

DIN-20251271ML000000EA4D

 <p>सत्यमेव जयते</p>	<p>Office of The Commissioner of Customs New Custom House, Near Balaji Temple New Kandla - 370210 Tel.- 02836-271468-469 Fax- 02836-271467</p>	
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F. No.: GEN/ADJ/ADC/1104/2025-Adjn-O/o Commr-Cus-Kandla

DEMAND CUM SHOW CAUSE NOTICE

(Issued under Section 124 of the Customs Act, 1962)

Whereas, M/s. Store 2 Door, Office No. 512, 5th Floor, Adamji Building, Narsi Natha Street, Katha Bazaar, Masjid West, Mandavi, Mumbai- 400009 (herein after referred to as 'importer' for the sake of brevity) is a Proprietorship concern having PAN/IEC no. BOBPD0864F and is engaged in import/export/retail business. The importer have filed Bill of Entry No. 6426740 dated 15.06.2023 for import of goods purportedly said to be 'Mixed Hydrocarbon Oil (CTH-27101990)' through Customs Broker- M/s Ribhus International Pvt. Ltd (AAHCR1517MCH001) at Kandla Port. The said consignment arrived in 06 containers, the details of which are as under:

Sr. No.	Bill of Entry and date	Goods Description as per BE	Container No.	Declared Assessable Value (Rs.)	Declared Duty involved (Rs.)
1	6426740 dated 15.06.2023 Net weight: 118020 kg;	Mixed Hydrocarbon Oil (CTH-27101990)	BLJU2020257	54,74,480/-	BCD @5%: 273724/-, SWC @10%: 27372/-, IGST @18%: 1039603.75/-
2			BLJU2113806		
3			BLJU2654565		
4			CRSU1345940		
5			TCKU3227621		
6			VSBU2007074		

2. The consignment imported under BE No. 6426740 dated 15.06.2023 was put on hold on 23.06.2023 by SIIB, Customs, Kandla. Further, the panchnama proceedings were carried out on 21 & 22 July 2023 and the goods were seized under seizure memo dated 22.07.2023 (RUD-1).

INVESTIGATION CONDUCTED

3.1. Whereas, the consignment was examined by the officers of SIIB, Kandla on 28.06.2023 at M/s A.V Joshi CFS, Gandhidham in presence of authorised representative of CB firm M/s Ribhus International Pvt. Ltd and CFS. During the examination, the CB representative informed that the seal cutting of the containers have already been done by DE Officers and after communication of hold by the SIIB, the containers were re-sealed by the CB. On cutting the seals, the containers were found to be stuffed with the flexi bags filled with some kind of liquid. As the identity of the cargo couldn't be ascertained by physical/visual observation, 01 representative sample from each of the 06 containers were drawn to ascertain the exact composition and identity of the imported cargo and forwarded

to the CRCL, Kandla vide Test Memo No. 336 to 341 dated 28.06.2023 **(RUD -2)**.

3.2. The CRCL, Kandla vide their reports dated 19.07.2023 and 20.07.2023 **(RUD -2)** have submitted the chemical analysis of the samples as under:

Sr. No.	Container No.	Test Memo No.	Report
1	BLJU2020257	TM/SIIB/336/2022-23	Mainly composed of diesel fraction having oil content more than 70% by weight. Flash point does not meet with the parameters of HSD/HFHSD/Gas Oil as per BIS, Sulphur contents not ascertained.
2	BLJU2113806	TM/SIIB/337/2022-23	Mainly composed of diesel fraction having oil content more than 70% by weight. Flash point does not meet with the parameters of HSD/HFHSD/Gas Oil as per BIS, Sulphur contents not ascertained.
3	BLJU2654565	TM/SIIB/338/2022-23	Mainly composed of diesel fraction having oil content more than 70% by weight. Flash point does not meet with the parameters of HSD/HFHSD/Gas Oil as per BIS, Sulphur contents not ascertained.
4	CRSU1345940	TM/SIIB/339/2022-23	Mainly composed of diesel fraction having oil content more than 70% by weight. Flash point does not meet with the parameters of HSD/HFHSD/Gas Oil as BIS. Sulphur contents not ascertained.
5	TCKU3227621	TM/SIIB/340/2022-23	The test parameters agreed with HSD
6	VSBU2007074	TM/SIIB/341/2022-23	The test parameters agreed with HSD

3.3. The results of the test reports issued by CRCL, Kandla dated 19/20.07.2023 were communicated to the importer on 26.07.2023.

