



भारतसरकार



भारतसरकार/ Government of India
वित्तमंत्रालय / Ministry of Finance



एक ही धरा - एक ही परिवार - एक ही भविष्य
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सीमाशुल्कप्रधानआयुक्तकाकार्यालय (एनएस-1), मुंबईसीमाशुल्कजोन-II

जवाहरलालनेहरूकस्टमहाउस, पोस्ट: शेवा, तालुका: उरण, जिला: रायगढ़, महाराष्ट्र-4007007
OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I), MUMBAI CUSTOMS ZONE-II
JAWAHARLAL NEHRU CUSTOM HOUSE, Post: Sheva, Taluka: Uran,
Dist: Raigad, Maharashtra-400707.
ईमेल Email:group2cf-jnch@gov.in

CUS/APR/BE/MISC/1702/2025-Gr.2(C-F)

Dated: 14.08.2025

CUS/APR/BE/MISC/2063/2024-Gr. 2 (C-F) -O/o Pr Commr-Cus-Nhava-Sheva.

SCN No. 6400/2025-26/JC/NS-I/Gr.II C-F/CAC/JNCH

DIN:- 20250878NW000071717D

Show Cause Notice under section 124 of Customs Act, 1962.

Based on specific information from Appraising Group 2 (C-F), JNCH Nhava Sheva to National Customs Targeting Centre (NCTC), Mumbai and Special Investigation and Intelligence Branch (Import), JNCH highlighting the modus operandi that several importers are importing goods like Mixed Hydrocarbon, Diesel, Adulterated Diesel by mis-declaring the same as 'Penetrating Oil', 'Process Oil-40 etc.' and classifying the same under CTH 3403. Accordingly, NCTC Mumbai inserted Target Alert for the goods classified under CTH 3403 and Bill of Entry No. 3730722 dated 29.05.2024 pertaining to M/s Global International was hit by the above Target, wherein RMS system instructed 100% examination under 1st Check basis and for drawl of sample for testing purpose to check misdeclaration of value, quantity and quality of goods. During the process of examination and testing of goods by DyCC, JNCH, discrepancy was noticed as per above Modus Operandi Circular and the Bill of Entry no. 3730722 dated 29.05.2024 pertaining to M/s Global International was forwarded to CIU, JNCH by Assessing Group 2(C-F) for further investigation.

2. The importer M/s Global International filed Bill of Entry No. 3730722 dated 29.05.2024 for import of goods having description as 'Process Oil-40' by classifying the same under CTH 34031900 having a duty structure of BCD 7.5%, SWS 10% and IGST 18% i.e., total duty @ 27.735%. The bill of entry was facilitated for assessment and went directly for examination. RMS system instructions were for 100% examination of goods to check for mis-declaration of Value, Quantity and Quality of the Goods and IPR

violation. The RMS Targeter's /Intervenor's Instructions are as under:

Get the consignment examined on 100% examination basis. Check for misdeclaration of Value, Quantity and Quality of the Goods. Check IPR violation. ~~~~~Wherein the goods classified under CTH 3403 and having description-'Penetration oil'/ 'Process Oil'/ oil, having unit quantity code (UQC)=MTS and having Country of origin-AE/SA/KW or any other middle east country. The Bill of Entry should be examined on First Check Basis. The Sample shall be drawn by docks officer and sent to CRCL/DYCC for testing. If the goods contain petroleum oils more than 70% by weight as per test report and is re-classifiable under chapter 27, Then the goods may be forwarded to PAG for further necessary action.~~~~~ Pl assess the BE on first check basis (FOR TEST) as it has been reported that Mixed Hydrocarbon (Diesel) classifiable under CTH 2710, are being imported by mis declaring as Penetrating Oil/CHEMLUR/Process Oil and etc. under CTH 3403 to avoid the stringent policy condition under CTH 2710 and to under value the goods. Pl examine the goods carefully, follow RMS instruction and SEO.

On perusal of RMS instructions, it was noticed that 100% examination was ordered. Further, it was also ordered that the bill of entry should be examined on First Check Basis and sample shall be drawn for testing. Therefore, the bill of entry was recalled on 07.06.2024 as per importer's request vide their letter dated 05.06.2024 (RUD-2). Thereafter, the bill of entry was assessed by Assessing Group under first check basis on 10.06.2024 and examination order was given for 100% examination of all the containers and drawl of sample.

3. The said Bill of Entry was sent for examination on first check basis on 10.06.2024 with an order to draw and forward representative sample for testing of the following parameters:

- a. Petroleum % in samples (Whether More than 70% or NOT).
- b. Whether it is diesel fraction? If mainly made of Diesel Fraction, Can it be interpreted as Automotive Diesel Fuel/Off Specification Automobile Diesel As per IS:1460?
- c. Verify whether the sample meets the requirements of the IS Standards of Solvents/Kerosene/Kerosene Intermediate/Vacuum Gas Oil/Gas, Oil.
- d. Initial boiling point.
- e. Final boiling point.
- f. Content of base oil.
- g. Percentage of volume(including loss).
- h. Flash Point.
- i. Please give specific comments that goods are other than transformer oil.
- j. Whether base oil or otherwise, it is other than light oils and preparation, solvent (125/240, 60/80, 50/120, 145/205) IS 91475,

Kerosene (IS: 1459/IS:1571), kerosene intermediate (IS 17793), Gas oil (IS 17789), Vacuum gas oil (IS 17792), light diesel oil (IS: 15570), automotive diesel fuel not containing bio diesel (IS: 1460), diesel blend (IS: 16531) and HFHSD fuel (IS: 16861).

4. The goods were examined by the Docks Officer on 11.06.2024 and accordingly, two sets of representative samples were drawn and handed over on 12.06.2024 to Central Revenues Control Laboratory (CRCL), Jawaharlal Nehru Custom House (JNCH) for testing as per the above-mentioned parameters vide Test Report No. 178 dated 10.06.2024 (RUD- 3). The CRCL, JNCH a government approved lab, submitted its report dated 15.06.2024 received by Group II C-F, JNCH on 18.06.2024 (RUD-4), which is as follows:

“The sample as received is in the form of yellowish oily liquid. It is composed of mixture of hydrocarbon more than 70% by weight having following constants:

- i. Density as 15 degree Celsius = 0.8530 gm/ml.
- ii. Flash Point (COC) = 230.10 degree Celsius
- iii. Kinematics Viscosity at 40 degree Celsius = 30.78 Cst
- iv. Kinematics Viscosity as 100 degree Celsius = 5.55 Cst
- v. Ash Content = NIL
- vi. Total Acid Number (TAN) = NIL

On the basis of above analytical findings, the sample u/r has the characteristics of Base oil (IS: 18722: 2024), Rest of the queries raised are not relevant to the sample under reference.

5. The test report sent by the CRCL, JNCH reported that the goods are having the characteristics of Base Oil (IS:18722:2024) whereas the importer M/s Global International had declared the goods as “Process Oil-40” and had classified under CTH 34031900 under self- assessment. The importer M/s Global International could not submit any Certificate of Analysis (COA) or related documents mentioning the chemical properties of the imported goods in support of declared CTH 34031900. Therefore, prima facie it appeared that goods have been mis-declared by the importer in terms of description & classification.

6. According to above CRCL test report dated 15.06.2024, the goods appeared to be “Base Oil” which is classifiable under CTH 27101971 having a duty structure of BCD 5%, SWS 10% and IGST 18% i.e., total duty @24.29%. Further, on perusal of import data of Base oil from UAE for the month of May and June 2024, it is observed that Base Oil is being imported ranging from USD 525 to USD 1440 per MTS with an average price of USD 983.52 per MTS. However, the Importer had declared the unit price as USD 430 per MTS in the present bill of entry which was much lower than the average import price of Base Oil. Therefore, it appeared that

the goods have been mis-declared in terms of classification as well as valuation to evade the payment of legitimate Customs duty. In response to the query raised by the assessing officer, the importer had agreed for value loading and reclassification of the goods. Thus, the importer clearly accepted that they had mis-declared the impugned goods by classifying them under CTH 3403 instead of CTH 2710 and also undervalued the said goods to avoid legitimate Customs duty.

7. From above, it appeared that the importer filed the Bill of Entry on second check basis under Chapter 34 willfully to avoid the rigors of Chapter 27 i.e., to avoid the mandatory first check procedure and sample drawing which is mandated by Public Notice No. 34/2019-20-JNCH dated 27.03.2020 (RUD-5) and Public Notice No. 08/2022-JNCH dated 31.01.2022 (RUD-6). In addition, the Appraising Group 2 (C-F), JNCH has highlighted the modus operandi to National Customs Targeting Centre (NCTC), Mumbai and Special Investigation and Intelligence Branch (Import), JNCH vide letter dated 21.05.2024 that several importers are importing goods like Diesel, Adulterated Diesel by mis-declaring goods as 'Process Oil- 40' etc. by classifying them under CTH 3403. It was also noticed that the Representative Sealed Sample (RSS) were taken from one container out of 10 containers imported by M/s. Global International. Therefore, there was a suspicion that the goods in other 9 containers might be Base Oil or other than Base oil like Diesel or adulterated Diesel. Therefore, it was proposed by Assessing Group that the matter may be investigated by SIIB(I) and sample should be drawn from other 9 containers also.

8. Further, the importer vide letter dated 26.06.2024 addressed to Chairman, CBIC, had alleged that the assessing officers have demanded bribe from the authorized representative of the importer. In view of the same, the case was transferred to the Central Intelligence Unit, JNCH on 26.06.2024 as per para 4 of the Office Order No. 138/2023 in respect of Re-Structuring of the Intelligence and Investigation Units of JNCH, wherein the Central Intelligence Unit (CIU) has been mandated to deal in the investigations with respect to the complaints and detection of irregularities involving loss of revenue where vigilance angle is also noticed.

9. To further investigate the matter, CIU JNCH vide emails/letters dated 02.07.2024, 03.07.2024, 04.07.2024, 05.07.2024, 08.07.2024 and 09.07.2024 had requested the importer multiple times to participate in the investigation and sampling process. However, in his reply vide email dated 02.07.2024, 04.07.2024, 06.07.2024 and 08.07.2024 (RUD-7) the importer refused to participate in the sampling process and had sent baseless and provocative emails which were unwarranted. In order to carry out a comprehensive investigation in the wake of modus operandi of importing adulterated diesel oil in various names such as Industrial Oil, Process Oil, etc., the officers of CIU, JNCH had drawn representative

samples under panchnama dated 10.07.2024 (RUD-8) from each of the 10 containers pertaining to bill of entry no. 3730722 dt. 29.05.2024 under CCTV coverage in the presence of concerned Shipping Line and concerned CFS representatives as the importer had refused to join the sampling process. The said RSS were forwarded to Central Revenues Control Laboratory (CRCL), JNCH on 11.07.2024 for testing.

Central Revenues Control Laboratory (CRCL), JNCH forwarded Test Reports dated 22.07.2024, 23.07.2024, 25.07.2024, 26.07.2024 & 30.07.2024(**RUD-9**) in respect of all the ten (10) containers which are stated below:

- Container No- CBHU4045279

“The sample as received is in the form of yellowish oily liquid.
It is composed of mixture of hydrocarbon more than 70% by weight.

The sample as received has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15°Celcius	0.185 g/ml
2.	Flash Point (Abel)	8.6° C
3.	Kinematics Viscosity at 40° Celcius	2.01cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.12% by wt.
6.	Cetane index	53.74
7.	Distillation range	IBP= 79.11° C
8.	85% Distilled at temp	316.49° C
9.	95% Distilled at temp	352.28° C
10.	FBP	364.09° C
The sample after removing the adulterants has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.822 g/ml
2.	Flash Point (Abel)	56° C
3.	Kinematics Viscosity at 40° Celcius	2.36 cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.12%
6.	Cetane index	53.07
7.	Distillation range	IBP= 167.1° C
8.	85% Distilled at temp	318.5° C
9.	95% Distilled at temp	359.3° C
10.	FBP	371.8° C
11.	Adulterant content	2.5%

On the basis of above analytical findings, the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except sulfur content.

As per the definition of “adulteration” mentioned in the motor speed and high speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is “Adulterated Diesel Fuel”.

Sealed remnant sample returned.”

- Container No- CBHU4020368

“The sample as received is in the form of yellowish oily liquid.
It is composed of mixture of hydrocarbon more than 70% by weight.”

The sample as received has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8156 g/ml
2.	Flash Point (Abel)	7.2° C
3.	Kinematics Viscosity at 40° Celcius	2.0265 cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.11% by wt.
6.	Cetane index	53.43
7.	Distillation range	IBP= 86.16° C
8.	85% Distilled at temp	319.6° C
9.	95% Distilled at temp	359.48° C
10.	FBP	366.37° C
The sample after removing the adulterants has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8203 g/ml
2.	Flash Point (Abel)	52.5° C
3.	Kinematics Viscosity at 40° Celcius	2.2150cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.15%
6.	Cetane index	52.89
7.	Distillation range	IBP= 158.18° C
8.	85% Distilled at temp	318.44° C
9.	95% Distilled at temp	356.60° C
10.	FBP	366.96° C
11.	Adulterant content	2.4%

On the basis of above analytical findings, the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except sulfur content.

As per the definition of “adulteration” mentioned in the motor speed and high speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is “Adulterated Diesel Fuel”.

Sealed remnant sample returned.”

- Container No- CCLU3854601

"The sample as received is in the form of yellowish oily liquid.
It is composed of mixture of hydrocarbon more than 70% by weight."

