particular, for the purposes of illegal importation of goods, Shri Nitin Kumar Didwania shall also be liable to penalty under Section 114AA of the Customs Act, 1962.

129. I further find that Shri Nitin Kumar Didwania in the letter cum test memo dated 16.04.2021 informed that the testing procedure by self-claiming that "The goods were declared as Naphtha and meant for manufacturer of Poly-Olefins and the product is high paraffinic Naphtha but the Department has reservations on the quality and wishes to reverify the same. We request you to analyse the same and certify that the goods confirm to Naphtha or otherwise and oblige". This is manipulation and unwarranted influence over the testing agency which attracts the penalty provisions under Section 114AA of the Customs Act, 1962.

130. Shri Nitin Kumar Didwania was asked to explain difference in Light Naphtha, Heavy Naphtha and Full Range Naphtha; he replied that the Full Range Naphtha covers Light Naphtha and Heavy Naphtha. On the very next

question, he was asked why there was difference in the description of goods declared in the LC and Bill of Lading for which he deposed that they had placed orders for Ligth Naphtha but the supplier told that they had Full Range Naphtha, accordingly they revised the description from Light Naphtha and filed Bill of Entry for Full Range Naphtha. In this regard, it is evident that when Full Range Naphtha covers Light Naphtha and Heavy Naphtha, what was the requirement for M/s. HML to revise the description in the Bill of Entry and why there is separate heading 27101229 provided in Customs Tariff for Full Range Naphtha? From this, it is evident that Shri Nitin Kumar Didwania tried to mis- lead the investigation. He also failed to explain the difference in the name of shipper/supplier/consigner mentioned in the Bill of Lading and other documents.

131. Further, Shri Nitin Kumar Didwania was (by name) requested vide various Summons issued under Section 108 of Customs Act, 1962 as discussed above to provide various details and documents such as documents having actual and correct material particulars as discussed in the Whatsapp chat conversations as Iraqi documents, complete documents/specification with respect to discussion held between Shri Nitin Kumar Didwania and Shri Satish Gaichor for supply of Gasoline etc. which were required for investigation but the same were also not supplied by him. On the contrary, by suppressing and not disclosing the truth supported with related documents in respect of such deal/supply of Gasoline, he tried to mis-lead the investigation. It shows his non-cooperative attitude and these deliberate acts of commission and omission on his part render him liable to penalty under Section 117 of the Customs Act, 1962 too.

Role and culpability of Shri Satish Gaichor, Associate General Manager (Logistics), M/s. HML: -

132. Shri Satish Gaichor was working then as Associate General Manager (Logistics) of M/s. HML and looking after overall supervision on the logistics related operations of M/s. HML. He was also supervising overall activities of their Gandhidham branch office from where the subject import was made. From the Whatsapp chat conversations and other evidences gathered during investigation, it is clear that he was very well aware about the characteristics, specification and classification of subject goods vis-a-vis provisions relating to Customs Act, other allied Acts and Import Policy. From the facts and evidences gathered during investigation, it is further evident that he had abetted the deliberate mis-declaration of the subject imported goods and was active associate of well hatched conspiracy with a malafide intention to import NGL illegally by fraud, collusion, willful mis-statement, suppression of facts knowing very well that it would amount to violations as discussed above. Thus, he deliberately assisted in mis-representation, willful mis-statement and suppression of facts regarding nature and description of subject goods and mis-classification thereof which resulted in illegal import of NGL in contravention of provisions of Customs Act, 1962, Petroleum Act, 1934 and FTP. He had assisted and abetted the import of NGL which was prohibited in the absence of compliance of condition/s laid down under import policy. The above deliberate acts of commission and omission on his part has rendered the subject goods (NGL) (Qty. of 20110.77 MT), covered under aforesaid Bills of Entry, having total declared assessable value as Rs. 79,63,76,540/- an approx. Market Value of Rs. 278,95,19,113/-, liable to confiscation under Section 111(d), (m), (p) and (o) of the Customs Act, 1962 and has also rendered him liable to penalty under Section 112 (a) and Section 112(b) of the Customs Act, 1962.

133. The Bills of Entry for clearance of import goods were filed by M/s. HML with Customs, and declared with incorrect description and classification of the subject goods for their Gandhidham branch which was under the supervision of Shri Satish Gaichor. They did not declare the particulars of subject goods in the Bills of Entry correctly to cover-up the prohibited nature of the subject goods. Since M/s. HML through their representatives including Shri Satish Gaichor knowingly and intentionally made, signed or used or caused to be made signed, or used the Bills of Entry and other

related import documents, which were false or incorrect, in material particular, for the purposes of illegal importation of goods, Shri Satish Gaichor shall also be liable to penalty under Section 114AA of the Customs Act, 1962.

134. Further, Shri Satish Gaichor was (by name) requested vide various Summons issued under Section 108 of Customs Act, 1962 as discussed above to provide various details and documents such as specification/report regarding Gasoline which was discussed by Shri Satish Gaichor and Shri Nitin Kumar Didwania on Whatsapp conversations which were required for investigation but despite assuring in his statement, the same and many other required details/documents were also not supplied by him as narrated supra. On the contrary, by suppressing and not disclosing the truth supported with related documents in respect of such deal/supply of Gasoline, he tried to mis-lead the investigation. It shows his non-cooperative attitude and these deliberate acts of commission and omission on his part render him liable to penalty under Section 117 of the Customs Act, 1962 too.

