

 सत्यमेव जयते	OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I), सीमाशुल्क आयुक्त का कार्यालय (एनएस -I) NHAVA-SHEVA, JAWAHARLAL NEHRU CUSTOM HOUSE, न्हावा-शेवा, जवाहरलाल नेहरू कस्टम हाउस, TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA - 400 707. ताल-उरण, जिला- रायगढ़, महाराष्ट्र - 400 707	 आज़ादी का अमृत महोत्सव
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F. No. CUS/APR/MISC/1005/2026-GR. I&IA

Date: 23.02.2026

Ref F. No. GEN/DISP/EAUC/126/2026-DISP

S/10-1874/2025-26/Adj/JC/Gr.I&IA/NS-I/CAC/JNCH

SCN NO.- 2057/2025-26/JC/Gr.I&IA/NS-I/CAC/JNCH

DIN No.- 20260278NW0000777AA4

SCN Issued under Section 124 of The Customs Act, 1962

M/s. Apex Industries (IEC No. FKMPS8605C) having registered at Plot No. C-10, Industrial Area South Sector, Sathariya Jaunpur, Uttar Pradesh-222202 (hereinafter referred to as 'the Importer' for sake of brevity) filed Bill of Entry No. 2215417 dated 20.02.2024 **under Section 46(1) of the Customs Act, 1962 for clearance of the goods declared as "Hydrocarbon Oil"**. The details of the Bill of Entry as follows: -

Table-I

Name of the Importer	M/s Apex Industries (IEC No. FKMPS8605C)
Bill of Entry No.	2215417 dated 20.02.2024
Description	Hydrocarbon Oil
Assessable Value (in Rs.)	74,75,490 /-
Duty (in Rs.)	18,30,749/-
B L No.	BLPLPKG2400294 dated 07.02.2024
IGM No.	2368788/73 dated 14.02.2024
CB Name	M/s Rajesh Tripathi (CB Code ACWPT6271ECH002)

2. The subject goods covered under the aforesaid Bill of Entry loaded with Hydrocarbon Oil (220000 KGS / 10 Pkgs) in the following 10 containers arrived at M/s Navkar Corporation Ltd. on 26.07.2021.

Table-II

Sr.	Container No.	Size	Type	Arrival	Cargo Description
1.	TCKU1085657	20	FCL	17.02.2024	Hydrocarbon Oil
2.	TEMU4792405	20	FCL	17.02.2024	Hydrocarbon Oil
3.	DRYU2328028	20	FCL	18.02.2024	Hydrocarbon Oil
4.	TCLU3596484	20	FCL	17.02.2024	Hydrocarbon Oil
5.	HJCU2350058	20	FCL	17.02.2024	Hydrocarbon Oil
6.	HJMU2142964	20	FCL	18.02.2024	Hydrocarbon Oil
7.	TTNU1701512	20	FCL	17.02.2024	Hydrocarbon Oil
8.	BLZU2144314	20	FCL	17.02.2024	Hydrocarbon Oil
9.	MAGU2370930	20	FCL	18.02.2024	Hydrocarbon Oil
10.	BLZU2144042	20	FCL	18.02.2024	Hydrocarbon Oil

3. The consignment was taken up for examination by docks officer on 05.03.2024. Representative samples were drawn and forwarded to the DYCC, JNCH vide Sample No. 699 dated 05.03.2024 for chemical analysis.

3.1 The test report dated 06.03.2024 under Test Memo No.1206831 dated 04.03.2024 (Lab No.815/IA dated 06.03.2024) (**RUD-1**) furnished by DYCC, JNCH in respect of **BE No. 2215417 dated 20.02.2024** reported that: -

The sample as received is in the form of yellowish oily liquid.

It is composed of mixture of hydrocarbon more than 70% by wt. having following constants:

Density at 15°C= 0.8285 g/ml
Flash Point (abel)= 8.78° C
K.V. at 40°C= 2.13cst
Ash Content = NIL
Cetane Index= 52.43
Distillation range- IBP= 59.1 °C
85% Distilled at temp= 323.8°C
90% Distilled at temp= 333.7° C
95% Distilled at temp= 350.2°C
FBP= 361.8°C

Based on GC-MS and other analytical findings the sample u/r is mixture of hydrocarbon mainly containing diesel fraction.