The sample as received has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8157 g/ml
2.	Flash Point (Abel)	15.1° C
3.	Kinematics Viscosity at 40° Celcius	2.1033 cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.12% by wt.
6.	Cetane index	53.58
7.	Distillation range	IBP= 84.09° C
8.	85% Distilled at temp	316.24° C
9.	95% Distilled at temp	355.09° C
10.	FBP	370.76° C
The sample after removing the adulterants has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8206 g/ml
2.	Flash Point (Abel)	51.1° C
3.	Kinematics Viscosity at 40° Celcius	2.3035 cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.12%
6.	Cetane index	52.85
7.	Distillation range	IBP= 160.84° C
8.	85% Distilled at temp	318.30° C
9.	95% Distilled at temp	354.28° C
10.	FBP	371.79° C
11.	Adulterant content	3%

On the basis of above analytical findings, the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except sulfur content.

As per the definition of "adulteration" mentioned in the motor speed and high speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is "Adulterated Diesel Fuel".

Sealed remnant sample returned."

- Container No- CCLU3898127

"The sample as received is in the form of yellowish oily liquid.
It is composed of mixture of hydrocarbon more than 70% by weight."

The sample as received has the following constants:		

Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.815 g/ml
2.	Flash Point (Abel)	9.6° C
3.	Kinematics Viscosity at 40° Celcius	2.10cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.12% by wt.
6.	Cetane index	53.91
7.	Distillation range	IBP= 76.47° C
8.	85% Distilled at temp	311.00° C
9.	95% Distilled at temp	343.70° C
10.	FBP	366.80° C

The sample after removing the adulterants has the following constants:

Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.821 g/ml
2.	Flash Point (Abel)	59.5° C
3.	Kinematics Viscosity at 40° Celcius	2.33 cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.12%
6.	Cetane index	53.69
7.	Distillation range	IBP= 170.1° C
8.	85% Distilled at temp	312.0° C
9.	90% Distilled at temp	326.6° C
10.	FBP	365.9° C
11.	Adulterant content	3.0%

On the basis of above analytical findings, the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except sulfur content.

As per the definition of “adulteration” mentioned in the motor speed and high speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is “Adulterated Diesel Fuel”.

Sealed remnant sample returned.”

- Container No- CNSU2044389

“The sample as received is in the form of yellowish oily liquid.
It is composed of mixture of hydrocarbon more than 70% by weight.”

The sample as received has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8153 g/ml
2.	Flash Point (Abel)	8.6° C
3.	Kinematics Viscosity at 40° Celcius	2.016 cst
4.	Ash Content	Nil

5.	Sulphur content by weight	0.11% by wt.
6.	Cetane index	61.20
7.	Distillation range	IBP= 77.30° C
8.	85% Distilled at temp	315.62° C
9.	95% Distilled at temp	354.61° C
10.	FBP	367.45° C
The sample after removing the adulterants has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8221 g/ml
2.	Flash Point (Abel)	61.5° C
3.	Kinematics Viscosity at 40° Celcius	2.296cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.13%
6.	Cetane index	52.46
7.	Distillation range	IBP= 163.23° C
8.	85% Distilled at temp	317.98° C
9.	95% Distilled at temp	353.40° C
10.	FBP	367.22° C
11.	Adulterant content	3.0%

On the basis of above analytical findings, the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except sulfur content.

As per the definition of “adulteration” mentioned in the motor speed and high speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is “Adulterated Diesel Fuel”.

Sealed remnant sample returned.”

- Container No- CSLU1157656

“The sample as received is in the form of yellowish oily liquid.
It is composed of mixture of hydrocarbon more than 70% by weight.”

The sample as received has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8155 g/ml
2.	Flash Point (Abel)	12.6° C
3.	Kinematics Viscosity at 40° Celcius	2.0232cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.14% by wt.
6.	Cetane index	53.14
7.	Distillation range	IBP= 84.61° C
8.	85% Distilled at temp	316.23° C
9.	95% Distilled at temp	352.67° C

10.	FBP	365.77° C
The sample after removing the adulterants has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8211 g/ml
2.	Flash Point (Abel)	54.9° C
3.	Kinematics Viscosity at 40° Celcius	2.2397 cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.13%
6.	Cetane index	52.57
7.	Distillation range	IBP= 164.90° C
8.	85% Distilled at temp	319.51° C
9.	95% Distilled at temp	357.30° C
10.	FBP	365.24° C
11.	Adulterant content	3%

On the basis of above analytical findings, the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except sulfur content.

As per the definition of “adulteration” mentioned in the motor speed and high speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is “Adulterated Diesel Fuel”.

Sealed remnant sample returned.”

- Container No- CSLU1284250

“The sample as received is in the form of yellowish oily liquid.
It is composed of mixture of hydrocarbon more than 70% by weight.”

The sample as received has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.815 g/ml
2.	Flash Point (Abel)	8.2° C
3.	Kinematics Viscosity at 40° Celcius	2.02cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.11% by wt.
6.	Cetane index	60.48
7.	Distillation range	IBP= 76.78° C
8.	85% Distilled at temp	319.23° C
9.	95% Distilled at temp	358.44° C
10.	FBP	364.35° C
The sample after removing the adulterants has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.820 g/ml
2.	Flash Point (Abel)	54.0° C

3.	Kinematics Viscosity at 40° Celcius	2.22 cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.12%
6.	Cetane index	52.94
7.	Distillation range	IBP= 160.37° C
8.	85% Distilled at temp	319.52° C
9.	95% Distilled at temp	357.37° C
10.	FBP	365.93° C
11.	Adulterant content	2.4%

On the basis of above analytical findings, the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except sulfur content.

As per the definition of “adulteration” mentioned in the motor speed and high speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is “Adulterated Diesel Fuel”.

Sealed remnant sample returned.”

- Container No- EMCU1564039

“The sample as received is in the form of yellowish oily liquid.
It is composed of mixture of hydrocarbon more than 70% by weight.”

The sample as received has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8156 g/ml
2.	Flash Point (Abel)	7.2° C
3.	Kinematics Viscosity at 40° Celcius	2.0967cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.116% by wt.
6.	Cetane index	53.19
7.	Distillation range	IBP= 88.0° C
8.	85% Distilled at temp	320.7° C
9.	95% Distilled at temp	367.4° C
10.	FBP	372.1° C
The sample after removing the adulterants has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8217 g/ml
2.	Flash Point (Abel)	48.5° C
3.	Kinematics Viscosity at 40° Celcius	2.387cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.12%
6.	Cetane index	52.71
7.	Distillation range	IBP= 154.3° C

8.	85% Distilled at temp	316.7° C
9.	95% Distilled at temp	354.5° C
10.	FBP	371.3° C
11.	Adulterant content	2.5%

On the basis of above analytical findings, the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except sulfur content.

As per the definition of “adulteration” mentioned in the motor speed and high speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is “Adulterated Diesel Fuel”.

Sealed remnant sample returned.”

- Container No- LCUU0195992

“The sample as received is in the form of yellowish oily liquid.
It is composed of mixture of hydrocarbon more than 70% by weight.”

The sample as received has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8157 g/ml
2.	Flash Point (Abel)	13.1° C
3.	Kinematics Viscosity at 40° Celcius	2.08 cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.13% by wt.
6.	Cetane index	53.35
7.	Distillation range	IBP= 82.71° C
8.	85% Distilled at temp	316.83° C
9.	95% Distilled at temp	356.55° C
10.	FBP	367.37° C
The sample after removing the adulterants has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8209 g/ml
2.	Flash Point (Abel)	50.1° C
3.	Kinematics Viscosity at 40° Celcius	2.32cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.14%
6.	Cetane index	52.49
7.	Distillation range	IBP= 159.3° C
8.	85% Distilled at temp	315.6° C
9.	95% Distilled at temp	351.7° C
10.	FBP	370.4° C
11.	Adulterant content	3.3%

On the basis of above analytical findings, the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except sulfur content.

As per the definition of “adulteration” mentioned in the motor speed and high speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is “Adulterated Diesel Fuel”.

Sealed remnant sample returned.”

- Container No- CCLU3766711

“The sample as received is in the form of yellowish oily liquid.
It is composed of mixture of hydrocarbon more than 70% by weight.”

The sample as received has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8157 g/ml
2.	Flash Point (Abel)	14.1° C
3.	Kinematics Viscosity at 40° Celcius	2.02 cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.13% by wt.
6.	Cetane index	53.27
7.	Distillation range	IBP= 83.11° C
8.	85% Distilled at temp	316.14° C
9.	95% Distilled at temp	354.45° C
10.	FBP	367.60° C
The sample after removing the adulterants has the following constants:		
Sr.No.	Parameter	Result
1.	Density at 15° Celcius	0.8205 g/ml
2.	Flash Point (Abel)	51.5° C
3.	Kinematics Viscosity at 40° Celcius	2.29cst
4.	Ash Content	Nil
5.	Sulphur content by weight	0.14%
6.	Cetane index	52.67
7.	Distillation range	IBP= 153.2° C
8.	85% Distilled at temp	316.2° C
9.	95% Distilled at temp	354.7° C
10.	FBP	370.2° C
11.	Adulterant content	2.0%

On the basis of above analytical findings, the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except sulfur content.

As per the definition of “adulteration” mentioned in the motor speed

and high speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is "Adulterated Diesel Fuel".

Sealed remnant sample returned."

10. Findings of the test reports are produced as under:

"The sample after removal of adulterants meets the requirements of Automotive Diesel Fuel as per IS:1460:2017 except the Sulphur content. As per the definition of "adulteration" mentioned in the motor speed and High- speed Diesel (Regulation of Supply, Distribution and Prevention of malpractices) Order, 2005, the sample under reference is Adulterated Diesel Fuel."

The test report also confirmed that the percentage of adulterants present in the sample varied from 2 to 3% , indicating purity of 97% to 98% Diesel fuel. Further, the Test report also reveals that the CRCL, JNCH conducted tests- (i) Without removal of adulterants as received, and (ii) After removal of adulterants. In the first case, the FLASH Point was found as between 7.2 to 15.1 (7.2, 7.2, 8.2, 8.6, 8.6, 9.6, 12.6, 13.1, 14.1 & 15.1) Degree Celsius whereas in second case (after removal of adulterants) the FLASH point was found between 48.5 to 61.5 (48.5, 50.1, 51.1, 51.5, 52.5, 54, 54.9, 56, 59.5 & 61.5) Degree Celsius. It may be mentioned that flash point of the samples in the second case (after removal of adulterants) confirms to the standards of High-Speed Diesel Oil.

11. Vide the test reports it is evident that impugned goods are adulterated diesel fuel with only 2.0-3.0% of adulterants. It is clear that the adulterants have been deliberately mixed in diesel in order to camouflage the actual goods i.e. Automotive Diesel Fuel as per IS:1460:2017, which can straight away be used as Automotive Diesel Fuel in automobiles in the open market as no further processing is required. Therefore, the mixing of adulterants appears to be an ingenious modus operandi and the mensrea (conspiracy/malafide intention) to smuggle Diesel into the Indian Territory which is contrary to the restrictions/ Prohibitions imposed by the existing Laws, Rules and Regulations (viz. Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005, Petroleum Act, 1934, Petroleum Rules 2002) is apparent. Further, such adulterated Automotive Diesel Fuel is an environmental hazard and injurious to public health at large. Hence, allowing adulterated Diesel Fuel to enter into domestic market outside Customs Area will tantamount to violations of fundamental rights of the Indian citizen who use unadulterated Diesel fuel, further the use of adulterated Diesel fuel is also an environmental hazard which is clearly banned under Motor Spirit and High Speed Diesel(Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005.

12. The initial CRCL test report dated 15.06.2024 in respect of the

sample drawn by the Docks officer on 10.06.2024 and 11.06.2024 mentioned that the goods meet the characteristics of Base Oil (containing more than 70% hydrocarbon by weight). However, the test reports received in respect of the samples drawn by CIU indicate that the goods are Automotive Diesel Fuel as per IS:1460:2017 instead of Base Oil. Such divergent results of samples drawn by Docks officer and sample drawn by CIU raise doubts regarding the genuineness of the initial sample submitted to CRCL, JNCH on 11.06.2024. Hence, the office of CIU initiated the investigation in the matter in respect of the possibility of any replacement of the samples done in the process of forwarding the sample to CRCL, JNCH, as so much of variation in composition of goods is not possible. Thus, it is evident that the initial sample drawn by the Docks officer can no longer be relied upon for deciding the future course of action in the instant case.

13. The outcome of the test reports in respect of ten (10) containers proves that the importer has imported 'Automotive Diesel Fuel' conforming to the IS:1460:2017 except sulphur content in the guise of declared goods i.e. 'Process Oil-40'. Thus, there is reason to believe that the impugned goods imported vide bill of entry no. 3730722 dtd 29.05.2024 are liable for absolute confiscation under section 111(d) and 111(m) of the Customs Act 1962. Consequently, the goods covered under the bill of entry were seized under section 110 of the Customs Act 1962 vide Seizure memo No 06/2024 dated 20.08.2024 (RUD-10).

14. Based upon the outcome of all the test reports dated 22.07.2024, 23.07.2024, 25.07.2024, 26.07.2024 & 30.07.2024 wherein RSS was drawn by CIU, JNCH, it has been established that the goods covered under the subject bill of entry are Adulterated Diesel Fuel contrary to the Base Oil which was the outcome of the initial test report dated 15.06.2024 for the sample drawn by the Docks Officer. Thus, this office initiated investigation in respect of the potential sample replacement.