Role and Culpability of Shri Minesh Shah, Director, Shri Sreyas Choudhary, Sr. Vice President (Marketing), Shri Rajaram Shanbhag, Shri Saurabh Rajput, Manager-Procurement, Shri Ashok Desai, then Logistics Head, etc.:-

135. During the investigation Shri Minesh Shah, Director, Shri Sreyas Choudhary, Sr. Vice President (Marketing), Shri Saurabh Rajput, Manager-Procurement and Shri Ashok Desai, then Logistics Head were issued summons to get explained the facts relating to the case and to gather evidences from them but they did not appear and did not cooperate in the investigation and disobeyed the summons. For that they each are separately liable for penalty under Section 117 of the Customs Act, 1962.

Role and Culpability of M/s. Aureole General Trading LLC, UAE and M/s. Delta Shipping LLC, Oman: -

136. I find that M/s. Aureole Trading LLC, Dubai, UAE was declared as shipper/supplier in the Bills of Entry and Commercial Invoice, whereas, M/s. Delta Shipping & Trading LLC, Oman was shown as shipper/supplier in the corresponding Bills of Lading submitted by M/s. HML with Customs Authorities at Customs House, Kandla. However, Whatsapp chat conversations among key persons of M/s. HML and their associates as well as other evidences clearly indicate that the name of these two parties were used in the import documents though they were not the actual shipper/supplier. These parties allowed the conspirators for using their letter heads, signs, seals for manipulation of material particulars of subject import goods in actual import documents. In order to gather the details of manufacturer/producer, previous traders/supplier of subject goods and to get the actual value thereof, the response of these declared suppliers was required. But, in spite of issuing several summons, these overseas companies did not respond which indicate their active connivance in deliberate abetment and active assistance in mis-declaration and illegal import of subject goods in violation of the Policy provisions, by way of providing them the documents showing the goods as Naphtha, though they had all reason to believe that the goods were NGL. By way of providing falsified documents, M/s. Aureole General Trading LLC, UAE and M/s. Delta Shipping LLC, Oman have deliberately dealt with the subject goods in fraudulent manner showing themselves as actual shipper/supplier/consigner, which has been committed for contravention of the provisions of the Indian Customs Act, 1962 and allied Acts and statutes. They had knowingly and intentionally made/signed/used and/or caused to be made signed, or used the declaration/statement/document, which was false or incorrect, in material particular with respect to subject goods imported by M/s. HML. They have failed to make compliance of Summons issued to them. The above deliberate acts of commission and omission on their part has rendered the subject goods (NGL) (Qty. of 20110.77 MT), covered under aforesaid Bills of Entry, having total declared assessable

value as Rs. 79,63,76,540/- an approx. Market Value of Rs. 278,95,19,113/-, liable to confiscation under Section 111(d), (m), (p) and (o) of the Customs Act, 1962. For their deliberate acts of omission and commission, M/s. Aureole General Trading LLC, UAE and M/s. Delta Shipping LLC, Oman have rendered each of them separately liable to penalty under Section 112(a), 112(b), 114AA and 117 of Indian Customs Act, 1962.

Role and Culpability of Ms. Saba of M/s. Trilliance Petrochemical Ltd., Mr. Ali of M/s. Trilliance Petrochemical Ltd., Mr. Alex Abby and Mr. Vishal Goyal both of M/s. Hazel International FZE, Mr. Omid, Ms. Fehimah, Mr. Claudy: -

137. These persons were actively involved in the implementation of conspiracy of mis-declaration by way of manipulating material particulars in the documents and arranging supply of offending goods. They were all aware about the actual particulars of subject goods as all of them were active members of the Whatsapp Group „Light Naphtha Ops“ wherein the entire discussion regarding manipulation of import documents and other unlawful activities relating to supply of offending goods were being held. In order to get their version on their involvement in the entire ploy, these persons were issued Summons to which did not respond which indicate their active connivance in deliberate abetment and active assistance in mis-declaration and illegal import of subject goods in violation of the Policy provisions. By way of assisting in falsifying of documents, these persons have fraudulently dealt with the subject goods, which has been committed for contravention of the provisions of the Indian Customs Act, 1962 and allied Acts and statutes. They had knowingly and intentionally made/used/signed and/or caused to be made signed, or used the declaration/statement/document, which was false or incorrect, in material particular with respect to subject goods imported by M/s. HML. They have failed to make compliance of Summons issued to them. The above deliberate acts of commission and omission on their part has rendered the subject goods (NGL) (Qty. of 20110.77 MT), covered under aforesaid Bills of Entry, having total declared assessable value as Rs. 79,63,76,540/- an approx. Market Value of Rs. 278,95,19,113/-, liable to confiscation under Section 111(d), (m), (p) and (o) of the Customs Act, 1962 For their deliberate acts of omission and commission, all of them viz. Ms. Saba of M/s. Trilliance Petrochemical Ltd., Mr. Ali of M/s. Trilliance Petrochemical Ltd., Mr. Alex Abby and Mr. Vishal Goyal both of M/s. Hazel International FZE, Mr. Omid, Ms. Fehimah, Mr. Claudy have rendered themselves separately liable to penalty under Section 112(a), 112(b), 114AA and 117 of Indian Customs Act, 1962.