The sample u/r does not meet the requirement of light oil and preparation solvent 60:80, 50:120, 145/205, 125/240 (IS: 1745:2018) Kerosene (IS: 1459:2018 , IS 1571:2017) Gas oil IS; 17789:2022, Vacuum Gas Oil (IS: 17792:2022) Light Diesel oil (IS: 15770:2019) Automotive diesel Fuel (IS: 1460:2017), HFHSD (IS: 16861:2018), Transformer oil biodiesel, diesel fuel B6-B20 (IS: 16531:2016).

4. On the basis of DYCC lab's Test Report, it appears that the importer has resorted to mis-declare the description of the goods and its classification to hoodwink the Customs Authorities and with mala fide intent attempted to clear the goods by circumventing the policy conditions (Policy Condition No. 5 of Chapter 27 of Customs Tariff Act, 1975 read with Para 2.20 of Foreign Trade Policy) attached to the goods Automotive Diesel Fuel covered under Chapter 27. It is apparent that the goods in question are found to be Adulterated Diesel in nature. Automotive Diesel can be imported through State Trading Enterprises only. Apparently, goods are found to be mis-declared in terms of description and classification. The importer has attempted to import Diesel Fuel by adding other hydrocarbon and adopting adulteration to overcome the IS 1460 of Automotive Diesel Fuel in guise of declaring the imported goods as Hydrocarbon Oil. Therefore, it appears that the importer has mis-declared the goods in term of description.

5. The joint reading of Chapter Notes of Chapter 27 and General Interpretation Rules 1 to 3 indicates that the Imported Goods do not merit classification under 27101990 as the CTI 27101990 is for 'other' which is for goods for which specific heading has not been prescribed. As the imported goods on testing found to be *Diesel Fraction*, the essential character of Diesel Fuel is not changed. So as per rule 3(a) of the General Interpretation Rule the imported goods Diesel Fuel mixed with small amount of other Hydrocarbon merits classification in CTI 27101944. Even the HSN Explanatory Notes to GIR 2 and 3 confirms the same view. Therefore, it appears that the importer has mis-declared the description of the goods and misclassified the imported goods in CTI 27101990 with the intention to overcome the restriction in import of Automotive Diesel Fuel.

6. On testing by DYCC, the goods were found to be diesel fraction. By mixing lower Hydrocarbons in the Diesel, the importer has intended to by-pass the IS standard 1460 of Automotive diesel fuel. The DYCC lab, JNCH has clearly opined that the imported goods satisfy the definition of adulteration. The adulterated diesel is dangerous, threatening and harmful to the people, environment, etc and by importing Adulterated Diesel, the importer has attempted to jeopardize the efforts and intent of the government to promote cleaner fuel in the country.

7. Since it has been opined that the goods are Diesel fuel in which lower hydrocarbons has been added and it satisfies the definition of Adulteration, so as per General Rules of Interpretation 3(a) the heading which provides the most specific description shall be preferred to the heading providing a more general description. The heading 27101944 is for Automotive Diesel Fuel, not containing Biodiesel conforming to standard IS 1460. Thus, the CTI 27101944 is more specific for the impugned goods having been reported as diesel fuel mixed with other hydrocarbons and so the impugned goods merit classification in CTI 27101944 instead of the declared CTI 27101990. The Import policy of CTI 27101944 is restricted and import is allowed only to State Trading Enterprises. Therefore, as the goods are prohibited the importer is not Authorized to import the impugned goods.

8. Attention is drawn to the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005, where in "adulteration" means ***the introduction of any foreign substance into motor spirit or high speed diesel illegally or unauthorizedly with the result that the product does not conform to the requirements of Bureau of Indian Standards specifications number IS 2796 and IS 1460 for motor spirit and high speed diesel respectively or any other requirement notified by the Central Government from time to time.*** As per Section 2(f) of the said Order, Malpractices include adulteration and appear to be prohibited when read with Section 11(1) and 11(3) of Customs Act, 1962 read with Section 3(3) and Section 3(2) of the Foreign Trade (Development and Regulations) Act, 1992 and Chapter 2.03 (a) of the Foreign Trade Policy 2023 which states that compliance of Imports with 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, the importer appears to have resorted to malpractices by importing Adulterated Diesel and violated the provisions contained in Section 2 and 3 of Motor Spirit & High-Speed Diesel (Regulation of Supply, Distribution & Prevention of Malpractices) Order, 2005.