ANALYSIS OF THE TEST REPORTS:

4.1. From the above test reports, it appears that for representative samples having TM No. 336 to 339, test reports were inconclusive as Sulphur contents could not be ascertained and in case of representative samples having TM No. 340 to 341, reports were negative as the parameters of the sample agreed with parameters of HSD.

4.2. Since, the test results appeared to be inconsistent with the declared description of the imported consignment, the said consignment was seized on 22.07.2023 under Section 110 (1) of the Customs Act, 1962 and handed over to M/s A.V Joshi CFS, Gandhidham for safe custody.

4.3. Whereas, a letter was written to CRCL, Kandla on 18.08.2023 for further clarification of the term 'diesel fraction' mentioned in the reports dated 19/20.07.2023. The clarification received from CRCL, Kandla dated 21.08.2023 (**RUD -3**) states that they had conducted test based on 08 main parameters and as per the tested parameters the samples does not meet the requirement of HSD/HFHSD & Gas Oil. Accordingly, the test reports stated the representative samples as Diesel fractions.

4.4. Whereas, the representative samples bearing TM No. 340 and 341, were sent to CRCL, New Delhi on 11.08.2023 for re-testing as per the importer's request. The test report received on 27.09.2023 from CRCL, New Delhi (**RUD-4**) stated that the representative samples bearing TM No. 340 and 341 are Distillate Oil (Diesel fraction). The results were communicated to the importer vide letter dated 18.10.2023.

4.5. Whereas, a letter dated 03.11.2023 was issued to CRCL, New Delhi for technical opinion on the test report dated 27.09.2023. In reply, CRCL, New Delhi vide its letter F. No. 26-CUS/C-59/2023-24 (**RUD-5**) dated 29.11.2023 stated that:

"the description of sample i.e. "Mineral Hydrocarbon Oil" is a general term used for petroleum products such as diesel, petrol, kerosene, marine fuel etc. However the sample u/r composed of mineral hydrocarbon oil and found to be not conforming the requirement of BIS standard for the specific petroleum products as already mentioned in the re-test report issued dated 27.09.2023. Hence each of the three samples u/r is distillate oil (Diesel Fraction) which is a mixture of mineral hydrocarbon oil."

4.6. Whereas, during the investigation the importer vide letter dated 16.08.2023 has requested for provisional release of the goods and the competent authority has accorded the request of the importer, accordingly goods have been released under provisional assessment on full value bond, the consignment has been given out of charge on 17.02.2024.

4.7. Whereas, Summons dated 04.09.2024 and 25.10.2024 were issued to M/s Store 2 Door, Mumbai which was not responded by the importer.

OUTCOME OF THE INVESTIGATION:

5.1. Whereas, as per the CRCL, New Delhi, the representative samples TM 340 and 341, appear to be distillate oil/diesel fraction which is classifiable under CTH-27101961. However, the importer has declared their goods as 'Mixed Hydrocarbon Oil under CTH-27101990' which is general description for the petroleum products. However, both the goods i.e. Mixed Hydrocarbon Oil under CTH-27101990 and Distillate Oil under CTH-27101961 attracts same rate of duty and both are free to import. Therefore, as such no duty evasion appears in the matter. However, the importer has mis-declared the goods of the containers TCKU3227621 (Nt. Wt. 19,645 kgs) and VSBU2007074 (Nt. Wt. 19,415 kgs) under Bill of Entry No. 6426740 dated 15.06.2023 and hence, it appears that importer

has contravened the provisions of Section 46 of the Customs Act, 1962 thereby making goods of containers TCKU3227621 and VSBU2007074 having proportionate assessable value of Rs. 18,24,827/-, liable for confiscation under Section 111(f) & Section 111(m) of the Customs Act, 1962. Further, the importer appears to be liable for penal action under Section 112, 114 AA of the Customs Act, 1962 and Section 117 of the Customs Act *ibid*.