15. In order to ascertain the authenticity of drawl of RSS on 10.06.2024 and 11.06.2024 CIU, JNCH vide email dated 16.08.2024 has sought the grounding report for the containers covered under Bill of entry no.3730722 dated 29.05.2024 from CONEX CFS. Accordingly, the CFS vide email communication dated 16.08.2024 (RUD- 11) provided the requisite grounding report which suggested that most of the containers were placed under direct surveillance of HAZ point camera. Therefore, scrutiny of CCTV footage installed at HAZ point camera of CONEX CFS was carried out. On scrutiny, movement of 3 persons alongside the containers covered under Bill of entry no.3730722 dated 29.05.2024 was observed, namely : (1) Shri Sagar Mhatre (employee of CB Aries Cargo Movers)(2) Shri Rutik Nalavade (employee of CB I S Machado) and (3) Shri Atul Mulay (private person). All these 3 persons were assistants of Shri Hakeem Shaikh, Customs Broker (Director of M/s Aries Cargo Movers) who employed them for ground work

related to examination, drawl of sample and submission the same to the scaleman etc.

16. That the events in chronological manner from scrutiny of CCTV footage of *HAZ point camera* at CONEX CFS are tabulated as TABLE A:

TABLE-A

Sr. No.	Camera Name/ Area	Date and Time	Incident at CONEX CFS
1.	HAZ point PTZ	10.06.2024/ 13:06 p.m.	Seal cutting of the 08 containers was done. Shri Rutik Nalavade was observed assisting the seal cutter and opening gates of few containers placed near HAZ point area.
2.	HAZ point PTZ	10.06.2024/ 14:26 p.m.	Shri Rutik Nalavade approaches the containers and opens the gate of all containers and leaves again.
3.	HAZ point PTZ	10.06.2024/ 19:00 p.m.	Shri Sagar Mhatre, closed the gates of all containers and left along with Shri Atul Mulay.
4.	HAZ point PTZ	10.06.2024 11.06.2024	No movement of any person was seen near the said containers.

17. The events in chronological manner from scrutiny of CCTV footage at M/s CONEX CFS and M/s Balmer& Lawrie CFS (where scaleman with whom the sample was submitted to be tested sits) tabulated below as TABLE-B1 & B2

TABLE-B1

Sr. No.	Camera Name/ Area	Date and Time	Incident at CONEX CFS
1.	HAZ point PTZ	10.06.2024/ 12:05 p.m.	Shri Sagar Mhatre drops Shri Rutik Nalavade near outside of CONEX CFS where Shri Rutik was seen carrying a Large polybag which appears to contain filled plastic cans.
2.	WH0706	10.06.2024/ 12:03 p.m.	Another angle for above mentioned incident.
3.	Out wicket gate	10.06.2024/ 12:03 p.m.	Shri Rutik Nalavade Enters with samples from Out gate
4.	HAZ point	10.06.2024/ 12:07 p.m.	Shri Rutik Nalavade places the bag containing samples in front of a container

5.	Backside HM04 PTZ	10.06.2024/ 12:00 Noon	After dropping Shri Rutik Nalavade near outgate, Shri Sagar Mhatre moves proceeds towards the in-gate on his bike.
6.	In gate 05	10.06.2024/ 12:07 p.m.	Shri Sagar Mhatre stops his bike near in-gate
7.	In gate 05	10.06.2024/ 12:09 p.m.	Shri Sagar Mhatre enters CFS from IN-gate
8.	In gate 1	10.06.2024/ 12:09 p.m.	Shri Sagar Mhatre enters CFS from IN-gate
9.	In gate 2	10.06.2024/ 12.10 p.m.	Shri Sagar Mhatre enters CFS from In-gate
10.	HAZ point	10.06.2024/ 12:25 p.m.	Shri Sagar Mhatre picks up the sample bag which was placed earlier by Shri Rutik Nalavade in front of the container (as mentioned at Sr. No. 4)
11.	Admin Building Examination area	10.06.2024/ 12:37 p.m.	Shri Sagar Mhatre proceeds towards the custom area
12.	Custom Office	10.06.2024/ 12:49 p.m.	Shri Sagar Mhatre enters the chamber of docks superintendent along with the bag containing the samples
13.	Custom Passage	10.06.2024/ 16:49 p.m.	Docks superintendent Shri Sunil Kumar enters his chamber
14.	Custom Passage	10.06.2024/ 16:52 p.m.	Shri Atul Mulay enters the chamber of Docks Superintendent
15.	Custom Passage	10.06.2024/ 17:39 p.m.	Shri Atul Mulay leaves the chamber with the bag containing the one set of samples.
16.	Out gate Camera	10.06.2024/ 17:51 p.m.	Shri Atul Mulay exits from the outgate carrying the bag plastic bag along with Shri Rutik Nalavade
17.	Custom Passage	11.06.2024/ 16:47 p.m.	Shri Sagar Mhatre enters the Superintendent cabin passage empty handed
18.	Custom Passage	11.06.2024/ 17:01 p.m.	Shri Sagar Mhatre exits the customs passage with the bag plastic bag containing samples.

Table-B2

Sr. No.	Camera Name/ Area	Date and Time	Incident at Balmer Lawrie CFS
1.	Custom Passage	10.06.2024/17:57 p.m.	Shri Atul Mulay submits one set of samples to the scaleman
2.	Customs Passage	11.06.2024/17:47 p.m.	Shri Sagar Mhatre submits the second set of samples to the scaleman.

To understand the exact chronology of events, the role of persons involved in submission of samples carried from outside is summarized in the below Table:

Sr. No.	Name of Person	Role of Person
1	Shri Hakeem Shaikh	Shri Hakeem Shaikh was the representative of Customs Broker. The event of bringing of sample from outside and submission of the same to Customs had happened on his directions. (as narrated at para 7.4)
2	Shri Sagar Mhatre	Shri Sagar Mhatre (employee of CB Aries Cargo Movers), Shri Rutik Nalvade (employee of CB I S Machado) and Shri Atul Mulay (private person) trio were the assistant of Shri Hakeem Shaikh who executed the plan of Shri Hakeem Shaikh in submission of sample carried out from outside. Shri Sagar Mhatre and Shri Rutik Nalavade carried the samples from outside. Shri Atul Mulay took the sample bag from the cabin of Docks Superintendent. (as narrated at para 7.5, 7.6 and 7.7)
3	Shri Rutik Nalvade	
4	Shri Atul Mulay	

All the above footages have been obtained from the respective CFSs under section 63B of Bhartiya Sakshya Adhiniyam, 2023 vide letters dated 06.08.2024, 07.08.2024, 14.08.2024 and 19.08.2024 **(RUD-12)**.

18. Based upon the HAZ point camera, it was observed that most of the containers covered under subject Bills of Entry were placed near HAZ area in the CONEX CFS. The seal cutting of these containers was done at 01:06 PM on 10.06.2024 with no customs officers in attendance. Further, it was observed that sampling/examination was not done on 10.06.2024 and 11.06.2024 for the said containers covered vide BE No. 3730722 dated 29.05.2024. This can also be established by the CCTV footage wherein the docks superintendent is seen entering in his chamber at the CFS for the first time at 04:49 PM on 10.06.2024, after which no samples were drawn as per the CCTV footage, whereas samples purporting to the same BE were handed over to the scaleman by 05:49 pm on 11.06.2024 at Balmer Lawrie CFS situated some distance away, without the sepoy or any other customs officer accompanying the same.

19. Based upon the CCTV footages as mentioned above, it is evident that the RSS were brought into the CONEX CFS by Shri Sagar Mhatre (employee of CB M/s Aries Cargo) and Shri Rutik Nalavade (employee of CB M/s I S Machado) from outside and the same were kept in the passage outside the chamber of docks officers. Further, it is observed that the one set of RSS was taken from the chamber of docks officer and then submitted to the scaleman at M/s Balmer & Lawrie CFS by Shri Atul Mulay (private person) accompanied by Shri Rutik Nalavade on 10.06.2024 pertaining to M/s Raj Traders. Further, the remaining

second set of samples was obtained and submitted to the scaleman at Balmer Lawrie CFS by Shri Sagar Mhatre on 11.06.2024 pertaining to Bill of Entry No. 3730722 dated 29.05.2024 of M/s Global International. Shri Sagar Mhatre along with Shri Atul Mulay and Shri Rutik Nalavade has brought the samples from outside and submitted the same to scaleman for onward submission on 10.06.2024 and 11.06.2024 respectively.

20. Further, in order to ascertain the fact regarding the manner in which the examination and handling of the samples was conducted, statement of Shri Sunil Kumar, Superintendent and Shri Lahu Hasuram Tandel, Hawaldar was recorded as per 5.5.1 (b) of the Vigilance Manual. Shri Sunil Kumar Superintendent in his statement dated 19.08.2024 has stated that he was not aware of the containers of the subject bill of entry were present at the HAZ point of the CONEX CFS and thereby examination/sampling for the containers placed at the said point did not take place. Therefore, prima facie it appears that the samples were not drawn from all the containers. Further, due diligence was not exercised for sealing of the samples drawn (if any) and further submission to the Scaleman sitting at the Balmer & Lawrie CFS as the samples in the instant case were handled by private persons/CHA for sealing and further submission to the Scaleman.

21. Since it has been established that the examination/sampling did not take place and the samples pertaining to Bills of Entry were brought from outside. Summons to the following persons were issued for recording of statement under section 108 of the Customs Act 1962 tabulated as under:

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Sr. No.	Name of the Person	Summons for the date	Response
1.	Shri Sagar Mhatre	30.07.2024, 13.08.2024, 14.08.2024, 17.08.2024, 19.08.2024, 20.08.2024	Shri Sagar Mhatre did not respond to the summons dated 30.07.2024. Upon conducting the search at residence of Shri Sagar Mhatre on 13.08.2024, he agreed to accompany CIU team and his statement was recorded on 13.08.2024 and 14.08.2024. Thereafter, Shri Sagar Mhatre has been absconding and is not responding to phone calls or summons.
2.	Shri Hakeem Shaikh	30.07.2024, 13.08.2024, 17.08.2024, 19.08.2024	Shri Hakeem Shaikh has responded to summons over email stating that he has some medical condition and therefore he is not able to visit the office of CIU. Shri Hakeem Shaikh has stopped responding to the calls and is absconding since.
3.	Shri Bimal Shah	16.08.2024, 17.08.2024,	In response to the summonses issued, Shri Bimal Shah has stated that CIU may

		19.08.2024, 28.08.2024	consider his statement given in the case of M/s Ideal Impex and has not come forward to record statement and he is also absconding.
4.	Smt Vaishali Bimal Shah (Partner M/s Global International)	22.08.2024, 23.08.2024, 28.08.2024	Smt Vaishali Bimal Shah refused to come forward to record the statement and has appointed Shri Gurinder Singh Kochar as an authorised representative on behalf of her. It is to note that the notary document done for this appointment appears forged as there is mismatch of dates which clearly indicates that the agreement was prepared clandestinely as an afterthought to avoid the enquiry.
5.	Shri Rutik Nalavade	19.08.2024	Shri Rutik Nalavade has not responded to Summons and is absconding.
6.	Shri Atul Mulay	19.08.2024	Shri Atul Mulay has not responded to summons and is absconding.

22. The non-cooperation of importer M/s Global International in response to examination and summons issued by the Central Intelligence Unit (CIU), JNCH raises concerns regarding the transparency and compliance of Customs Act, 1962 and its allied acts by the importer. This apparent lack of cooperation by the importer appears to be a deliberate attempt to obstruct the investigation, signaling potential motives that extend beyond mere reluctance. The reluctance to comply with these procedures raises questions about the importer's adherence to legal and regulatory requirements. It raises concerns about potential dilatory tactics to obstruct the investigation and suggests a mens-rea on the part of the importer to withhold vital information about the downward supply chain of petroleum products.

23. The following searches were conducted in this instant case tabulated as under:

TABLE- D

Sr. No.	Search Address (persons)	Outcome
1.	9/825, Govathane, Raigarh-410206, Maharashtra- Residence of Shri Sagar Mhatre- 13.08.2024	Search was conducted at residence of Sagar Mhatre. Sagar Mhatre was found hiding inside the bathroom. Upon requesting, he accompanied the team CIU to the office of CIU for recording the statement.
2.	M/s Aries Cargo Movers, Office No. 801, Crystal Plaza, Guru Hargovindji Road, Opp.	Search was authorised at office of CHA M/s Aries Cargo Movers. Search could not be carried out as the office was

	Solitaire Corporate Park, Chakala, Andheri East 400093- 16.08.2024	locked.
3.	M/s Ovi Transport, Flat No. C302, Ashapura Regancy, Kamothe, Plot No. 25, Sector 6, Raigadh, Navi Mumbai, Maharashtra, 410209- 16.08.2024	Shri Atul Mulay. Search was executed but no conclusive information was obtained regarding Shri Atul Mulay.
4.	A3, LIG 1A 39, Sector 2, Kalamboli city, Navi Mumbai, Maharashtra- 410218- 17.08.2024	Search was authorised at residence of Shri Atul Mulay. Search could not be carried out as the premises were locked.
5.	4204, Tower 2, Auris Serenity, Kanchpada, Dmonte Lane off link road, near Malad Industrial estate Mumbai- 20.08.2024	Search was authorised at residence of importer Shri Bimal Shah. He was not present at home during the search.
6.	Office No. 404, 4 th Floor, The Jewel Premises Coop Hsg. Soc. Ltd. Mama parmanand Marg, Girgaon, Opera House, Near Roxy Cinema, Mumbai- 400004- 20.08.2024	Search was authorised at office of importer M/s Raj Traders and M/s Global International as both firms have the same address. Search could not be carried out as the office was locked.