Role and Culpability of M/s. Trilliance Petrochemical Ltd.: -

138. As informed by Shri Nitin Kumar Didwania, Managing Director of M/s. HML in his statement dated 12.04.2021 that M/s. Trilliance Petrochemical Ltd. was group representative of suppliers. It further appears from the Whatsapp chat conversations retrieved from the mobile phone of Shri Nitin Kumar Didwania and other key persons that Ms. Saba and Mr. Ali were representative of M/s. Trilliance Petrochemical Ltd. in the Whatsapp Group „Light Naphtha Ops“ wherein entire manipulation of documents with respect to nature of goods, country of origin, port of loading, shipper/supplier details etc. were discussed. These persons were actively involved in the implementation of conspiracy of mis-declaration by way of manipulating material particulars in the documents and arranging supply of offending goods. They were all aware about the actual particulars of subject goods as all of them were active members of the Whatsapp Group „Light Naphtha Ops“ wherein the entire discussion regarding manipulation of import documents and other unlawful activities relating to supply of offending goods were being held. In order to get their version on their involvement in the entire gamut, M/s. Trilliance Petrochemical Ltd. were issued Summons to which did not respond which indicate their active connivance in deliberate abetment and active assistance in mis-declaration and illegal import of subject goods in violation of the Policy provisions. By way of assisting in falsifying of documents for supply of subject goods, M/s.

Trilliance Petrochemical Ltd. through their representatives have abetted the offence, which has been committed for contravention of the provisions of the Indian Customs Act, 1962 and allied Acts and statutes. They had knowingly and intentionally made/signed/used and/or caused to be made signed, or used the declaration/statement/document, which was false or incorrect, in material particular with respect to subject goods imported by M/s. HML. M/s. Trilliance Petrochemical Ltd. have failed to make compliance of Summons issued to them. The above deliberate acts of commission and omission on their part has rendered the subject goods (NGL) (Qty. of 20110.77 MT), covered under aforesaid Bills of Entry, having total declared assessable value as Rs. 79,63,76,540/- an approx. Market Value of Rs. 278,95,19,113/-, liable to confiscation under Section 111(d), (m), (p) and (o) of the Customs Act, 1962. By doing so, M/s. Trilliance Petrochemical Ltd. have rendered themselves separately liable to penalty under Section 112(a), 112(b), 114AA and 117 of Indian Customs Act, 1962.

Role and Culpability of M/s. Verasco FZE (previously known as M/s. Hazel International FZE), Hamriah Free Trade Zone, UAE: -

139. As discussed above, it is clear from the facts and evidences gathered during investigation that M/s. Verasco FZE, (previously known as Hazel International FZE), Hamriah Free Trade Zone, UAE was having Tank storage terminal and processing plant in Sharjah, UAE and they used to blend/alter the nature/specifications of the goods at the terminals of M/s. Verasco FZE at Hamriyah Free Zone, Sharjah, UAE. Whereas, documentation having incorrect

and manipulated material particulars were prepared declaring the name of shipper /supplier M/s. Aureole Trading LLC, Dubai, UAE in the Commercial Invoice and M/s. Delta Shipping & Trading LLC, Oman in the corresponding Bills of Lading, which were to be submitted with Customs Authorities at Kandla. The documents/evidences recovered from the mobile phone of Shri Nitin Kumar Didwania and Shri Satish Gaichor contain the destination of Iraq origin goods as Hamriyah Free Trade Zone, Sharjah, UAE which indicate that the goods were initially destined to Hamriyah Free Trade Zone where M/s. Verasco FZE was having liquid storage terminals. In order to get explained the matter, Summons were issued to M/s. Hazel International FZE/ M/s. Verasco FZE, but they did not respond. From above, it is clear that M/s. Verasco FZE, Hamriah Free Trade Zone, UAE (previously known as Hazel International FZE) actively connived with M/s. HML in manipulation of material particulars in related documents, they abetted the subject illegal import and knowingly dealt with the offending goods in fraudulent manner. M/s. Verasco FZE, Hamriah Free Trade Zone, UAE (previously known as Hazel International FZE) have abetted the offence, which has been committed for contravention of the provisions of the Indian Customs Act, 1962 and allied Acts and statutes. They had knowingly and intentionally made/signed/used caused to be made signed, or used the declaration/statement/document, which was false or incorrect, in material particular with respect to subject goods imported by M/s. HML. They have failed to make compliance of Summons issued to them. The above deliberate acts of commission and omission on their part has rendered the subject goods (NGL) (Qty. of 20110.77 MT), covered under aforesaid Bills of Entry, having total declared assessable value as Rs. 79,63,76,540/- an approx. Market Value of Rs. 278,95,19,113/-, liable to confiscation under Section 111(d), (m), (p) and (o) of the Customs Act, 1962. For their deliberate acts of omission and commission, M/s. Verasco FZE, Hamriah Free Trade Zone, UAE (previously known as Hazel International FZE) have rendered themselves separately liable to penalty under Section 112(a), 112(b), 114AA and 117 of Indian Customs Act, 1962.

