S/10-530/2025-26/JC/GR.I&IA/NS-I/CAC/JNCH

OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I),
सीमाशुल्क आयुक्त का कार्यालय (एनएस -I)
NHAVA-SHEVA, JAWAHARLAL NEHRU CUSTOM HOUSE,
न्हावा-शेवा, जवाहरलाल नेहरू कस्टम हाउस,
TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA – 400 707.
ताल-उरण, जिला- रायगढ़, महाराष्ट्र - 400 707

सत्यमेव जयते

आज़ादी का अमृत महोत्सव

File No. CUS/APR/SCN/1490/2025-Gr (1And1A)

Date: 15.10.2025

SCN No: 1137(L)/2025-26/JC/GR.I&IA/NS-I/CAC/JNCH

DIN: 20251078NW0000888EA7

SHOW CAUSE NOTICE UNDER SECTION 124 OF THE CUSTOMS ACT, 1962

Subject: Show Cause Notice for the consignment of Base Oil covered under Bill of Entry No. 4733737 dated 19.07.2021 imported by the importer M/s S. M. Trade International (IEC No. 0204000599) vide B/L No. FFLSWKNSA2100901 dated 10.07.2021 and IGM No. 2287160/1 dated 12.07.2021 – reg.

M/s S. M. Trade International (IEC No. 0204000599) having registered address as 53, K. Road, Belgachia, P.O. Dasnagar, Howrah, West Bengal- 711105 (hereinafter referred to as 'the importer' for sake of brevity) imported goods declared as "Base Oil" as per Bill of entry No. 4733737 dated 19.07.2021. Details of the Bill of Entry as follows:

Name of the Importer	**M/s S. M. Trade International (IEC No. 0204000599)**
Bill of Entry No.	4733737 dated 19.07.2021
Description	Base Oil
Assessable Value (in Rs.)	36,19,657/-
Duty (in Rs.)	9,88,854/-
B L No.	FFLSWKNSA2100901 dated 10.07.2021
IGM No.	2287160/1 dated 12.07.2021
CB Name	M/s A S R Logistics (CB Code AAECA9987BCH001)

2. The subject goods covered under the aforesaid Bill of Entry loaded in Flexibag {Base Oil (83,650 KGS / 04 Pkgs)} in below mentioned 4 containers arrived at M/s Navkar Corporation Ltd. On 20.07.2021:

Sr.	**Container No.**	**Size**	**Type**	**Arrival**	**Cargo Description**
1	FFLU2005911	20	GEN	20.07.2021	Flexibag Base Oil
2	FFLU2007663	20	GEN	20.07.2021	Flexibag Base Oil
3	FFLU2007998	20	GEN	20.07.2021	Flexibag Base Oil
4	TTNU3801038	20	GEN	20.07.2021	Flexibag Base Oil

3. As per Targeter's/ Intervenor's Instruction with reference to DRI Alert Circular No. 03/2018-CI dated 25.06.2018, "Goods declared as Base oil/ Mineral Spirit/ Bio-Diesel may be checked thoroughly for their actual description/ classification to rule out the import of High Speed Diesel".

4. The consignment was taken up for examination. Representative samples were drawn and forwarded to the Customs Laboratory, Nhava Sheva for chemical analysis.

4.1 The Chemical Examiner's Test Report No. 3992-I dated 04.08.2021 (issued 09.08.2021), indicated that the sample received is in the form of a light yellowish oily liquid composed of a mixture of hydrocarbons more than 70% by wt. having following content;

- Density at 15°C: 0.8291 g/ml
- Flash Point (PMC): 87.9°C
- K.V. at 40°C: 3.21 cst
- Ash Content: Nil
- Sulphur Content: 0.001%
- Cetane Index: 58.22
- Distillation Range: I.B.P. 199.1°C, 85% distilled at temp. 314.3°C, F.B.P. 355.2°C

4.2 The report concluded that the tested parameters meet the requirements of HF-HSD (High Flash High-Speed Diesel conforming to standard IS 16861). The report further clarified that the sample does not meet the requirement of Base Oil (as declared), nor of light oil/solvent preparations.

5. Base Oil is classifiable under the chapter heading 27101971 while High speed diesel (HSD) conforming to standard IS 16861 is classifiable under the chapter heading 27101949 of the Customs Tariff. As per Import Policy ITC (HS), 2017, High Speed diesel (HSD) is allowed to be imported only by the State Trading Enterprises.

5.1 As per the Notification No. 07/2015-2020 dated 20th May 2015 issued by DGFT, under which, High Speed Diesel oil is a restricted item for import subject to policy condition number 05, wherein imports are allowed only through IOC subject to Para 2.20 of Foreign Trade Policy, except for the companies which have been granted rights for marketing of transportation fuels in terms of ministry of P&NG's resolution number 23015/1/2001-MKT dated 8th March 2002 including HPCL, BPCL & IBP which have been marketing transportation fuels before this date.