24. In the view of the outcome of the search conducted and summons issued it appears that the person involved in the said case namely Shri Bimal Shah, Smt Vaishali Bimal Shah, Shri Hakeem Shaikh, Shri Sagar Mhatre, Shri Atul Mulay and Shri Rutik Nalavade are not cooperating with the investigation. Further, Shri Sagar Mhatre vide his statement dated 13.08.2024 and 14.08.2024(**RUD-13**) has stated that the replacement of the samples for the goods covered by Bill of Entry No. 3730722 dated 29.05.2024 was done by him on the directions of Shri Hakeem Shaikh, representative of CB M/s Aries Cargo Movers.

25. Shri Sagar Mhatre vide his statement dated 13.08.2024 interalia stated that:

- He had been working as a labour in all CFS in Nhava Sheva on daily wages as he had been issued BCCAA pass for all the CFS entry and labor work in CFS. His work is to do loading and unloading of cargo, sorting of cargo, to help in drawing of samples during examination conducted by various agencies and docks officer of Customs. He is into labor work since 2013.
- As to how he came in contact with Aries Cargo when he worked on

daily wages for the CFS, he stated that he met a person by name Hakeem Shaikh in Seabird CFS eight months ago i.e. in the month of November 2023 as he had helped to open his cargo declared as oil for examination as the said cargo imported in 80 containers where put on hold by the R &I department of Customs. Further, at that particular time, he offered him a job in his firm to handle all the cargo declared as oil imported in flexi bags at a rate of Rs.800/- to 1200/- per day based on the import cargo or depending on import consignment whenever imported.

- He was assigned the job of sampling of cargo declared as oil in front of the Customs Officer during examination and hand it over to scale man for laboratory test in a 1 litre plastic bottle sealed by Customs seal.
- As to the cargo covered under the Bills of entry 3729714 and 3730722 both dated 29.05.2024 filed by M/s Aries Cargo on behalf of the importers M/s. Raj Traders and M/s Global International, he stated that it was declared as oil of which sampling was done by him and forwarded to the laboratory for testing as directed by Hakeem Shaikh.
- He never visited the office of Hakeem Shaikh nor importers office. But he always used to communicate with him on his mobile having number +919819945946.
- The cargo covered under the said two bills of entry was declared as oil. But during drawing the samples of liquid from flexi bags, it smelled like kerosene or somewhat like diesel. But his job was to help the officer in drawing the sample during examination and forward it to the laboratory so he did not think of asking about the liquid being a kerosene or diesel. His work was to follow the directions given by Hakeem Shaikh. In this shipment, he had helped the officer in drawing the samples and the said samples were drawn in presence of Hakeem Shaikh. He had drawn 04 samples of M/s Raj Traders and out of which 02 samples were forwarded to the laboratory and 02 samples were handed over to Hakeem Shaikh as directed by him. Further the 02 samples handed over to Hakeem Shaikh was also in sealed condition but was drawn in absence of Customs officer.
- He never asked Hakeem Shaikh about the liquid in the flexi bags imported by the importer.
- The samples drawn on 10th and 11th were handed over to Atul on 10th which was handed to scale man by Atul and handed over by him to scale man which was replaced by him with processed oil as directed by Hakeem Shaikh. Thus, both the samples drawn were replaced with processed oil.
- Further, he stated that he followed the orders of Hakeem Shaikh and he is not responsible nor he had any knowledge of the cargo imported in the flexi bags covered under the two bills of entry but Hakeem Shaikh had full knowledge of the cargo covered under the said two

Bills of entry and he had replaced the samples drawn from the flexi bags and replaced with processed oil on his directions and handed over to scale man. He had followed the orders of Hakeem Shaikh. Further he did not want to submit his mobile phone as it contains lot of evidence related to the case.

26. Further, Shri Sagar Mhatre vide his statement dated 14.08.2024 interalia stated that:

- Total 4 sample pertaining to Bill of entry No. 3730722 dated 29.05.2024 filed by M/s Global International and Bill of Entry No. 3729714 dated 29.05.2024 filed by M/s Raj Traders were drawn on the same day i.e. 10.06.2024.
- W.r.t. observation from CCTV footages at CONEX CFS that the total 9 containers pertaining to both above bills of entry were placed under HAZ area of the CFS and the seal cutting took place at 13:06 hrs on 10.06.2024 and gates of all these containers were closed by him at 19:00 hrs on the same day, however, the sampling was not done on both 10.06.2024 and 11.06.2024, he stated that he was not present at the HAZ area before the closing of containers doors. He did not know what happened to those containers prior to him closing the doors.
- The sampling was done by Shri Rutik Nalavade on 10.06.2024 for both the bills of entry. Then, all the 4 samples were handed over to him (Shri Sagar Mhatre) by Rutik. All these samples were handed over to the Superintendent of Customs on 10.06.2024.
- The sealing of samples pertaining to M/s Raj Traders was done by Shri Atul Mulay on 10.06.2024. The said sealing was done at Balmer & Lawrie CFS and then he delivered the same to the scaleman at the Balmer & Lawrie CFS along with Shri Rutik Nalavade. On 11.06.2024, the samples pertaining to M/s Global International was handled by him for sealing at Balmer & Lawrie CFS and the same was delivered to the scaleman by him.
- W.r.t. him bringing 4 fresh Oil samples in a red bag at 12:50 Hrs on 10.06.2024 based upon the perusal of CCTV footage at customs passage of Conex CFS, he stated that Shri Rutik Nalavade handed over to him the said samples near customs area and he submitted those samples inside chamber of Superintendent sir on 10.06.2024.
- On being shown CCTV footage in which seal cutting was done at 01:06 PM on 10.06.2024, then, how samples could be collected and delivered at 12:50 pm on 10.06.2024 in the chamber of Superintendent, he stated that he is not aware when the seal cutting for the containers took place because he was not present at the time of seal cutting. Four fresh oil samples were submitted by him to the office cabin of superintendent at 12:50 pm on 10.06.2024. Same is evident from CCTV footages that He was not present at the time of

seal cutting.

- As to the task performed by Shri Hakeem Shaikh in clearance of the goods pertaining to the abovementioned bills of entry, he stated that the TR proforma for both the bills of entry was given to him by Shri Hakeem Shaikh. He gave TR proforma for M/s Raj Traders to Shri Atul Mulay on 10.06.2024 for submission to Scaleman. The samples for the said bills of entry were handled by Shri Hakeem Shaikh on several instances.
- As to why he was reluctant to submit his phone for further investigation, he stated that he destroyed his phone as it has several documents pertaining to the said case. He is now carrying basic non smartphone of Hero Brand.
- As to knowing any person with surname as Shri G.S. Kochar, he stated that he was introduced to him by Shri Hakeem Shaikh at Seabird CFS where he was present during some oil case of 80 containers booked by R & I department. Shri Hakeem also informed him that he is the main person behind import of the oil consignments. He was referred by Shri Hakeem as 'Gullu'.
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27. In view of the above, CIU/JNCH has unearthed a nexus of importer and Customs Broker wherein they attempted to import prohibited goods i.e. Adulterated Diesel Oil by mis-leading Customs. To investigate the case CIU/JNCH issued various summons to Importer, Customs Broker and other private persons as per para 3.13 above. Despite four Summons for the date 16.08.2024, 17.08.2024, 19.08.2024 and 28.08.2024 Shri Bimal P Shah, partner of M/s Global International and Proprietor of M/s Raj Trader has not turned up for recording of statement under section 108 of Customs Act, 1962. On further investigation he has been found absconding. On the similar lines 4 Summons dated 30.07.2024, 13.08.2024, 17.08.2024 and 19.08.2024 has been issued to Shri Hakeem Shaikh (M/s Aries Cargo Movers) to which he has also not turned up. Further, it has come to notice that Shri Sagar Mhatre (employee of M/s Aries Cargo), Shri Rutik Nalavade and Shri Atul Mulay are not responding to the Summons and are absconding. Smt. Vaishali Bimal Shah, partner of M/s Global International also had not appeared for recording her statement in response to the Summons issued by CIU/JNCH. She refused to come forward to record the statement and has appointed Shri Gurinder Singh Kochar as an authorized representative on her behalf. However, Shri Gurinder Singh Kochar also did not appear for recording his statement on her behalf. Accordingly, CIU JNCH issued **Look Out Circular** on 26.08.2024 (**RUD-14**) in respect of Shri Bimal P Shah, Shri Sagar Mhatre, Shri Hakeem Shaikh, Shri Rutik Nalavade and Shri Atul Mulay.

28. For further investigation, one more summons under section 108 of Customs Act, 1962 has been issued to all the concerned persons on 23.07.2025 to record their statement on 23.07.2025/25.07.2025 with a

plan to serve the summons by hand. Accordingly, officers of CIU, JNCH visited on the address of concerned persons to serve the summons by hand. The details of visit are as under :

Sr. No.	Name of the Person	Address	Brief details
1	Shri Bimal Shah and Shri Gurinder Singh Kochar (On behalf of Mrs. Vaishali Shah)	4204, Tower 2, Auris Serenity, Kanchpada, Dmonte Lane off link road, near Malad Industrial estate Mumbai-	The officers visited the residential premises of Shri Bimal Shah and Mrs. Vaishali Shah on 23.07.2025 to serve the summons. Shri Pravin Shah father of Shri Bimal Shah informed that neither Shri Bimal Shah nor Smt. Vaishali Shah is present. However, he received summons on behalf of Shri Bimal Shah. However, he refused to receive summons on behalf of Shri Gurinder Singh Kochar (Authorised representative of Mrs. Vaishali Shah.) as he does not reside at this address.
		Office No. 404, 4th Floor, The Jewel Premises Coop Hsg. Soc. Ltd. Mama parmanand Marg, Girgaon, Opera House, Near Roxy Cinema, Mumbai-400004	The officers visited the office premises of M/s Raj Traders and M/s Global International to serve the summons to Shri Bimal Shah and Shri Gurinder Singh Kochar on behalf of Mrs. Vaishali Shah on 23.07.2025 to serve the summons. The officers served the summons in the name of Shri Bimal Shah and in the name of Shri Gurinder Singh Kochar (on behalf of Mrs. Vaishali Shah) to Shri Raj Dedhia (Mobile No. 8169870811)
		Shop No. 7, Ground Floor, Aman Chambers, Mama Parmanand Marg, Opera House, Mumbai, Maharashtra – 400 004.	The officers visited the office premises of M/s Raj Traders and M/s Global International to serve the summons to Shri Bimal Shah and Mrs. Vaishali Shah on 23.07.2025 to serve the summons. The officers verified that the premises was in the name of Mr. Pukhraj Sawalchand Bafna who informed that 2 years back Mr. Bimal Shah had left the premises and Mr. Pukhraj gave their office to new tenants.
2	Mr.	M/s Aries	The officers visited the office premises of Mr.

	Hakeem Shaikh	Cargo Movers, Office No. 801, Crystal Plaza, Guru Hargovindji Road, Opp. Solitaire Corporate Park, Chakala, Andheri East 400093-	Hakeem Shaikh on 23.07.2025 to serve the summons. The office premises were locked. Therefore, the officers pasted the summons on the door of the office. The officers enquired about the address from Shri Uday Patil, Chairman of the society. He informed that the office remains closed from last 8-10 months. He informed that the premises were on rent and the owner of the premises is Mr. Arora.
		Flat No. 1201. Tower 3 (Banyan), Orchard Residency, Near R City Mall, Ghatkopar West, Mumbai.	The officers visited the residential premises of Shri Hakeem Shaikh on 23.07.2025. Smt. Minaj Shaikh W/o Shri Hakeem Shaikh received the Summons. She informed that Shri Hakeem Shaikh is not in Mumbai for the past one month. She informed that she does not know his whereabouts. However, she provided his mobile no. 9819524088.
3	Shri Sagar Mhatre	9/825, Govathane, Raigarh-410206, Maharashtra-Residence of Shri Sagar Mhatre	<p>The officers visited the residential premises of Shri Sagar Mhatre on 23.07.2025 to serve the summons to record his statement on 23.07.2025 and 25.07.2025. Shri Sagar Mhatre received the summons for statement on 23.07.2025 and stated that he will come on 24.07.2025 for statement. Further, Smt. Pranali Sagar Mhatre, w/o – Shri Sagar Mhatre received the summons for statement on 25.07.2025.</p> <p>A search was also conducted under panchnama on 23.07.2025 (RUD-15) by officers of CIU at the residential premises of Shri Sagar Mhatre. During search following documents were seized :</p> <p>BCBA Pass Card No. 1892 of Shri Sagar Mhatre valid upto 31.03.2026.</p> <p>One Polythene Carry Bag of Customs Related Documents alongwith some summons issued by CIU, JNCH</p> <p>Mobile Handset with IMEI No. SIM1-860950053581562113</p> <p>SIM2- 860950053581570113</p>

			<p>To participate in the forensic procedure of the mobile with above description, a letter was sent to Shri Sagar Mhatre vide letter 28.07.2025 (RUD-16) by hand to conduct forensic on 29.07.2025. Mrs. Pranali Sagar Mhatre, wife of Shri Sagar Mhatre received the same on 28.07.2025. However, neither Shri Sagar Mhatre nor any of his representatives came forward to participate in the forensic procedure of the above mobile phone. They did not respond for the same. Therefore, the forensic procedure has been under panchnama dated 29.07.2025 (RUD-17) at Cyber Forensic Science Laboratory, Ground Floor, Directorate of Revenue Intelligence Building (UTI Building), Opp. Patkar Hall, New Marine Lines, Mumbai – 400020.</p> <p>On perusal of extracted data, no relevant information with respect to this case has been found.</p>
4	Shri Rutik Nalavade	802, Crystal Plaza, Guru Hargovindji Road, Opp. Solitaire Corporate Park, Chakala, Andheri East 400093-	Shri Rutik Nalavade was the employee of CB M/s I S Machado. The officers visited the office premises of CB M/s I S Machado on 23.07.2025 to serve the summons to Shri Rutik Nalavade. The office premises were locked. Therefore, the officers pasted the summons on the door of the office. The officers enquired about the address from Shri Uday Patil, Chairman of the society. He informed that the office remains closed from last 8-10 months. He informed that the premises were on rent and the owner of the premises is Mr. Arora.
5	Shri Atul Mulay	M/s Ovi Transport, Flat No. C302, Ashapura Regancy, Kamothe, Plot No. 25, Sector 6, Raigadh, Navi Mumbai, Maharashtra, 410209-	The officers visited the premises on 23.07.2025 to serve the summons to Shri Atul Mulay. The premises were in the name of Shri Dattatraya Pandharinath More. Shri More informed that they are residing at this address since 2011. However, they do not know about any person in the name of Shri Atul Mulay or M/s Ovi Transport.