Role and Culpability of M/s. Jabal Al Aswad Company, Iraq: -

140. I find that M/s. HML used to import subject goods in connivance with the shipper/suppliers who assisted in manipulation of import documents by way of issuing invoices and other related documents mis-declaring the nature/description of goods therein. As per the documents recovered /retrived from the mobile phone of Shri Nitin Kumar Didwania, the name of M/s. Jabal Al Aswad Company, Iraq was noticed as supplier of goods from

Iraq. In the documents recovered during investigation, the description of goods had been manipulated as Naphtha under HS Code No. 27075000 which is not in accordance with the HSN. In order to get the matter explained and to gather the documents having actual material particulars, Summons were issued to M/s. Jabal Al Aswad Company, Iraq but they have failed to make compliance of Summons issued to them by not responding which indicate that they were connived with M/s. HML and their other associates. For their deliberate acts of omission and commission, M/s. Jabal Al Aswad Company have abetted the offence, which has been committed for contravention of the provisions of the Indian Customs Act, 1962 and allied Acts and statutes. They had knowingly and intentionally dealt with the goods which were liable for confiscation and also have made, signed, or used the declaration/statement/document and/or caused to be made, signed, or used the declaration/statement/document, which was false or incorrect, in material particular with respect to description of subject goods imported by M/s. HML have rendered themselves separately liable to penalty under Section 112(a), 112(b), 114AA and 117 of Indian Customs Act, 1962.

Role and Culpability of M/s. Verzone PTE Ltd., Singapore: -

141. M/s. HML provided a contract dated 03.02.2021 claiming that the subject goods imported by them per vessel MT Tuna were to be exported to M/s. Verzone PTE Ltd. Since the subject goods arrived at Kandla after 03.02.2021, thus the agreement claimed by M/s. HML seems to be in afterthought. It was also substantiated with the fact that after allowing by Hon'ble High Court of Gujarat, only part goods were re-exported by M/s. HML to M/s. Verzone PTE Ltd. whereas remaining goods were exported to different buyer of different country i.e. M/s. United Raw Material PTE Ltd., Singapore. In order to get the facts verified with documentary evidence, Summons was issued to M/s. Verzone PTE Ltd. but they did not respond. Thus, it is evident that M/s. Verzone PTE Ltd., Singapore was a part of cartel and they had abetted the conspiracy, knowingly dealt in the goods which were liable for confiscation and knowingly and intentionally made/signed/used or caused to be made/signed/used the declaration/contract/document, which was having false or incorrect material particular with respect to subject goods imported by M/s. HML. The above deliberate acts of commission and omission on their part has rendered the subject goods (NGL) (Qty. of 20110.77 MT), covered under aforesaid Bills of Entry, having total declared assessable value as Rs. 79,63,76,540/- an approx. Market Value of Rs. 278,95,19,113/-, liable to confiscation under Section 111(d), (m), (p) and (o) of the Customs Act, 1962. By doing so, M/s. Verzone PTE Ltd. have rendered themselves liable to penalty under Section 112(a), 112(b), 114AA and 117 of Indian Customs Act, 1962.

Role and culpability of M/s. Samudra Marine Services Pvt. Ltd., Gandhidham (the vessel Agent for MT Tuna): -

142. I find that the show cause notice states that M/s. Samudra Marine Services Pvt. Ltd., Gandhidham have acted as vessel Agent for MT Tuna in which the subject goods were imported by M/s. HML at Kandla port. It is observed from the evidences gathered during investigation that the subject goods were originated in Iraq and were brought to India in vessel MT Tuna. Whereas, documentation having incorrect and manipulated material particulars were prepared declaring the port of loading as Sohar, Oman, the name of shipper /supplier M/s. Aureole Trading LLC, Dubai, UAE in the Commercial Invoice and M/s. Delta Shipping & Trading LLC, Oman in the corresponding Bills of Lading. M/s. Samudra Marine Services Pvt. Ltd., Gandhidham were asked vide Summons to provide documents/evidences such as such as export declaration forms/shipping bills/insurance documents submitted by the actual overseas suppliers with the respective overseas Customs Authorities etc. explaining the veracity of the matter such as documents having correct material particulars, actual route of transportation, port of loading, etc. but they have failed to provide the required documents.

143. The Show cause notice further alleges that M/s. Samudra Marine Services Pvt. Ltd., being an authorized carrier registered with Customs authorities

were supposed to make effort to check the correctness of material particulars in the Bills of Lading before filing IGM but it appears that they failed to do so. This casual approach on their part abetted the mis-declaration and illegal import of subject goods in violation of the Policy provisions. By way of assisting the conspirators, M/s. Samudra Marine Services Pvt. Ltd. have abetted the offence, which has been committed for contravention of the provisions of the Customs Act, 1962 and allied Acts and statutes. They have failed to make compliance of Summons issued to them by way of not providing the documents having actual /correct material particulars.

144. In this regard, I find that though it is clear that they failed to provide documents as sought from them however there is no evidence in the form of statement, chats and documents to establish that they actively participated in the mis-declaration or mis-classification of goods in order to bypass the restrictions imposed on import of NGL. Further no documentary evidence has been recovered which could establish that they were aware of the mis-declaration and mis-classification of goods.

145. Being a shipping agent, their role is limited to filing IGM on the basis of documents like Bill of Lading etc. and instructions received from the master as well as principal. Thus, the charges of abetment are not proved in absence of any evidence. Therefore, I don't hold them liable for penal action under Section 112 and 117 of the Customs Act, 1962.