5.2 The said importer firm was also provided ample opportunities to present their case along with documentary evidences vide issuance of summons dated 04.09.2024 and 25.10.2024, however, they have chosen not to respond to the summons, which is indicative of the fact that they have resorted to mis-declaration and mis-classification of goods as described in the foregoing paragraphs.

5.3 Whereas, Section 17 of the Customs Act, 1962 provides for self-assessment of duty on imported and export goods by the importer and exporter himself by filing a bill of entry or shipping bill, as the case may be. Under self-assessment the importer or exporter has to ensure correct classification, applicable rate of duty, value and exemption notifications, if any, in respect of imported goods while presenting bill of entry or shipping bill. While importing subject goods, the importer were bound for true and correct declaration and assessment. The importer was fully aware of specifications, characteristics, nature and description of the goods, however, they deliberately suppressed specifications, characteristics, nature and description of the goods and wrongly declared the description of said product/goods.

5.4 Whereas, the importer appears to have not disclosed the material facts related to the actual specification, characteristics, nature, description of the subject goods has violated the provisions of Section 46(4A) by way of mis-declaring the subject goods. Such indulgence and endeavor on their part are in violation of the provisions of Section 46 of the Customs Act, 1962, irrespective of the importability of the impugned goods and other aspects involved in the case, which makes the impugned goods liable for confiscation in terms of Section 111 (f) and 111(m) of the Customs Act, 1962 and accordingly liable for penal action under Section 112, 114 AA of the Customs Act, 1962 and Section 117 of the Customs Act *ibid*.

LEGAL PROVISIONS:

6.1. Whereas, Section 46 of the Customs Act, 1962 reads as

46. Entry of goods on importation.

- 1. The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting to the proper officer a bill of entry for home consumption or warehousing [in such form and manner as may be prescribed] [Substituted 'in the prescribed form' by Finance Act, 2018 (Act No. 13 of 2018), dated 29.3.2018.]: Provided that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.*

2. *Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.*
3. *The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing: Provided that a bill of entry may be presented [at any time not exceeding thirty days prior to] [Substituted by Finance Act, 2017 (Act No. 7 of 2017), dated 31.3.2017.] of the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India: Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.]*
4. *The importer while presenting a bill of entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, [and such other documents relating to the imported goods as may be prescribed] [Substituted 'relating to the imported goods' by Finance Act, 2018 (Act No. 13 of 2018), dated 29.3.2018.].*

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

-(a)the accuracy and completeness of the information given therein;(b)the authenticity and validity of any document supporting it; and(c)compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]
5. *If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.*

6.2. Whereas, Section 17 of the Customs Act, 1962 reads as

Section 17 Assessment of duty.—

- (1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.*
- (2) The proper officer may verify 4 [the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub-section (1)] and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary. 5 [Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.]*

(3) For 7 [the purposes of verification] under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.]

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

(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

6.3. Whereas, Section 111 (f) of the Customs Act, 1962 reads as

Section 111. Confiscation of improperly imported goods, etc. -

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

.....

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

.....

6.4. Whereas, Section 111 (m) of the Customs Act, 1962 reads as

Section 111. Confiscation of improperly imported goods, etc. -

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

.....

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

.....

6.4 Whereas, Section 112 of the Customs Act, 1962 reads as

Section 112 Penalty for improper importation of goods, etc.

.....