		A3, LIG 1A 39, Sector 2, Kalamboli city, Navi Mumbai, Maharashtra- 410218	The officers visited the premises on 23.07.2025 to serve the Summons. On visit the officers noticed that the premises is in the name of Smt. Hirabai Sakharam Kawate. Her son Mr. Santosh Kawathe informed telephonically that Mr. Atul Mulay was on rent on this address. He left the premises and shifted somewhere in Taloja approximately three months ago. His whereabouts are not known to him.
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Despite hand delivery of summons Shri Bimal Shah did not appear for recording their statement on 25.07.2025. Moreover, Shri Bimal Shah on behalf of M/s Raj Traders and M/s Global International vide their email dated 25.07.2025 requested to withdraw further summons on their repeated grounds of re-sampling in presence of their authorized representative Shri Gurinder Singh Kochar and re-testing of the same. In this regard, it is on record that CIU JNCH vide emails/letters dated 02.07.2024, 03.07.2024, 04.07.2024, 05.07.2024, 08.07.2024 and 09.07.2024 had requested the importer multiple times to participate in the investigation and sampling process. However, in his reply, the importer refused to participate in the sampling process and had sent baseless and provocative emails which were unwarranted. Therefore, the officers of CIU, JNCH had drawn representative samples under panchnama dated 10.07.2024 to carry out further investigation.

Moreover, they (Shri Bimal Shah and Mrs. Vaishali Shah) also disregarded the judgment of Hon'ble Bombay High Court Order dated 06.08.2024.

The importer filed the Writ petition which was registered under WP No. 10062 of 2024 before this Hon'ble Bombay High Court and the importer had succeeded in obtaining an order dated 23.07.2024 from the Hon'ble High Court in his favour by presenting misleading/incorrect/incomplete facts.

Thereafter, an Interim Application was filed by the department to recall the order dated 23.07.2024 by presenting all the facts before the Hon'ble High Court which were earlier deliberately suppressed by the importer. Based upon the department's submission before the Hon'ble High Court, the Hon'ble High Court vide its order dated 06.08.2024 passed an order which reads as below:

“the order dated 23.07.2024 stands recalled. We, however, clarify that there is no impediment for the customs to continue with its investigation and follow due process.”

Accordingly, the original Writ petition No 10062 of 2024 which was earlier disposed of, has been reinstated and registered back in the pre admission stage.

Now, when the investigation is in its final stage and all the allegations against the importer have already been substantiated with evidences during the investigation by CIU/JNCH, the request of importer for re-sampling appears to be a delay tactic to avoid legal repercussions and the same cannot be entertained by the department at this stage.

Further, one more set of summons was issued to Mr. Bimal Shah and Shri Gurinder Singh Kochar (Authorized Representative of Mrs. Vaishali Shah) under section 108 of Customs Act, 1962 to appear for statement on 29.07.2025 and 30.07.2025 respectively. However, no one appeared for recording their statement and thereby not following the directions of Hon'ble Bombay High Court order dated 06.08.2024. The department has also filed a Contempt Petition before Bombay High Court. The same is still in pre-admission stage.

Despite hand delivery of summons, Mr. Hakeem Shaikh did not appear for recording his statement on 25.07.2025. Mr. Hakeem Shaikh vide his email dated 25.07.2025 informed that he is in Mundra for day-to-day activity for his survival. He has stated his inability in attending the summons. He requested to issue summons in the month of September. Moreover, one more summons under section 108 of Customs Act, 1962 was issued to Mr. Hakeem Shaikh on 26.07.2025 to appear for statement on 29.07.2025. Mr. Hakeem Shaikh vide his email dated 29.07.2025 reiterated his earlier reply that he is in Mundra and requested to issue summons in the 1st week of September. The request of Mr. Hakeem Shaikh is only a delay tactic and the same cannot be accepted as the case is time-bound in nature. His very disregard of summons issued under section 108 of Customs Act, 1962 to him further corroborate his ill motive and collusion with the importer in illegal import of prohibited goods i.e. "Adulterated Diesel Oil".

Despite hand delivery of summons, Shri Sagar Mhatre did not appear for recording his statement on 23.07.2025/25.07.2025. Therefore, one more summons under section 108 of Customs Act, 1962 was issued to Shri Sagar Mhatre on 26.07.2025 to appear for statement on 29.07.2025 by hand to his residential address as well as on email ID of Shri Hakeem Shaikh (as he is working for Mr. Hakeem Shaikh). However, Shri Sagar Mhatre did not appear for statement on 29.07.2025. He completely disregarded the summons issued in this regard which substantiate his active involvement in the sample changing process.

During visit of CIU/JNCH officers, it is found that Shri Rutik Nalavade and Shri Atul Mulay were not present at their respective

address. Therefore, one more summons under section 108 of Customs Act, 1962 was issued to Shri Rutik Nalavade and Shri Atul Mulay on 26.07.2025 to appear for statement on 29.07.2025 on the email ID of Shri Hakeem Shaikh (as they were employed by Mr. Hakeem Shaikh). Shri Hakeem Shaikh vide his email dated 29.07.2025 informed that he is not in contact with any of three persons Shri Sagar Mhatre, Shri Rutik Nalavade and Shri Atul Mulay and requested to serve the summons directly to them. It has been found in the investigation carried out by CIU/JNCH that Shri Hakeem Shaikh is the main kingpin for changing of samples and Shri Sagar Mhatre, Shri Rutik Nalavade and Shri Atul Mulay were his allies who implemented the same. He (Shri Hakeem Shaikh) directed all these 3 persons to not to come forth in the investigation of CIU and all these 3 persons have been following the directions of Mr. Hakeem Shaikh. Their avoidance of summons issued under section 108 of Customs Act, 1962 reiterates their respective role in sample changing process.

29. In the meantime, the importer alleged that the DyCC is not equipped to test the impugned goods imported vide Bill of Entry No. 3730722 dated 29.05.2024. Therefore, CIU/JNCH sought clarification from CRCL(DyCC)/JNCH for the expert opinion regarding parameters for testing of samples to meet IS 1460:2017. The CRCL, JNCH has submitted their reply vide letter dated 04.09.2024 as under:

*“Although, JNCH laboratory is not equipped to test all the 21 parameters as per IS 1460: 2017, **an additional test, GC-MS is being done to know the chemical composition of the product at the molecular level and to confirm whether the product under reference is diesel fuel or not.***

*In the Scope of IS 1460:2017 it is mentioned that: "It is applicable to automotive diesel fuel for use in diesel engine vehicles and stationary diesel engines, designed to run on automotive diesel fuel." This implies that it is a commercial product to be used for specific purposes. Therefore, some parameters have been included in the IS 1460: 2017 to optimize engine efficiency, reduce corrosion and minimize environmental pollution. Some parameters mentioned in IS 1460: 2017 are related to quality (oxidation stability, copper strip corrosion, Cetane index, etc.) and some are regulatory in nature (Sulphur content, PAH etc.). However, to characterize diesel fuel as a chemical entity some **fundamental parameters** are required to be determined.*

*Diesel oil is manufactured from crude oil through fractional distillation. **Distillation range is fundamental property of fuel based on which the petroleum products are separated in refineries. Diesel fuel is a complex mixture produced by the fractional distillation of crude oil. It has boiling point***

in the range of 150°C to-360°C.

Most important characteristics (physical properties) of Diesel fuel are Density, Distillation (range), Distillation, 95 percent v/v recovery, Flash point and Viscosity.

One of the most accurate and powerful method for identification/quantification of any organic compound/mixture of organic compounds is **chromatography**. This is helpful to know the chemical composition of compound/a mixture of compounds at the molecular level. Diesel is composed of C8to C26 carbon chains. The chromatographic analysis of Diesel fuel is not included in IS 1460: 2017. However, there are plenty of scientific literature to support the efficacy of this analytical method. The samples are compared with the certified reference material (CRM) of diesel fuel by gas chromatography-mass spectrometry (GC-MS). After removal of adulterants, **GC-MS spectra (which is indicative of the molecular composition of the fuel) of the sample matched with the (CRM) of diesel and also with the reference literatures.**

Therefore, the above physical properties coupled with GC-MS study are enough for characterization of Diesel fuel.

The tests conducted in the JNCH laboratory are sufficient to conclusively determine the samples as Adulterated Diesel Fuel as per Motor Spirit &High Speed Diesel (Regulation of Supply & Distribution and Prevention of Malpractices) Order 2005.

The IS 1460: 2017 is meant for of Automotive Diesel Fuel and not for an Adulterated Diesel fuel.”

Thus, based upon the outcome of the test reports of the CRCL, JNCH and clarification of CRCL, JNCH it can be stated that the subject goods are **“Adulterated Diesel Fuel”**. It is evident that the subject goods meet the requirement of Automotive Diesel Fuel as per IS:1460:2017 (97%-98% purity) except Sulphur contents after removal of adulterants and thus, the mixing of adulterants appears to be an ingenious **modus operandi** and the mens rea (conspiracy/malafide intention) to **smuggle Diesel** into the Indian Territory which is contrary to the restrictions/ Prohibitions imposed by the existing Laws, Rules and Regulations (**viz. Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005, Petroleum Act, 1934, Petroleum Rules 2002**). Further, such **adulterated Automotive Diesel Fuel is an environmental hazard and injurious to public health at large**. Hence, allowing adulterated Diesel Fuel to enter into

domestic market outside Customs Area will tantamount to violations of fundamental rights of the Indian citizen to use unadulterated Diesel fuel, and the use of adulterated Diesel fuel is also environmental hazard which is clearly **banned under Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005.**

30. **Violations:**

30.1 As per Regulation 3 (6) of Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005, *no dealer, transporter, consumer or any other person shall indulge in any manner in any one or more of the malpractices.* Further, malpractices have been defined in Regulation 2(f) of the Order supra as reproduced below:

*2(f) "**malpractices**" shall include the following acts of omission and commission in respect of Motor Spirit and High Speed Diesel: -*

- i. Adulteration*
- ii. Pilferage*
- iii. Stock variation*
- iv. Unauthorized exchange*
- v. Unauthorized purchase*
- vi. Unauthorized sale*
- vii. Unauthorized possession*
- viii. Over-charging*
- ix. Sales of off-specification product,*
- x. Short delivery.*

30.2 As per Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Preventive of Malpractices) Order, 2005, Regulation 2 (a), adulteration is defined as

2(a) "adulteration" means the introduction of any foreign substance into motor spirit or high-speed diesel illegally or unauthorized with the result that the product does not conform to the requirements of the Bureau of Indian Standards specification number IS: 1796 and IS: 1460 for motor spirit and high speed diesel respectively or any other requirement notified by the Central Government to time to time.

30.3 Chapter 2.03 (a) of the Foreign Trade Policy, 2023 states that **Compliance of Imports with Domestic Laws**

(a) Domestic Laws/ Rules/ Orders/ Regulations/ technical specifications/ environmental/ safety and health norms applicable to domestically produced goods shall apply, mutatis mutandis, to imports, unless specifically exempted.

Thus, combined reading of Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005 and CRCL, JNCH Test Reports dated 22.07.2024, 23.07.2024, 25.07.2024, 26.07.2024 & 30.07.2024 and Section 11 (3) of the Customs Act 1962 establishes that since adulteration of Diesel is prohibited, therefore, the import of Adulterated Diesel is also prohibited.

30.4 As per Regulation 3 (5) of Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005, *no person shall sell or agree to sell any Petroleum Product or its mixture other than motor spirit or high-speed diesel or another fuel authorized by the Central Govt. in any form, under any name, brand or nomenclature which can be and is meant to be used as fuel in any type of automobile vehicles fitted with spark ignition engines or compression ignition engines.*

30.5 Rule 14 of the Petroleum Rules 2002 provides that: -

"petroleum, other than petroleum, which may be stored without a license under sections 7, 8 and 9 of the Act, shall not be imported into India except under a license granted under these rules. Provided that, such Petroleum products may also be imported by a person not having a licence if adequate advance arrangements are made by such person to receive and store the imported petroleum products in licensed premises."