Role and culpability of M/s. Friends Salt Works & Allied Industries, Kandla (the custodian for goods imported per MT Tuna): -

146. The show cause notice has alleged that M/s. FSWAI had stored the subject goods NGL in their liquid storage terminal at Kandla though they were not authorized for storage of NGL. After seizure of subject goods on 26.02.2021, a copy of Seizure Memo was given to M/s. FSWAI thereby they were made aware that the subject goods were NGL. Even though they vide letter dated 16.11.2021 requested for stock verification claiming the subject goods as Naphtha. Accordingly, the Show cause notice has alleged that M/s. FSWAI has tried to mislead the investigation and abetted the offence of violation of provisions of Petroleum Act, 1934 readwith Petroleum Rules, 1976 and rendered the subject goods liable for confiscation under provisions of Customs Act, 1962. They failed to provide the details/documents required during investigation as assured by Shri Bharat J. Goswami in his statement.

147. From the above, it is clear that they were apprised of the correct description of goods by the department only and they had allowed storage on the basis of declaration only.

148. I find that when they allowed storage of goods the description mentioned was Naphtha and they had no reason to believe that the goods were not Naphtha. I don't find any evidence on record which could establish that they were aware of the correct description of goods before the investigation was started by the office of DRI. Thus the charges of abatement are not proved.

149. In view of the same, I hold that they are not liable for penal action under Section 112(a) and 117 of the Customs Act, 1962.

Role and culpability of M/s. TUV India Pvt. Ltd. , M/s. Geochem Laboratories Pvt. Ltd. and M/s. International Shipping & Logistics LLC (MIS): -

150. I find that the show cause notice has alleged that M/s. TUV India Pvt. Ltd. was surveyor appointed by M/s. HML for inspection of subject goods with respect to quantity and quality. They provided Test Report suggesting the subject goods as Naphtha on the contrary to actual description i.e. NGL. As apparent from the statement of Shri Nitin Kumar Didwania, Managing Director of M/s. HML, M/s. TUV India Pvt. Ltd. in connivance with M/s. HML and without obtaining permission from Customs said to have drawn samples in unauthorized manner from the subject warehoused goods and attempted to claim test results in favour of M/s. HML in suspected manner.

151. In this regard, M/s. TUV in their submission has argued that they were engaged by M/s. Hazel Mercantile Ltd. solely in the capacity of an independent surveyor to conduct the testing of subject goods imported by M/s. HML at Kandla in vessel Tuna and to prepare and submit the shore Tank Analysis report. The request was received directly from M/s. HML alongwith the product declared as "Naphtha" and Naphtha specifications to them vide their email dated 08.02.2021.

They have enclosed the email with the same. Based on the nomination and Naphtha specifications received from M/s. HML, the samples were drawn on 09.02.2021 from Vessel-MT Tuna, FSWAI terminal, tank-527, 529, 536 and FSWAI terminal Tank-324, 425, 510, 537, 539, 530. No un-authorized access to any customs warehouse or premises was made by their personnel, nor was any sampling done from their location under customs control. They were also not informed that at the time of their engagement and sampling, at no point they were informed or made aware that the subject goods were under Custom seizure or located in a facility requiring prior Customs approval. Accordingly, the issue of obtaining permission from Customs did not arise.

152. I find force in the argument of the noticee for the following reasons:-

- No evidence suggests that they were informed that prior approval from customs was required for sampling;
- They were independently engaged by M/s. HML;
- They were unaware of the seized nature of goods;
- M/s. HML admitted their mistake for unauthorized removal of goods and also agreed to pay duty on such removal also;
- It was the responsibility of M/s. HML to seek permission from the customs before authorizing M/s. TUV to engage and take sample of the goods;
- M/s. TUV acted in a bonafide manner.

153. Further, with respect to testing of fresh samples drawn as per the Hon'ble Gujarat High Court Order dated 05.04.2021, M/s. HML vide their letter dated 16.04.2021 specified the subject as "testing of Naphtha samples" and had written for testing to M/s. Geo-Chem Laboratories Pvt. Ltd. in following manner: -

"The goods were declared as Naphtha and meant for manufacturer of Poly-Olefins and the product is high paraffinic Naphtha but the Department has reservations on the quality and wishes to reverify the same. We request you to analyse the same and certify that the goods confirm to Naphtha or otherwise and oblige"

154. The show cause notice has alleged that from above content of the request made by M/s. HML to laboratory of M/s. Geo-Chem Laboratories Pvt. Ltd., it is apparent that M/s. HML had not only attempted to get biased report in their favour, they suppressed the actual contention of Department and also misrepresented stating that the Department has reservations on the quality of Naphtha. It appears that M/s. Geo-Chem Laboratories Pvt. Ltd. did not enquire from the Department regarding the said "reservation of the Department" and in connivance with M/s. HML opined the subject goods confirmed to be OSN Specifications of Naphtha.

155. The show cause notice further states that the Hon'ble High Court of Gujarat in its order dated 24.08.2021 has clearly observed in the para 8 and 9 (cited supra) that: petitioner independently forwarded the samples for re-testing to M/s. Geochem Laboratories Pvt. Ltd. without consulting the statutory authorities and taken on record the contention of Department that the test results have been influenced by providing misleading, biased content and parameters.