9. The Chapter 2.03 (a) of the Foreign Trade Policy, 2023 stipulates that the 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. Combined reading of Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005, DYCC lab Report of the impugned goods and Section 11 (3) of the Customs Act 1962 establishes that since adulteration of Diesel is prohibited, import of adulterated Diesel is also prohibited. Therefore, it appears that the impugned goods as reported by DYCC i.e. Diesel Fuel mixed with other hydrocarbons which satisfies the definition of *adulteration* as per the Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005 appear to be prohibited for importation under the provisions of Section 11 (1) and 11 (3) of the Customs Act, 1962 read with Section 3 (3) and 3 (2) of the Foreign Trade (Development and Regulations) Act, 1992 and Chapter 2.03 (a) of the Foreign Trade Policy 2023. The smuggling of adulterated diesel into the country by way of mis-declaration is a threat to the national security, economy and environment.

10. Further attention is drawn on Petroleum Act 1934 wherein Class A Petroleum products have been defined as *petroleum having a flash-point below twenty-three degrees Centigrade.* Therefore, the imported goods are Class A Petroleum in case of Bill of Entry No. 2215417 dated 20.02.2024. Further, in case of Bill of Entry No. 2215417 dated 20.02.2024, the importer neither uploaded any PESO licence for storage of Class A petroleum, nor has permission for storage of Class A petroleum under their PESO. The importer is required to possess valid PESO Licence for import,

transport or storage of Petroleum as per Section 3 of the Petroleum Act, 1934 read with Rule 14 of Petroleum Rules, 2002. Thus, the importer has violated the said provisions by importing Petroleum Products of Class A without valid PESO licence.

11. The importer has imported the said goods having flash point 8.78°C contained in Flexi bags. As per Rule 4 of Petroleum Rules 2002, the Class A & Class B petroleum products should be imported in containers approved by Chief Controller (*As per section 2(iv) of the Petroleum Rules 2002 Chief Controller means the Chief Controller of Explosives*). Rule 5 of Petroleum Rules, 2002 states that Containers for petroleum Class A shall be constructed of tinned, galvanized or externally rust proofed sheet iron or steel and be of a type approved by the Chief Controller. Further Rule 6 of Petroleum Rules 2002 states that the 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. Whereas, the importer has imported the goods in Flexi bags in violation of Rule 4, Rule 5 and Rule 6 of the Petroleum Rules 2002.

12. RELEVANT PROVISIONS OF LAW APPLICABLE IN THE SUBJECT CASE:

Relevant provisions of law relating to import of goods in general, the Policy and Rules relating to the import of subject goods, the liability of the goods to confiscation and liability of the persons concerned to penalty for improper/illegal imports under the provisions of Customs Act, 1962 and any other laws for the time being in force, are summarized as below-

- i. *In terms of para 2.2 of the Foreign Trade Policy, any goods, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may be imported or exported by the concerned STE as per conditions in ITC (HS);*
- ii. *As per 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.*
- iii. *Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005*
- iv. *Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2015*
- v. *Section 2 of The Petroleum Act 1934 has defined the following and the same is produced below:*
2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—
(a) “petroleum” means any liquid hydrocarbon or mixture of hydrocarbons, and any inflammable mixture (liquid, viscous or solid) containing any liquid hydrocarbon;
[(b) “petroleum Class A” means petroleum having a flash-point below twenty-three degrees Centigrade;
(bb) “petroleum Class B” means petroleum having a flash-point of twenty-three degrees Centigrade and above but below sixty-five degrees Centigrade;
(bbb) “petroleum Class C” means petroleum having a flash-point of sixty-five degrees Centigrade and above but below ninety-three degree Centigrade;]
(c) 7 [“flash-point”] of any petroleum means the lowest temperature at which it yields a vapour which will give a momentary flash when ignited, determined in accordance with the provisions of Chapter II and the rules made thereunder;
Petroleum Rules, 2002.
- vi. *Section 2 of The Petroleum Act 1934. Import, transport and storage of petroleum*
(1) No one shall import, transport or store any petroleum save in accordance with the rules made under section 4. (2) Save in accordance with the conditions of any

licence for the purpose which he may be required to obtain by rule made under sec. 4, no one shall import petroleum Class A, and no one shall transport or store any petroleum.

vii. **Rule 4, 5 and 6 of Petroleum Rules, 2002.**

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 be constructed of tinned, galvanized or externally rust proofed sheet iron or steel and be of a type approved by the Chief Controller: Provided that glass bottles of a capacity not exceeding 2.5 litres and of a type approved by Chief Controller can be used as a container for laboratory chemicals classified as petroleum Class "A".