Section 7 and 8 of the Petroleum Act specifies that no licenses are required for import, transport or storage of limited quantities of Petroleum Class A, B or C. While section 9 provides for the exemptions to the owners of motor conveyance and stationary engines. For the ease of reference Section 7, 8 & 9 of Petroleum Act, 1934 is reproduced below:

7. No licence needed for transport or storage of limited quantities of petroleum Class B or petroleum Class C.
—Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the transport or storage of—

- a. *petroleum Class B if the total quantity in his possession at any one place does not exceed two thousand and five hundred litres and none of it is contained in a receptacle exceeding one thousand litres in capacity; or*
- b. *petroleum Class C if the total quantity in his possession at any one place does not exceed forty-five thousand litres and such petroleum is transported or stored in accordance with the rules made under section 4.*

8. No licence needed for import, transport or storage of small quantities of petroleum Class A.—

- a. *Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the import, transport or storage of petroleum Class A not intended for sale if the total quantity in his possession does not exceed thirty litres*
- b. *Petroleum Class A possessed without a licence under this section shall be kept in securely stoppered receptacles of glass, stoneware or metal which shall not, in the case of receptacles of glass or stoneware, exceed one liter in capacity or, in the case of receptacles of metal exceed twenty-five litres incapacity.]*

9. Exemptions for motor conveyances and stationary engines.—(1)

The owner of a motor conveyance, who complies with the requirements of the law for the time being in force relating to the registration and licensing of such conveyance and its driver or pilot and the owner of any stationary internal combustion engine, shall not be required to obtain a licence—

(a) for the import, transport or storage of any petroleum contained in any fuel tank incorporated in the conveyance or attached to the internal combustion engine, or

(b) for the transport or storage of 2[petroleum Class A], not exceeding 3[one hundred litres] in quantity in addition to any quantity possessed under clause (a),

provided the petroleum is intended to be used to generate motive power for motor conveyance or engine:

[Provided further that the total quantity of 2[petroleum Class A] which may be stored without a licence under clause (b) shall not exceed 3[one hundred litres], notwithstanding that such owner may possess other motor conveyances or engines.]

(2) [Petroleum Class A] transported or stored without a licence under clause (b) 4[of sub-section (1)]shall be kept as provided in sub-section (2) of section 8, and, if it exceeds 5[thirty litres] in quantity, shall be stored in an isolated place which does not communicate with any room where any person resides or works or in any room where persons assemble.

Evidently, the import of impugned goods does not fall under Section 7, 8 and 9 of the Petroleum Act 1934 as the import is not done for small quantities of petroleum product as prescribed vide section 7,8 and 9 of the said Act and thus require license for the import. The importer has neither uploaded any such License in e-Sanchit while filing the Bill of Entry nor the importer has declared the actual goods i.e Diesel. Further in contravention to rule 14 of the petroleum rules 2002 as mentioned above the importer has not intimated the Customs in any manner that adequate advance arrangements are made by them to receive and store the imported petroleum products in licensed premises. Therefore, import of impugned goods imported vide bill of entry no. 3730722 dated 29.05.2024 appears prohibited in absence of such license.

30.6 Rule 19 of the Petroleum Rules, 2002 prescribes as under:

Rule 19. Production of certificate and license for import:

(1) Every person desiring to import petroleum shall furnish personally or through his agent to the Commissioner of Customs. -

- 1. certificate of storage accommodation in Form II signed by such person or his agent; and*
- 2. the license or an authenticated copy of the license for the import and storage of such petroleum: Provided that nothing in this rule shall apply to the importation, otherwise than in bulk of petroleum exempted under sections 7, 8, 9 and 10 of the Act: Provided further that the furnishing of a license under clause (b) shall not be necessary for the importation of petroleum class C in bulk in quantity exempted under section 7 of the Act.*
- 3. Notwithstanding anything contained in sub-rule (1) a person may import petroleum Class A in bulk, even if-*
- 4. he is not holding a license for storage at the port of importation; or*
- 5. he storage accommodation in the premises licensed in his name is not sufficient to hold the quantity of petroleum intended to be imported: Provided in both cases adequate advance arrangements to the satisfaction of the Conservator are made by the importer to distribute the petroleum from the post of import to premises licensed to store such petroleum.*

The importer has neither complied with the Petroleum Rules, 2002 nor is eligible for the exemption from the said Rule. Therefore, import of the impugned goods i.e. Adulterated Diesel is prohibited into the domestic market.

30.7 The DRI vide Alert Circular dated 23.04.2020(**RUD-18**) issued vide F. No.DRI/HQ-CI/C-Cell/29/XI/16/2019/2051, which is issued in line with Petroleum Act, 1934 and Petroleum Rules 2002 read with Petroleum & Explosives Safety Organization (PESO) states that Petroleum in bulk is not allowed to be imported in Plastic Flexi tanks kept within a container which are not of the type approved by the Chief Controller of Explosives. The importer has imported the impugned goods in flexi bags which are in violation of the Petroleum & Explosives Safety Organization Rules. Thus, these plastic flexi bags have been brought in shipping containers and transported along with other containerized cargo which is in violation of Rule 30 of Petroleum Rules, 2002. **Further, the packing of the goods in the flexi bags itself is a tactic made by the importer to mislead the Customs and other government authorities.**

30.8 The importer in the instant case, has not complied with the relevant provisions of Petroleum Act, 1934 and Petroleum Rules, 2002 which poses a serious risk to health and safety of Officers and the persons handling the impugned goods as well as public property and environment.

31. Relevant Legal provisions as applicable:

Regulation 3 (6) of Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005, *no dealer, transporter, consumer or any other person shall indulge in any manner in any one or more of the malpractices.*

Regulation 2(f) of Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005, malpractices shall include the following acts of omission and commission in respect of Motor Spirit and High Speed Diesel: -

- (i) Adulteration
- (ii) Pilferage
- (iii) Stock variation
- (iv) Unauthorized exchange
- (v) Unauthorized purchase
- (vi) Unauthorized sale
- (vii) Unauthorized possession
- (viii) Over-charging
- (ix) Sales of off-specification product,
- (x) Short delivery

Regulation 2(a) of Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005, "adulteration" means the introduction of any foreign substance into motor spirit or high-speed diesel illegally or unauthorized with the result that the product does not conform to the requirements of the Bureau of Indian Standards specification number IS: 1796 and IS: 1460 for motor spirit and high speed diesel respectively or any other requirement notified by the Central Government to time to time.

Chapter 2.03 (a) of the Foreign Trade Policy, 2023

(a) Domestic Laws/ Rules/ Orders/ Regulations/ technical specifications/ environmental/ safety and health norms applicable to domestically produced goods shall apply, mutatis mutandis, to imports, unless specifically exempted.

Regulation 3(2) of FTDR Regulations 1992 :

The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the 1 [import or export of goods or services or technology]:

[Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services or specified technologies.]

Regulation 3(3) of FTDR Regulations 1992 :

All goods to which any Order under sub-section (2) applies shall be

deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly

Section 46(4) of the Customs Act, 1962 reads as under:

"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, relating to the imported goods".

Section 11 of Customs Act, 1962 reads as under :

11. Power to prohibit importation or exportation of goods.—(1)

If the Central Government is satisfied

Section 11 (2) of Customs Act, 1962 reads as under :

The purposes referred to in sub-section (1) are the following:—

- (a) the maintenance of the security of India;*
- (b) the maintenance of public order and standards of decency or morality;*
- (c) the prevention of smuggling;*
- (d) the prevention of shortage of goods of any description;*
- (e) the conservation of foreign exchange and the safeguarding of balance of payments;*
- (f) the prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver;*
- (g) the prevention of surplus of any agricultural product or the product of fisheries;*
- (h) the maintenance of standards for the classification, grading or marketing of goods in international trade;*
- (i) the establishment of any industry;*
- (j) the prevention of serious injury to domestic production of goods of any description;*
- (k) the protection of human, animal or plant life or health;*
- (l) the protection of national treasures of artistic, historic or archaeological value;*
- (m) the conservation of exhaustible natural resources;*
- (n) the protection of patents, trademarks, copyrights, designs and geographical indications];*
- (o) the prevention of deceptive practices;*
- (p) the carrying on of foreign trade in any goods by the State, or by a Corporation owned or controlled by the State to the exclusion, complete or partial, of citizens of India;*
- (q) the fulfilment of obligations under the Charter of the United Nations for the maintenance of international peace and security;*
- (r) the implementation of any treaty, agreement or convention with any country;*
- (s) the compliance of imported goods with any laws which are*

applicable to similar goods produced or manufactured in India;
(t) the prevention of dissemination of documents containing any matter which is likely to prejudicially affect friendly relations with any foreign State or is derogatory to national prestige;
(u) the prevention of the contravention of any law for the time being in force; and
(v) any other purpose conducive to the interests of the general public.

Section 11 (3) of Customs Act, 1962 reads as under :

Any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.]

Section 111(d) of the Customs Act, 1962 reads as under:

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

Section 111(m) of the Customs Act, 1962 reads as under:

"[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 3 [in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54"

Section 112 of the Customs Act, 1962 reads as under:

"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, -

(1) 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 5[not exceeding the value of the goods or five thousand rupees), whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of Section 114A, to a penalty not exceeding ten per

cent Of the duty sought to be evaded or five thousand rupees, whichever is higher:

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

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under Section 77 (in either case hereafter in this Section referred to as the declared value) is higher than the value thereof, to a penalty exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater:]"

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.

Regulations 10 of Customs Broker Licensing Regulations, 2018 :

(d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

(f) not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;

(q) co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.

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 -

1. *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;*

Provisions pertaining to Petroleum Rules, 2002.

3.Restriction on delivery and dispatch of petroleum. –

(1) No person, shall deliver or dispatch any petroleum to anyone in India other than the holder of a storage licence issued under these rules or his authorized agent or a port authority or railway administration or a person who is authorized under the Act to store petroleum without a licence.

(2) The petroleum delivered or dispatched under sub-rule (1) shall be of the class, and shall not exceed the quantity, which the person to whom it is delivered or dispatched is authorized to store with or without a licence under the Act.

(3) Notwithstanding anything contained in sub-rule (2), petroleum Class B not exceeding 15,000 litres in quantity packed in sealed airtight approved containers may be dispatched to a person not holding a storage licence provided that the person dispatching the petroleum has satisfied himself that prior arrangements have been made by the person to whom the petroleum is dispatched for the immediate disposal in the original sealed packages or such quantity as in excess of 2,500 litres : Provided that a dry chemical powder fire extinguisher as a means of fighting fire in emergency shall be carried in the case of the containers with more than 2,500 litres.

(4) Nothing in sub-rules (1) and (2) shall apply to the delivery or dispatch of petroleum to the Defence Forces of the Union and to the delivery or dispatch of kerosene (petroleum Class B) to the person holding licence in form XVIII for decantation into containers from tank vehicle: Provided that the person dispatching the Kerosene has satisfied himself that prior arrangements have been made by the person to whom the kerosene is dispatched for the immediate disposal into containers in lots of 2,500 litres or less.

4. Approval of containers. –

(1) Containers exceeding one litre in capacity for petroleum Class A and five litres in capacity for petroleum Class B or petroleum class C, shall be of a type approved by the Chief Controller. (2) Where the approval of the Chief Controller is sought to a type of container not previously approved, an application together with copies of drawings thereof to scale showing the design, materials to be

used, the method of construction and capacity of the container together with two samples containers and a fee of rupees one thousand for scrutiny shall be submitted to the Chief Controller.

(3) Nothing in sub-rules (1) and (2) shall apply to containers in the possession of the Defence Forces of the Union.

5. Containers for petroleum Class A.

1. *Containers for petroleum Class A shall*

6. Containers for petroleum Class B and Class C

(1) Containers for petroleum class B or petroleum class C shall be constructed of steel or iron and be of a type approved by the Chief Controller.

(2) An air space of not less than 5 percent of its capacity shall be kept in each container for petroleum Class B and not less than 3 percent of its capacity in each container for petroleum Class C.

(3) Nothing in this rule shall apply to containers in the possession of the Defence Forces of the Union.

Section 30. Restriction on passengers, combustible and inflammable cargo- Save as provided in rules 38, 39 and 52 and clause, (b) of rule 60, no ship, vessel or vehicle shall carry petroleum Class A or petroleum Class B and Class C in bulk if it is carrying passengers or any combustible cargo other than petroleum: Provided that nothing in this rule shall prohibit the use of dunnage for packing purposes in the case of coastwise transport of petroleum Class A otherwise than in bulk.

32. From the foregoing investigation, it appears that:

- a. The importer M/s Global International imported "Adulterated Diesel Oil" vide bill of entry no. 3730722 dated 29.05.2024 by mis-declaring the same as "Process Oil-40". The same is confirmed by CRCL/DyCC JNCH Test Report dated 22.07.2024, 23.07.2024, 25.07.2024, 26.07.2024 & 30.07.2024. The import of Adulterated Diesel Oil is prohibited as per Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005 read with of Petroleum Act 1934 and Petroleum Rules 2002, and therefore prohibited for import in terms of FTDR Regulations 3(2) and 3(3) read with Section 2(33) of the Customs Act 1962, thereby, the goods imported vide bill of entry no. 3730722 dated 29.05.2024 are liable for confiscation under section 111 (d) of the Customs Act 1962.
- b. The importer has imported the impugned goods in plastic flexi bags which have been brought in shipping containers and transported along with other containerized cargo which is in violation of DRI circular issued vide File No. DRI/HQ-CI/C-Cell/29/XI/16/2019/2051, which is issued in line with Petroleum Act, 1934 and Petroleum Rules 2002, which is in violation of Rule 30

of Petroleum Rules, 2002 and is a serious risk to health and safety of public at large as well as public property and environment and have rendered the goods liable for confiscation under Section 111(d) of the Customs Act, 1962.