156. In this regard, Miss Renita Alex during the course of hearing submitted that the samples were drawn in presence of DRI officers and the said sealed samples were submitted by M/s. HML to the noticee No. 18 alongwith parameters of testing. Therefore, the noticee had only followed the instructions of their client and tested sealed sample as per the parameters submitted.

157. I find force in the argument of the noticee for the following reasons:-

- No evidence suggests that they were informed that testing was to be done for parameters of NGL as well;
- They were independently engaged by M/s. HML in pursuance of the direction of Hon'ble High Court of Gujarat;
- They were not required to enquire about the reservation of the department when they have received the sample drawn and sealed by the officers of DRI;
- No communication is made either by the investigating agency or by the customs to them for testing the parameters of the NGL;
- It was the responsibility of M/s. HML to correctly convey the apprehensions of the department regarding the nature and description of goods;

➤ The onus was on M/s. HML and they have tried to get a biased report;

158. Thus, I find that M/s. TUV India Pvt. Ltd & M/s. Geochem hav acted in a bonafide manner and tested the samples in accordance with the directions imparted by M/s. HML. Therefore, they are not liable for penal actions under Section 112, 114AA and 117 of the Customs Act, 1962.

159. I find that as narrated in foregoing paras that the load port and details of shipper/suppler/consigner are falsely declared in the Bills of Entry and other related documents. The Test Report of M/s. Intertek showing Port of Loading as Sohar, Oman are accordingly false, fabricated and non-maintainable. Thus, it is clear that M/s. MIS were connived with M/s. HML and issued concocted test report in favour of M/s. HML sowing the results of testing as Naphtha to undue support the mis-declaration of goods.

160. Thus, conniving with M/s. HML in providing influencial report M/s. MIS has abetted the omission and commission rendering the subject goods liable for confiscation under provisions of Customs Act, 1962. By dealing with such offending goods knowingly, M/s. MIS had abetted the offence, which has been committed for contravention of the provisions of the Customs Act, 1962 and allied Acts and statutes. They had knowingly and intentionally made signed, or used the declaration/statement/document, which was false or incorrect, material particular with respect to subject goods imported by M/s. HML. By providing unauthorised /manipulated/forged test reports, M/s. MIS had tried to mis-lead the department. The above deliberate acts of commission and omission on their part has rendered the subject goods (NGL) (Qty. of 20110.77 MT), covered under aforesaid Bills of Entry, having total declared assessable value as Rs. 79,63,76,540/- an approx. Market Value of Rs. 278,95,19,113/-,liable to confiscation under Section 111(d), (m), (p) and (o) of the Customs Act, 1962. For their deliberate acts of omission and commission, M/s. Geo-Chem Laboratories Pvt. Ltd. , M/s. TUV India Pvt. Ltd. and M/s. MIS have separately rendered themselves liable to penalty under Section 112(a), 112(b), 114AA and 117 of Customs Act, 1962.

Role and culpability of Custom Broker M/s. Hemjyot Agency, Gandhidham and Shri Pramod Soneta, Partner of M/s. Hemjyot Agency: -

161. I find that M/s. Hemjyot Agency, Gandhidham was appointed Customs Broker of M/s. HML and they had filed the subject seven Bills of Entry alongwith other related documents such as Invoice, Certificate of Origin, Certificate of Quality, Bills of Lading etc.

162. The name of shipper mentioned in the Bill of Lading was M/s. Delta Shipping and Trading LLC, Oman whereas, the same was mentioned as M/s. Aureole Trading LLC, Dubai in the Bills of Entry filed by them. Further, the description of subject goods was declared as Naphtha in the Bills of Entry without specifying the category of Naphtha as to whether Light, Heavy or Full Range which are classifiable under separate CTHs. Whereas, the classification of the same was made under CTH 27101229 i.e. for Full Range Naphtha. On being asked about the basis of such classification, Shri Pramod Soneta, Partner of Customs Broker firm M/s. Hemjyot Agency failed to submit any justifiable reason and stated that the classification was declared as per the import documents and directions and approval of check list by the importer.

163. I find there are two charges leveled against M/s. Hemjyot Agency, Gandhidham and Shri Pramod Soneta, Partner of M/s. Hemjyot Agency:-

- The name of shipper mentioned in the Bill of lading was M/s. Delta Shipping and Trading LLC, Oman whereas the same was mentioned as M/s. Aureole Trading LLC, Dubai in the bills of entry was filed by them.
- They have abetted the incorrect classification of goods.

164. In this regard, I find that M/s. Hemjyot Agency, Gandhidham and Shri Pramod Soneta, Partner of M/s. Hemjyot Agency have filed the Bills of Entry on the basis of documents provided by the importer. They have also uploaded all the documents online which shows that they did not try to suppress any fact. Further it is worth noting that the instant case is based on chemical tests and the department also relies on the Test reports in order to ascertain the correct nature of goods, thus it is difficult for a custom broker to tell the correct classification of the goods on the basis of appearance of goods. The two reports cited by the importer also suggest the goods to be Naphtha. Since the instant matter is of classification on the basis

of Test reports, nature of goods etc., the Customs broker can not be held liable for suggesting correct classification.

165. In view of the above discussion, I hold that M/s. Hemjyot Agency, Gandhidham and Shri Pramod Soneta, Partner of M/s. Hemjyot Agency are not liable for penal action under Section 112(a) and 117 of the Customs Act, 1962.