Any person,—

(a) who, in relation to any goods, does or omits to do any act which act

or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

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

- (i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;
- (ii) in the case of dutiable goods, other than restricted goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;
- (iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty 219 [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;
- (iv) in the case of goods falling both under clauses (i) and (iii), to a penalty 220 [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;
- (v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

6.5 Whereas, Section 114AA of the Customs Act, 1962 reads as

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

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

6.6 Whereas, Section 117 of the Customs Act, 1962 reads as

Section 117. Penalties for contravention, etc., not expressly mentioned.—

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

7. Now, therefore, the DTA client/Importer, namely, M/s. Store 2 Door, Mumbai, Maharashtra, is hereby called upon to Show Cause to the Additional Commissioner of Customs having his office situated at Customs House, Near Balaji temple, Kandla, District Kutch within 30 days from the receipt of this notice as to why:

- a. The description and classification of the goods imported under Bill of Entry No. 6426740 dated 15.06.2023 vide Container Nos. TCKU3227621 and VSBU2007074 under Bill of Entry No. 6426740 dated 15.06.2023 declared as "Mixed Hydrocarbon Oil," having CTH – 27101990, should not be rejected under the provisions of Section 17(4) read with Section 46 of the Customs Act, 1962;
- b. The imported goods as described at Para 7(a) above should not be correctly classified and/or assessed as "Distillate Oil," under CTH -27101961;
- c. The imported goods totally weighing 39,060 kgs [in containers TCKU3227621 (Nt. Wt. 19,645 kgs) and VSBU2007074 (Nt. Wt. 19,415 kgs)] imported under the cover of BoE No. 6426740 dated 15.06.2023 mis-declared as "Mixed Hydrocarbon Oil & mis-classified under CTH 27101990, having proportionate assessable value of Rs. 18,24,827/- should not be held liable for confiscation u/s 111(f) & 111(m) of the Customs Act, 1962;
- d. Penalty should not be imposed under Sec. 112 of the Customs Act, 1962 upon the importer;
- e. Penalty should not be imposed under Sec. 114AA of the Customs Act, 1962 and
- f. Penalty should not be imposed under Sec. 117 of the Customs Act, 1962.

8. The aforesaid Noticee is to submit their written reply within 30 days before the adjudicating authority. In their reply, they should clearly state whether they wish to be heard in person or not. In case no such request is made or they do not appear before the adjudicating authority on the date and time fixed, without any sufficient cause, the case will be decided ex-parte on the basis of available records without any further reference to them.

9. This show cause notice is issued only in respect of issues discussed in the show cause notice and the goods mentioned against the Bill of Entry discussed hereinabove.

10. The Department reserves its right to add, amend, modify, etc. this notice based on any fresh facts or evidence which may come to the notice of the Department after issue of this notice but prior to adjudication thereof.

11. This show cause notice is issued without prejudice to any other action that may be taken in respect of the impugned goods and/or the persons/company mentioned in the notice, under the provisions of the Customs Act, 1962 and/or any other law for the time

12. List of the documents relied upon in this notice (RUDs) are as per Annexure-A attached with this notice. It may be noted that all the relied upon documents and annexure.

Vishwajeet Singh
03.12.2025

Additional Commissioner
Custom House, Kandla

DIN-

F. No.: GEN/ADJ/ADC/1104/2025-Adjn-O/o Commr-Cus-Kandla

To,

1. M/s. Store 2 Door, Office No. 512, 5th Floor, Adamji Building, Narsi Natha Street, Katha Bazaar, Masjid West, Mandavi, Mumbai 400009.

Copy submitted to: -

1. The Deputy Commissioner, SIIB, Custom House, Kandla.
2. The Superintendent (EDI), Custom House, Kandla-for uploading the same of official website.
3. Guard File.

Annexure-A

List of the documents relied upon to the Show Cause Notice issued from F.No. GEN/ADJ/ADC/1104/2025-Adjn-O/o Commr-Cus-Kandla to M/s. Store 2 Door, Office No. 512, 5th Floor, Adamji Building, Narsi Natha Street, Katha Bazaar, Masjid West, Mandavi, Mumbai 400009.

Sr. No.	Description of the document	Remarks
1.	Panchnama dated 21 & 22 July 2023 along with seizure Memo and Supratnama	Copy enclosed
2.	Test Memo and CRCL Kandla Test Memo	Copy enclosed
3.	CRCL Kandla Technical Opinion letter dated 21.08.2023 issued to Customs Kandla	Copy enclosed
4.	CRCL New Delhi re-testing report dated 27.09.2023	Copy enclosed
5.	CRCL New Delhi technical opinion on test report dated 27.09.203	Copy enclosed