- c. Importer has classified the goods under CTI 3403 9900 mentioning the description as "Process Oil-40". However, no documentary proof was uploaded in the e-Sanchit with regards to the composition of the goods to classify them as 'Process-Oil' under CTI 3403 9900. The RSS was forwarded to DyCC Lab, JNCH for testing wherein DyCC, JNCH vide Test Report dated 22.07.2024, 23.07.2024, 25.07.2024, 26.07.2024 & 30.07.2024 reported that the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except sulfur content which may have been intentionally added in the range of 2-3% to camouflage the exact description of goods i.e. Diesel Fuel as per IS:1460:2017. As per the definition of "adulteration" mentioned in the motor speed and high speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is "Adulterated Diesel Fuel". Therefore, the goods appear to be mis-classified and accordingly should be re-classified under CTH 27101990, thereby, rendering the goods liable for confiscation under section 111 (m) of the Customs Act 1962.
- d. Since the goods have been found mis-declared, the declared value of goods is also liable for rejection under Rule 12 of the CVR 2007, thereby rendering the goods liable for confiscation under Section 111(m) of the Customs Act 1962.
- e. Since the value is rejected as per Rule 12 of CVR 2007, the same should be re-determined in accordance with the said Rules. In this regard, Rule 3(4) provides as under :

if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

Since the goods imported vide impugned BE No. 3730722 dt. 29.05.2024 is Adulterated Diesel Oil is prohibited for import; hence the data of identical goods cannot be retrieved. Therefore, Rule 4 can be ruled out and we can proceed to Rule 5 of CVR, 2007 on the basis of value of similar goods.

Petroleum Planning & Analysis Cell of the Ministry of Petroleum & Natural Gas, Govt. of India has published the prices of diesel INCO terms FOB as US \$ 92.01 per barrel relating to the month of May 2024 **(RUD-19)**- the month in which the impugned goods were imported. One barrel of diesel is equal to 160 liters and 1.2 liters diesel (density 0.8192 gm/cc) is equal to one kg. Based on this, as per the prices published as aforesaid, value of the impugned goods works out to be US \$ 690.07 per M Ton FOB as against the declared value of US \$ 430 per M Ton C & F. Accordingly, the total value of

the goods imported vide B/E No. 3730722 dated 29.05.2024 having total net weight of 187.92 M ton has been re-determined as USD 1,29,678/- FOB.

- i. The deliberate nature of non-cooperation in examination and not attending the summons issued by CIU, JNCH suggests that M/s Global International may be employing dilatory tactics to derail the investigation. Such tactics appear to be used to create delays, hindering the progress of inquiries and potentially allowing parties involved to evade accountability which is supported by Shri Sagar Mhatre acceptance vide his statement dated 13.08.2024 & 14.08.2024 that the samples were carried from outside and also his reluctance in submission of his smart phone as it contains lots of evidence related to this case. By avoiding or delaying the submission of necessary documents and information, the importer M/s Global International is attempting to limit the scope of the investigation and control the narrative surrounding their importation practices. The motivation behind such actions could range from concealing irregularities in the supply chain to avoid scrutiny on aspects of the importation process that may be legally questionable. It further hampers the effectiveness of the investigation and impedes the investigation's ability to ensure compliance with regulations. This deliberate non-cooperation, further strengthens the reason to believe that this may have been done to conceal irregularities in the supply chain and to avoid detail scrutiny on the aspects of importation process of restricted goods.

33. Role of Concerned Persons:

33.1 Shri Bimal Shah Partner of M/s Global international:

Shri Bimal Shah was the main partner of M/s Global International. He imported "Adulterated Diesel Oil" by mis-declaring the same as "Process Oil-40" in violation of The Motor Spirit & High-Speed Diesel (Regulation of Supply & Distribution and Prevention of Malpractices) Order, 2005 read with petroleum Act, 1934 and Petroleum Rules, 2002 thereby rendered the goods liable for confiscation under section 111(d) and 111(m) of Customs Act, 1962. Therefore, Shri Bimal Shah is liable for penalty under section 112(a) of Customs Act, 1962. Further, it is confirmed from DyCC Test Report dated 22.07.2024, 23.07.2024, 25.07.2024, 26.07.2024 & 30.07.2024 that the impugned goods are "Adulterated Diesel Oil" as against declared description of goods "Process Oil". The deliberate nature of non-cooperation in examination and not attending the summons issued by CIU, JNCH suggests that Shri Bimal Shah may be employing dilatory tactics to derail the investigation and it appears that he may be deeply involved in smuggling of "Adulterated Diesel Oil". Therefore, it appears that Shri Bimal Shah attempted to import "Adulterated Diesel Oil" using forged invoice and packing list. Further, Shri Bimal Shah while filing the bill of entry has subscribed the declaration under section 46(4) that all the

particulars are correct. Hence, he signed wrong declaration under section 46(4) of Customs Act, 1962 rendered themselves liable for penalty under section 114AA of Customs Act, 1962.

33.2 Mrs. Vaishali Shah Partner of M/s Global international:

Mrs. Vaishali Shah was the partner of M/s Global International. She imported "Adulterated Diesel Oil" by mis-declaring the same as "Process Oil-40" in violation of The Motor Spirit & High-Speed Diesel (Regulation of Supply & Distribution and Prevention of Malpractices) Order, 2005 read with petroleum Act, 1934 and Petroleum Rules, 2002 thereby rendered the goods liable for confiscation under section 111(d) and 111(m) of Customs Act, 1962. The deliberate nature of non-cooperation in examination and not attending the summons issued by CIU, JNCH suggests that Mrs. Vaishali Shah may be employing dilatory tactics to derail the investigation and it appears that she may be deeply involved in smuggling of "Adulterated Diesel Oil". Therefore, Mrs. Vaishali Shah is liable for penalty under section 112(a) of Customs Act, 1962. Further, it is confirmed from DyCC Test Report dated 22.07.2024, 23.07.2024, 25.07.2024, 26.07.2024 & 30.07.2024 that the impugned goods are "Adulterated Diesel Oil" as against declared description of goods "Process Oil". Therefore, it appears that Mrs. Vaishali Shah attempted to import "Adulterated Diesel Oil" using forged invoice and packing list. By the act of omission & commission on their part Mrs. Vaishali Shah rendered themselves liable for penalty under section 114AA of Customs Act, 1962.

33.3 Shri Gurinder Singh Kochar : Shri Sagar Mhatre vide his statement dated 14.08.2024 informed that ***"W.r.t. knowing any person with surname as Shri G.S. Kochar, he stated that he was introduced to him by Shri Hakeem Shaikh at Seabird CFS where he was present during some oil case of 80 containers booked by R & I department. Shri Hakeem also informed him that he is the main person behind import of the oil consignments. He was referred by Shri Hakeem as 'Gullu'."*** In the investigation carried out by CIU/JNCH, it has come to notice that this is the same person who was authorized by Mrs. Vaishali Shah to record his statement on her behalf. However, he (Shri Gurinder Singh Kochar) never came forward to record his statement. He completely avoided the summons issued by CIU/JNCH either on his name or in the name of Mrs. Vaishali Shah. From the investigation carried out it appears that he is the man behind the smuggling of "Adulterated Diesel Oil". He gave the idea of smuggling of "Adulterated Diesel Oil" to various companies, Such as Raj Traders, Global International etc. and imported prohibited goods i.e "Adulterated Diesel Oil" covering the impugned bill of entry no. **3730722 dated 29.05.2024**. He aided and facilitated in import of "Adulterated Diesel Oil" by mis-declaring the same as "Process Oil-40" in violation of The Motor Spirit & High-Speed Diesel (Regulation of Supply & Distribution and Prevention of Malpractices) Order, 2005 read with petroleum Act, 1934 and Petroleum Rules, 2002 thereby rendered the goods liable for confiscation under section 111(d) and 111(m) of Customs Act, 1962. The deliberate nature of non-cooperation and not attending the

summons either in his name or in the name of Mrs. Vaishali Shah issued by CIU, JNCH suggests that Shri Gurinder Singh Kochar may be employing dilatory tactics to derail the investigation and it appears that he may be deeply involved in smuggling of "Adulterated Diesel Oil". Therefore, Shri Gurinder Singh Kochar is also liable for penalty under section 112(a) and/or 112(b) and section 114AA of Customs Act, 1962.

33.4 Shri Hakeem Shaikh, Representative of Customs Broker M/s Aries Cargo Movers: Shri Hakeem Shaikh was the main kingpin in swapping of samples, thereby facilitating the clearance of adulterated diesel by declaring the same as process oil. He was the Custom Broker who managed to change the sample deliberately. The first sample which was not actually drawn by the Docks Officer from the goods lying at CONEX CFS but carried from outside on 10.06.2024 to submit in customs for testing. The DyCC Test Report dated 15.06.2024 shows that the impugned goods are "Base Oil". However, the sample drawn by CIU, JNCH on 11.07.2024 and test report dated 22.07.2024, 23.07.2024, 25.07.2024, 26.07.2024 & 30.07.2024 confirmed that the goods are "Adulterated Diesel Oil". Hence, it appeared that the samples were changed during 1st drawl of RSS. Hence, CCTV footage of CFS M/s CONEX was scrutinized which confirmed that sample were carried from outside by Shri Sagar Mhatre on direction of Shri Hakeem Shaikh. Further, Shri Sagar Mhatre vide his statement dated 14.08.2024 stated that ***"he followed the orders of Hakeem Shaikh and he is not responsible nor he had any knowledge of the cargo imported in the flexi bags covered under the two bills of entry but Hakeem Shaikh had full knowledge of the cargo covered under the said two Bills of entry and he had replaced the samples drawn from the flexi bags and replaced with processed oil on his directions and handed over to scale man. He had followed the orders of Hakeem Shaikh."*** Hence, it is clear that M/s Aries Cargo Movers and Shri Hakeem Shaikh is doing conspiracy in attempt of clearing prohibited goods i.e. Adulterated Diesel Oil. He did not advise his client M/s Global International to comply with the provisions of The Motor Spirit & High-Speed Diesel (Regulation of Supply & Distribution and Prevention of Malpractices) Order, 2005 read with petroleum Act, 1934 and Petroleum Rules, 2002. He was aware that Adulterated Diesel is being smuggled in the guise of "Process Oil-40" however, he did not exercise due diligence in production of correct information to the department. Moreover, he facilitated the same in connivance with the importer M/s Global International. Also, they avoided the Summons issued to him by CIU and did not Co-operate with the investigation in violation of Regulation 10 (q) of Customs Brokers Licensing Regulations, 2018. By the act of omission & commission on their part M/s Aries Cargo Mover and his representative Shri Hakeem Shaikh rendered the goods liable for confiscation under Section 111(d) of Customs Act, 1962 thereby rendered themselves liable for penalty under section 112(a) and /or 112(b) and 114AA of Customs Act, 1962. Therefore, he is also liable for penalty under Regulation 14 read with Regulations 10 (d), (e), (f) and (q) of Customs Brokers Licensing Regulations, 2018.

33.4 Shri Sagar Mhatre employee of Customs Broker M/s Aries Cargo Movers:

Shri Sagar Mhatre was the key person in submission of sample carried from outside on direction of Shri Hakeem Shaikh. On the basis of CCTV footage it appears that Shri Sagar Mhatre and Shri Rutik Nalavade came on the same bike near the outgate of CONEX CFS. Shri Sagar Mhatre was driving the bike and Shri Rutik Nalavade was on the back seat carrying a large polybag which appear to contain filled plastic cans. Shri Sagar Mhatre drops Shri Rutik Nalavade near outgate and proceeds near in-gate of CONEX CFS. Shri Rutik Nalavade then enters with samples from Out gate and places the bag containing samples in front of a container. Shri Sagar Mhatre stops his bike near in-gate and enters CFS from IN-gate and picks up the sample bag which was placed earlier by Shri Rutik Nalavade in front of the container. Then, he enters the chamber of docks superintendent along with a bag containing the samples. Further, Shri Atul Mulay enters the chamber of Docks Superintendent and leaves the chamber after 48 minutes with bag containing one set of samples and exits from the outgate carrying red colored plastic bag along with Shri Rutik Nalavade on the same day. Shri Sagar Mhatre submits one set of samples to the scaleman at Balmer & Lawrie CFS. Shri Sagar Mhatre knowingly created a criminal conspiracy in submission of sample carried from outside. He was aware that the sample should be drawn for testing from the goods imported vide Bill of Entry No. 3730722 dated 29.05.2024 from the container at CFS. He was aware that the imported goods do not meet the specification as declared in the Bill of Entry, hence Shri Hakeem Shaikh directed him to carry sample outside and submit to scaleman at Balmer & Lawrie CFS. He followed the direction of Shri Hakeem Shaikh knowingly that the same is against Customs Act, 1962 and other allied rules and regulations. Shri Sagar Mhatre vide his statement dated 13.08.2024 and 14.08.2024 accepted that samples were carried from outside. By the above act of omission & commission on his part Shri Sagar Mhatre rendered the goods imported vide bill of entry no. 3730722 dated 29.05.2024 liable for confiscation under section 111(d) of Customs Act, 1962 thereby Shri Sagar Mhatre rendered himself liable for penalty under section 112(a) and/or 112(b) and Section 114AA of Customs Act, 1962.