166. In view of the above, I hereby pass the following order:-

A. ORDER IN RESPECT OF M/S. HAZEL MERCANTILE LIMITED-

- a. I reject the description and classification of the subject imported goods (NGL) mis-declared as Naphtha under CTH 27101229 covered under seven Bills of Entry and order that the said goods be described as NGL and re-classified under CTH 27101290.
- b. I reject the assessable value of subject goods declared as Rs. 79,63,76,540/- in the impugned 07 Bills of Entry and order to re-assess the same according to the market value i.e. approximate Rs. 278,95,19,113/-.
- c. I order to confiscate the subject imported goods (NGL)(Qty. of 20110.77 MT), falling under CTH No. 27101290, which was mis-declared as Naphtha under CTH 27101229, having total declared assessable value of Rs. 79,63,76,540/- (approximate market value of Rs. 278,95,19,113/-) under Section 111(d), 111(m), 111(p) and 111(o) of the Customs Act, 1962.

Since the goods were released for the purpose of re-export, I impose redemption fine of Rs. 10,00,00,000/- (Rupees Ten Crores only) under Section 125 of the Customs Act, 1962.

- d. I impose penalty of Rs. 5,00,00,000/- (Rupees Five Crores Only) under Section 112(a) of the Customs Act, 1962.
- e. I impose penalty of Rs. 10,00,00,000/- (Rupees Ten Crores Only) under Section 112(b) of the Customs Act, 1962.
- f. I impose penalty of Rs. 10,00,00,000/- (Rupees Ten Crores Only) under Section 114AA of the Customs Act, 1962.
- g. I impose penalty of Rs. 4,00,000/- (Rupees Four Lakhs Only) under Section 117 of the Customs Act, 1962
- h. I order to recover the amount of applicable re-test fees payable by M/s. HML in terms of Section 145 of the Customs Act, 1962.
- i. I order to encash the Bank Guarantee furnished by M/s. Hazel Mercantile towards the above liabilities i.e. fine and/or penalties.

B. ORDER IN RESPECT OF PERSONS/COMPANIES/FIRMS/CONCERNS AS APPEARING IN COLUMN 2 OF THE FOLLOWING TABLE-

S. No.	Name (S/Shri/Ms/Smt/ M/s)	Penalty under Customs Act, 1962 (in Rs.)			
		112(a)	112(b)	114AA	117
1	Shri Nitin Didwania	1,00,00,000/-(One crore only)	1,00,00,000/-(One crore only)	2,00,00,000/-(One crore only)	4,00,000/-(Four lakhs only)
2	Shri Satish Gaichor	50,00,000/-(Fifty Lakhs only)	50,00,000/-(Fifty Lakhs only)	1,00,00,000/-(One Crore only)	4,00,000/-(Four lakhs only)
3	Shri Minesh Shah	Not proposed in the SCN	Not proposed in the SCN	Not proposed in the SCN	4,00,000/-(Four lakhs only)
4	Shri Sreyas Choudhary	Not proposed in the SCN	Not proposed in the SCN	Not proposed in the SCN	4,00,000/-(Four lakhs only)

5	Shri Rajaram Shanbhag	Not proposed in the SCN	Not proposed in the SCN	Not proposed in the SCN	4,00,000/-(Four lakhs only)
6	Shri Saurabh Rajput	Not proposed in the SCN	Not proposed in the SCN	Not proposed in the SCN	4,00,000/-(Four lakhs only)
7	Shri Ashok Desai	Not proposed in the SCN	Not proposed in the SCN	Not proposed in the SCN	4,00,000/-(Four lakhs only)
8	M/s. Aureole General Trading LLC, UAE	50,00,000/-(Fifty Lakhs only)	50,00,000/-(Fifty Lakhs only)	1,00,00,000/-(One Crore only)	4,00,000/-(Four lakhs only)
9	M/s. Delta Shipping LLC, Oman	50,00,000/-(Fifty Lakhs only)	50,00,000/-(Fifty Lakhs only)	1,00,00,000/-(One Crore only)	4,00,000/-(Four lakhs only)
10	M/s. Trilliance Petrochemical Ltd.	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
11	Ms. Saba of Petrochemical Ltd.	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
12	Mr. Ali of Petrochemical Ltd.	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
13	Mr. Alex Abby International FZE	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
14	Mr. Vishal Goyal of M/s. Hazel International FZE	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
15	Mr. Omid	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
16	Ms. Fehimah	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
17	Mr. Claudy	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
18	M/s. Verasco FZE, Hamriah Free Trade Zone, UAE(Previously known as Hazel International FZE)	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
19	M/s. Jabal Al Aswad Company, Iraq	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
20	M/s Verzone PTE Ltd.	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
21	M/s. Samudra Marine Services Pvt. Ltd., Gandhidham	Not imposed	Not proposed in the SCN	Not proposed in the SCN	Not imposed
22	M/s Friends Salt Works & Allied Industries	Not imposed	Not proposed in the SCN	Not proposed in the SCN	Not imposed
23	TUV India Pvt. Ltd.,	Not imposed	Not imposed	Not imposed	Not imposed
24	Geochem Laboratories Pvt. Ltd.,	Not imposed	Not imposed	Not imposed	Not imposed
25	M/s. MIS	25,00,000/-(Twenty Five Lakhs only)	25,00,000/-(Twenty Five Lakhs only)	50,00,000/-(Fifty lakhs only)	4,00,000/-(Four lakhs only)
26	M/s Hemjyot Agency	Not imposed	Not proposed in the SCN	Not proposed in the SCN	Not imposed

27	Shri Pramod Soneta	Not imposed	Not proposed in the SCN	Not proposed in the SCN	Not imposed
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167. This order is issued without prejudice to any action that can be taken under this Act or any other law for the time being in force.