5.2 Further, as per Circular dated 05.02.2025 issued vide F. No. SG/Misc-137/2024-25/CIU JNCH read with Public Notice No. 86 of 2024 dated 14.10.2024 wherein it is clarified that petroleum products covered under Petroleum Rules, 2002 framed under The Petroleum Act, 1934, must be imported only in the containers prescribed under the said rules and that flexi bags fitted in general purpose 20 feet containers are not covered under the definition of container falling under Petroleum Rules, 2002. Also, Petroleum and Explosives Safety Organization (PESO) is not giving any license/permission for transportation of petroleum products in flexi bags fitted in general purpose 20 feet containers. However, the subject goods covered under the Bill of Entry 4733737 dated 19.07.2021, loaded with Base Oil arrived at M/s Navkar Corporation Ltd. on 20.07.2021 in the flexi bags fitted general purpose 20 feet 4 containers.

6. In view of the foregoing paras, it appeared that they have knowingly contravened the provisions of Rule 14 of the Foreign Trade (Regulations) Rules, 1993 in as much as they had wrongly declared the imported product in the bills of entry filed before Customs in order to import goods which were restricted for import by DGFT vide Notification No 07/2015-2020 dated 20th May, 2015. As per Rule 14(2) of the Foreign Trade (Regulation) Rules, 1993 "no person shall employ corrupt or fraudulent practice for the purpose of obtaining any license or importing or exporting any goods." Therefore, the import of HSD by resorting to mis-declaration of description in the import document, before the designated authority of Customs on their part construes "smuggling" as defined in Section 2(39) of the Customs Act, 1962. The provisions of Sub-section (1) and (2) of Section 11 of the Foreign Trade (Development and Regulations) Act, 1992 therefore stand attracted in the instant case and the goods imported by way of mis-declaration of description are to be treated as prohibited goods.

7. <u>Relevant Provisions of the Customs Act, 1962:</u>

(A) Section 46: Entry of goods on importation. -

(1) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting 1 [electronically] 2 [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed.

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

(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.

(B) Section 111: Confiscation of improperly imported goods, etc.-

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

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

(C) 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 prohibited goods, subject to the provisions of Section 114A, to a penalty not exceeding ten per cent of the duty sought to be evaded or five thousand rupees, whichever is higher:*
iii. *Provided that where such duty as determined under sub-Section (8) of Section 28 and the interest payable thereon under Section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this Section shall be twenty-five per cent of the penalty so determined;*

(D) 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.*

(E) **Section 124: Issue of show cause notice before confiscation of goods, etc. -** *No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person -*

(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:

8. By declaring the imported goods as Base Oil instead of High Flash HSD (CTH 2710 19 49), M/s SM Trade International have:

- Mis-declared the description, classification, and nature of the goods.
- Attempted to circumvent import restrictions imposed under FTP and ITC(HS).
- Rendered the goods liable to confiscation under Section 111(m) and 111(d) of the Customs Act, 1962.
- Made themselves liable for penal action under Sections 112(a) and 114AA of the Customs Act, 1962.

9. Accordingly, M/s SM Trade International is hereby called upon to Show Cause to the Joint Commissioner of Customs, NS-I, having its office located at Jawaharlal Nehru Customs House, Nhav-Sheva, Raigad within thirty days of the receipt of this notice as to why, within 30 days of receipt of this Notice, as to why:

I. The impugned goods should not be classified under the Customs Tariff Heading 2710 1949 instead of declared Customs Tariff Heading 2710 1971;
II. The goods covered under Bill of Entry No. 4733737 dated 19.07.2021 should not be confiscated under Sections 111(m) and 111(d) of the Customs Act, 1962 read with relevant provisions of FTP 2015-2020 as discussed above;
III. Penalty should not be imposed on them under Section 112 (a) of the Customs Act, 1962;
IV. Penalty should not be imposed on them under Section 114AA of the Customs Act, 1962;

10. The importer M/s SM Trade International (IEC No. 0204000599) should file their written explanation/reply to the competent authority i.e. Joint Commissioner of Customs, NS-I, JNCH within 30 days of receipt of the Show Cause Notice and they should also indicate if they wish to be heard in person. If the importer fails to submit their written submission or if they fail to attend the personal hearing on the fixed date the case will be decided ex-parte on the basis of the evidence on record, without any further reference to the importer.

11. This Show Cause Notice is issued without prejudice to any other action that may be taken in respect of the said goods / notices and /or against any other firm / person concerned covered or not covered under the provisions of the Customs Act, 1962 and/or any other law for the time being in force in the Union of India.

12. The department reserves its rights to add, alter, amend, modify or supplement this notice at any time on the basis of any evidence, material facts related to import of goods in question, which may come to the notice of the department after issuance of this notice and prior to the Adjudication of the case.

Digitally signed by
Jay Girijappa Waghmare
Date: 15-10-2025
11:32:08

(Jay G. Waghmare)
Joint Commissioner of Customs
Gr-1 and 1A, NS-I, JNCH

To,

M/s S. M. Trade International (IEC No. 0204000599),
53, K. Road, Belgachia, P.O. Dasnagar, Howrah, West Bengal- 711105.

Copy to: -

1. The Principal Commissioner of Customs, NS-I, JNCH, Nhava-Sheva,
2. The Joint Commissioner of Customs, NS-I, JNCH (for adjudication).
3. DC, CAC, JNCH, Nhava-Sheva, (Import),
4. DC, Disposal Section, JNCH, Nhava-Sheva,
5. M/s Navkar Corporation Ltd.,
6. CHS Section, JNCH (For display on Notice Board),
7. EDI Section, JNCH (For publish on JNCH Website),
8. Office copy.