33.5 Shri Rutik Nalavade employee of Customs Broker M/s I S Machado:

Shri Rutik Nalavade was the co-conspirator of Shri Hakeem Shaikh and Shri Sagar Mhatre in submission of sample carried from outside. On the basis of CCTV footage it appears that Shri Sagar Mhatre and Shri Rutik Nalavade came on the same bike near the outgate of CONEX CFS. Shri Sagar Mhatre was driving the bike and Shri Rutik Nalavade was on the back seat carrying a large polybag which appear to contain filled plastic cans. Shri Sagar Mhatre drops Shri Rutik Nalavade near outgate and proceeds near in-gate of CONEX CFS and enters with samples from Out gate and places the bag containing samples in front of a container. Shri Sagar Mhatre stops his bike near in-gate and enters CFS from IN-gate. Shri Sagar Mhatre picks up the sample bag

which was placed earlier by Shri Rutik Nalavade in front of the container. Shri Sagar Mhatre enters the chamber of docks superintendent along with the bag containing the samples. Further, Shri Atul Mulay enters the chamber of Docks Superintendent and leaves the chamber after 48 minutes with the bag containing the one set of samples. Thereafter, Shri Atul Mulay exits from the outgate carrying the plastic bag along with Shri Rutik Nalavade on the same day. Shri Sagar Mhatre submits one set of samples to the scaleman at Balmer & Lawrie CFS. Shri Rutik Nalavade knowingly took part in criminal conspiracy created by Shri Hakeem Shaikh and Shri Sagar Mhatre in submission of sample carried from outside. He was the person who carried the sample from outside which was later submitted to the Customs. He was aware that the sample should be drawn for testing from the goods imported vide Bill of Entry No. 3730722 dated 29.05.2024 from the container at CFS. He was aware that the imported goods do not meet the specification as declared in the Bill of Entry, hence the sample is being carried from outside. He followed the direction of Shri Hakeem Shaikh and Shri Sagar Mhatre knowingly which is a conspiracy and against Customs Act, 1962 and other allied rules and regulations. By the aforesaid acts of omission & commission on his part Shri Rutik Nalavade rendered the goods imported vide bill of entry no. 3730722 dated 29.05.2024 liable for confiscation under section 111(d) of Customs Act, 1962 thereby Shri Rutik Nalavade rendered himself liable for penalty under section 112(a) and/or 112(b) and Section 114AA of Customs Act, 1962.

33.6 Shri Atul Mulay (Private Person) Shri Atul Mulay was also the co-conspirator of Shri Hakeem Shaikh and Shri Sagar Mhatre in submission of sample carried from outside. On the basis of CCTV footage it appears that Shri Sagar Mhatre enters the chamber of docks superintendent along with the bag containing the samples. Further, Shri Atul Mulay enters the chamber of Docks Superintendent and leaves the chamber after 48 minutes with the bag containing the one set of samples. Thereafter, Shri Atul Mulay exits from the outgate carrying the plastic bag along with Shri Rutik Nalavade. On the same day, Shri Sagar Mhatre submits one set of samples to the scaleman at Balmer & Lawrie CFS. Accordingly, it appears that Shri Atul Mulay was the person who had done all the documentary formalities for the forwarding of sample in the cabin of Docks Superintendent with the sample carried from outside and taken these samples from the cabin of Docks Superintendent and handed over to Shri Sagar Mhatre who further submitted the samples to the Scaleman in Balmer & Lawrie CFS. From, the above act of Shri Atul Mulay it appears that Shri Atul Mulay followed the direction of Shri Hakeem Shaikh and Shri Sagar Mhatre knowingly which is a criminal conspiracy in submission of sample carried from outside which is punishable under Customs Act, 1962 and other allied act, rules and regulations. By the act of omission & commission on their part Shri Atul Mulay rendered the goods imported vide bill of entry no. 3730722 dated 29.05.2024 liable for confiscation under section 111(d) of Customs Act, 1962 thereby Shri Atul Mulay rendered himself liable for penalty under section 112(a)

and/or 112(b) and Section 114AA of Customs Act, 1962.

It appears that the import of “Adulterated Diesel Oil” by mis-declaring the same as “Process Oil-40” in violation of the Motor Spirit & High-Speed Diesel (Regulation of Supply & Distribution and Prevention of Malpractices) Order, 2005 read with Petroleum Act, 1934 and Petroleum Rules, 2002 was carried out by Shri Bimal Shah, Ms. Vaishali Shah and Shri Gurinder Singh Kochar in connivance with Shri Hakeem Shaikh, Shri Sagar Mhatre, Shri Rutik Nalavade and Shri Atul Mulay thereby rendering the goods confiscable and the above persons liable for penalty under section 112(a) and/or 112(b) and Sec 114AA of Customs Act, 1962.

34. Therefore, it is recommended that:

- i. The impugned goods with declared description as “Process Oil-40” imported vide B/E No. 3730722 dt. 29.05.2024 are liable for absolute confiscation for the reason stated above under Section 111 (d) and 111 (m) read with Section 11(2) and 11(3) of the Customs Act 1962 with provisions of FTDR Regulations 3 (2) and 3(3) and Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005 read with of Petroleum Act 1934, Petroleum Rules 2002.
- ii. The declared classification of the goods which is declared for “Process Oil-40” under B/E No. 3730722 dated 29.05.2024 should be rejected under CTI 3403 9900 and the same should be re-classified under CTI 27101990/27101944 which is found as Adulterated Diesel Fuel.
- iii. The declared value of the goods B/E No. 3730722 dated 29.05.2024 should be rejected and re-determined as stated above.
- iv. Penalty should be imposed on M/s Global International under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- v. Penalty should be imposed on Shri Bimal Shah partner of M/s Global International under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- vi. Penalty should be imposed on Mrs. Vaishali Shah partner of M/s Global International under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- vii. Penalty should be imposed on Shri Gurinder Singh Kochar under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- viii. Penalty should be imposed on Customs Broker M/s Aries Cargo Movers under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- ix. Penalty should be imposed on Customs Broker M/s Aries Cargo Movers under Regulations 14, 10(d),(e),(f) and (q) of Custom Broker Licensing Regulations 2018.
- x. Penalty should be imposed on Representative of Customs Broker Shri Hakeem Shaikh under Section 112(a) and/or (b) and Section 114AA

of the Customs Act 1962.

- xi. Penalty should be imposed on Shri Sagar Mhatre under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- xii. Penalty should be imposed on Shri Rutik Nalavade under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- xiii. Penalty should be imposed on Shri Atul Mulay under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.

35. Now, therefore in terms of Section 124 of the Customs Act, 1962, M/s Global International (IEC No. 0317512889), is hereby called upon to Show Cause to the Joint Commissioner of Customs, Group II (C-F), NS-I, JNCH, Nhava-Sheva, Taluka-Uran, District-Raigad, Maharashtra-400707, within 30 days of receipt of this notice, as to why: -

- i. The impugned goods with declared description as "Process Oil-40" imported vide B/E No. 3730722 dt. 29.05.2024 should not be absolutely confiscated for the reasons stated above under Section 111 (d) and 111 (m) read with Section 11(2) and 11(3) of the Customs Act, 1962 with provisions of FTDR Regulations 3 (2) and 3(3) and Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005 read with of Petroleum Act 1934, Petroleum Rules 2002.
- ii. The declared classification of the goods which is declared for "Process Oil-40" under B/E No. 3730722 dated 29.05.2024 should not be rejected under CTI 3403 9900 and the same should not be re-classified under CTI 27101990/27101944 which is found as Adulterated Diesel Fuel.
- iii. The declared value of the goods imported vide BE No. 3730722 dated 29.05.2024 should not be rejected and should not be re-determined as per para-32(v) above i.e. USD 1,29,678/- FOB.
- iv. Penalty should be imposed on M/s Global International under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- v. Penalty should be not imposed on Shri Bimal Shah partner of M/s Global International under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- vi. Penalty should not be imposed on Mrs. Vaishali Shah partner of M/s Global International under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- vii. Penalty should not be imposed on Shri Gurinder Singh Kochar under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- viii. Penalty should not be imposed on Customs Broker M/s Aries Cargo Movers under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- ix. Penalty should not be imposed on Customs Broker M/s Aries Cargo Movers under Regulations 14, 10(d),(e),(f) and (q) of Custom Broker Licensing Regulations 2018.
- x. Penalty should not be imposed on Representative of Customs Broker Shri Hakeem Shaikh under Section 112(a) and/or (b) and Section

114AA of the Customs Act 1962.

- xi. Penalty should not be imposed on Shri Sagar Mhatre under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- xii. Penalty should not be imposed on Shri Rutik Nalavade under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- xiii. Penalty should not be imposed on Shri Atul Mulay under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.

36. Any representation oral or in writing against this notice with necessary documentary evidence about the correctness of their stand should be made to the Joint Commissioner of Customs, Group II (C-F), NS-I, JNCH, Nhava-Sheva, Taluka-Uran, District-Raigad, Maharashtra-400707. If no representation is received within the period aforesaid, it will be presumed that you admitted correctness of the demand.

37. Noticee is required to send their written reply to the aforesaid adjudicating authority within 30 days from the receipt of this notice. They are required to state in their reply as to whether they wish to be heard in person before the case is adjudicated. In case no reply is received within the prescribed time, or if they fail to appear before the adjudicating authority when the case is posted for hearing, the case will be decided on the basis of evidence already available on record without further reference to the noticee.

38. This Show Cause Notice is issued without prejudice to any other action that may be taken against aforesaid goods and notices or any other persons concerned under the Customs Act, 1962 or Rules made there under and any other law for the time being in force in the Union of India. Further this Show Cause Notice is limited to the issue of import of goods as enumerated above. The department reserves its right to amend, modify or supplement this notice at any time prior to the adjudication of the case.

(Jay G. Waghmare)
Joint Commissioner of Customs
Group 2(C-F), NS-1, JNCH,
Nhava Sheva

ENCL: RUD: AS PER ANNEXURE 'R'

TO,
i) M/s Global International
Shop No. 7, Ground Floor, Aman Chambers,
Mama Parmanand Marg, Opera House,

Mumbai, Maharashtra – 400 004
e: globalint321@gmail.com
m: +91 9820448861

ii) Shri Bimal Pravin Shah
4204 Tower 2, Auris Serenity,
Kanchpada, Dmonte Lane, Off Link Road,
Near Malad Industrial Estate, Mumbai – 400064
m: +91 9820448861

iii) Mrs. Vaishali Shah
4204 Tower 2, Auris Serenity,
Kanchpada, Dmonte Lane, Off Link Road,
Near Malad Industrial Estate, Mumbai – 400064

iv) Shri Gurinder Singh Kochar
Sadguru Sundri, 4th floor, Dr. Ambedkar Road,
Khar West, Above value shop,
Khar Delivery, Mumbai Suburban,
Maharashtra-400052

v)M/s Aries Cargo Movers,
Office No. 801, Crystal Plaza,
Guru Hargovindji Road, Opp. Solitaire Corporate
Park, Chakala, Andheri East 400093

vi) Shri Hakeem Shaikh
1201, Orchard Residency,
Near R city Mall, Ghatkopar West,
Mumbai – 400086
Email – hakeem@ariescargomovers.com

vii) Shri Sagar Mhatre
Govathne, House No. 825,
Taluka Uran, Dist – Raigad,
Maharashtra 410206

viii) Shri Rutik Nalavade
Gujarwadi, At Post – Pimpaloli,
Mandangad, Ratnagiri,
Maharashtra – 415202.

ix) Shri Atul Mulay
A3, LIG1, A39, Sec-2, Kalamboli City,
Navi Mumbai, Raigad, Maharashtra – 410218

Copy To:

1. The Dy./Asstt. Commissioner of Customs, Adjudication Cell(I), JNCH, Nhava Sheva
2. The Dy./Asstt. Commissioner of Customs, CIU, JNCH, Mumbai
3. The Dy./Asstt. Commissioner of Customs, CHS, JNCH, JNCH, Nhava Sheva (For displaying on Notice Board)
4. The Dy./Asstt. Commissioner of Customs, EDI, JNCH, Nhava Sheva
5. The Pr. Commissioner of Customs, NS-I, JNCH.
6. Office Copy

Annexure 'R'
List of RUDs

RUD No.	Documents
RUD-1	Letter to NCTC and SIIB (I) dated 21.05.2024
RUD-2	Letter dated 05.06.2024 from M/s Global International to recall Bill of Entry
RUD-3	TR No. 178 dated 10.06.2024
RUD-4	DyCC Test Report dated 15.06.2024
RUD-5	PUBLIC NOTICE NO.34/2019-20 dt. 27.03.2020
RUD-6	Public Notice No: 08 dated 31.01.2022 dt. 31.01.2022
RUD-7	Mail from M/s Global International for not attending examination/sampling
RUD-8	Panchnama dated 10.07.2024
RUD-9	CRCL, JNCH forwarded Test Reports dated 22.07.2024, 23.07.2024, 25.07.2024, 26.07.2024 & 30.07.2024
RUD-10	Seizure memo No 06/2024 dated 20.08.2024
RUD-11	CFS vide email communication dated 16.08.2024
RUD-12	letters dated 06.08.2024 07.08.2024, 14.08.2024 and 19.08.2024 to and from CFS furnishing CCTV footage.
RUD-13	Shri Sagar Mhatre statement dated 13.08.2024 and 14.08.2024

RUD-14	Look Out Circular on 26.08.2024
RUD-15	Search panchnama dated 23.07.2025 of Residential premises of Shri Sagar Mhatre
RUD-16	Letter dated 28.07.2025 to Shri Sagar Mhatre to participate in the forensic procedure of his mobile phone seized during his search of his residence on 23.07.2025.
RUD-17	Panchnama dated 29.07.2025 for forensic of mobile phone of Shri Sagar Mhatre seized during his search of his residence on 23.07.2025.
RUD-18	DRI vide Alert Circular dated 23.04.2020 issued vide F. No.DRI/HQ-CI/C-Cell/29/XI/16/2019/2051
RUD-19	FOB price of diesel per barrel relating to the month of May 2024 published by Petroleum Planning & Analysis Cell of the Ministry of Petroleum & Natural Gas, Govt. of India.