Digitally signed by
M Ram Mohan Rao
Date: 31-07-2025
10:58:18

(M. Ram Mohan Rao)

Commissioner

F.No. GEN/ADJ/ADC/510/2023-ADJN

DIN- 20250771ML000000E7B0

To:

1. M/s Hazel Mercantile Ltd.,
Veritas House, 70 Mint Road, Fort,
Mumbai – 400001
2. Shri Nitin Didwania, Managing Director, M/s Hazel Mercantile Ltd.,
Veritas House, 70 Mint Road, Fort,
Mumbai – 400001
3. Shri Satish Gaichor, Associate General Manager,
M/s Hazel Mercantile Ltd., Veritas House, 70 Mint Road, Fort,
Mumbai – 400001
4. Shri Minesh Shah, Director, M/s Hazel Mercantile Ltd.,
Veritas House, 70 Mint Road, Fort, Mumbai – 400001
5. Shri Sreyas Choudhary, Vice President (Marketing),
M/s Hazel Mercantile Ltd., Veritas House, 70 Mint Road, Fort,
Mumbai – 400001
6. Shri Rajaram Shanbhag
M/s Hazel Mercantile Ltd., Veritas House, 70 Mint Road, Fort,
Mumbai – 400001
7. Shri Saurabh Rajput, Manager (Procurement),
M/s Hazel Mercantile Ltd., Veritas House, 70 Mint Road, Fort,
Mumbai – 400001
8. Shri Ashok Desai, Logistics Head,
M/s Hazel Mercantile Ltd., Veritas House, 70 Mint Road, Fort,
Mumbai – 400001
9. M/s Aureole General Trading LLC,
P.O Box No. 33247, Dubai, United Arab Emirates
10. M/s Delta Shipping LLC,
P.O Box No. 1473, PC322, Sohar, Al Falaj, Sultanate of Oman
11. M/s. Trilliance Petrochemical Ltd.
12. Ms. Saba of M/s Trilliance Petrochemical Ltd.,
13. Mr Ali of M/s Trilliance Petrochemical Ltd.,
14. Mr. Alex Abby, Business Development Manager – Terminals,
M/s Hazel Mercantile FZE, P.O Box No. 54073, Hamriyah Free Zone, Sharjah, United Arab Emirates
15. Mr. Vishal Goyal, P.O Box No. 54073, Hamriyah Free Zone, Sharjah,
United Arab Emirates
16. Mr. Omid
17. Mr. Fehimah
18. Mr. Claudy
19. M/s Verasco FZE, Hamriyah Free Trade Zone, UAE
(Previously known as Hazel International FZE),
P.O Box No. 54073, Hamriyah Free Zone, Sharjah,
United Arab Emirates
20. M/s Jabal Al Aswad Company, Iraq
Iraq-kirkuk
21. M/s. Verzone Pte Ltd.,
8, Temasek Boulevard, 32-01, Suntec Tower, Three,

Singapore-038988

22. M/s Samundra Marine Services Pvt. Ltd.,
105-106, Golden Arcade, Plot No. 141-142, Sector - 8
Gandhidham - Kutch, Gujarat - 370201.

23. M/s Friends Salt Works & Allied Industries,
"Maitri Bhavan", 18, Sector-8, P.O. Box No. 106,
Gandhidham (Kutch) – 370201

24. M/s. TUV India Pvt Ltd.
M.P. Shah Udyognagar, Plot No. A/12/2/2 & 3,
Saru Section Road, Jamnagar - 361002

25. M/s. Geochem Laboratories Pvt. Ltd.
36, Raja Industrial Estate, 1st Floor, Purshottam Kheraj Marg,
Mulund (W), Mumbai - 400080.

26. M/s. Hemjyot Agency,
201/A, Lilashah Nagar, Opp. Adarsh Kanya Vidyal, Ward-12-C, Gandhidham, Kachchh Gujarat – 370201

27. Shri Pramod Soneta, Partner of M/s. Hemjyot Agency,
201/A, Lilashah Nagar, Opp. Adarsh Kanya Vidyal, Ward-12-C, Gandhidham, Kachchh Gujarat – 370201

28. M/s. Muscut International Shipping & Logistics LLC (MIS),
Office No. 104, Al Khaleel Head Office Building,
Way No. 240, Building No. 439, Al-Ghubra-North,
Muscut, Sultanate of Oman

Copy to-

1. The Chief Commissioner, Gujarat Customs Zone, Ahmedabad for the purpose of Review.
2. The Additional Director General, CEIB, 6 th Floor, B Wing, Janpath, N.Delhi-110001
3. The Additional Director, DRI, Regional Unit Gandhidham
4. The Superintendent (EDI/TRC), Kandla for necessary action.
5. Guard File