(2) The containers shall be so constructed and secured as not to be liable except under circumstances of gross negligence or extraordinary accident to become defective, leaky or insecure in transit and they shall be kept in proper repair.

(3) The containers shall have well-made filling aperture which shall be fitted with well-fitting and secure airtight screw plugs or screw caps or other caps.

(4) Containers made of sheet iron or steel shall have the following thickness of metal, namely: - Capacity of Container exclusive of the free space Minimum thickness in mm. Prescribed in sub-rule (6) of sheet iron or steel Not exceeding 10 litres 0.443(27BG) Exceeding 10 but not exceeding 25 litres 0.63 (24BG) Exceeding 25 but not exceeding 50 litres 0.80 (22BG) Exceeding 50 but not exceeding 200 litres 1.25 (18BG) Exceeding 200 but not exceeding 300 litres 1.59 (16BG)

(5) The capacity of any container, other than those approved by the Chief Controller for specific purposes, shall not exceed 300 litres.

(6) An air space of not less than 5 percent of its capacity shall be kept in each container.

(7) The container shall bear a stamped, embossed or painted warning exhibiting in conspicuous characters the words "Petrol" or "Motor Spirit" or an equivalent warning of the highly inflammable nature of the petroleum.

(8) Nothing in sub-rules (1), (3), (4), (5), (6) and (7), shall apply to containers in the possession of the Defence Forces of the Union.

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.

viii. Section 11 of the Customs Act, 1962.

ix. Section 11A(a) of the Customs Act 1962, defines illegal import as (a) "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;

x. Section 17 (1) provided for self-assessment of duty on imported goods by the Importer himself by filing a Bill of Entry. Under this mode of self-assessment,

the Bills of Entry were self-assessed by Importer, with regard to correctness of classification, value, rate of duty, exemption notification or any other relevant particular having bearing on correct assessment of duty on import;

- xi. *Section 46 (4) of the Customs Act, 1962, inter-alia, provides that the importers are required to declare and certify the correctness of the material particulars, in respect of the imported goods furnished in the respective bills of entry;*
- xii. *Section 46(4)(a) of Customs Act, 1962. The importer who presents a bill of entry shall ensure the following, namely:*
 - (a) the accuracy and completeness of the information given therein;*
 - (b) the authenticity and validity of any document supporting it, and*
 - (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.*
- xiii. *Section 111 (d) of the Customs Act, 1962, any goods which are imported or attempted to be imported or are brought within the Indian Customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force.*
- xiv. *Section 111 (m) of the Customs Act, 1962 any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54.*
- xv. *Section 112 of the Customs Act, 1962 stipulates, 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 shall be liable, -*
 - i. *in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;*
 - ii. *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.
- xvii. *Section 124 of Customs Act, 1962- Issue of show cause notice before confiscation of goods, etc-*
- xviii. *GENERAL RULES FOR THE INTERPRETATION OF THE HARMONIZED SYSTEM*
Rule 2.
 - (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.*
 - (b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.*

Rule 3. When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

13. From the above DYCC lab's Test Report, it appears that the importer has resorted to mis-declaration of the description of the goods with mala fide intention to clear the goods by circumventing the policy conditions (Policy Condition No. 5 of Chapter 27 of Customs Tariff Act, 1975 read with Para 2.20 of Foreign Trade Policy) attached to the goods Automotive Diesel Fuel covered under Chapter 27. It is apparent that the goods in question are found to be Adulterated Diesel in nature. Automotive Diesel can be imported through State Trading Enterprises only. Apparently, goods are found to be mis-declared in terms of description and classification. The importer has attempted to import Diesel Fuel by adding other hydrocarbon and adopting adulteration to overcome the IS 1460 of Automotive Diesel Fuel in guise of declaring the imported goods as Industrial Hydrocarbon Oil. It appears that the importer has mis-declared the goods in term of description. Therefore, the importer has made the imported goods liable for confiscation under section 111(m) of the Customs Act 1962 and has rendered himself for penalty under section 112(a), 112(b) and 114AA of the Customs Act 1962.

14. Further, the importer has misclassified the Goods in CTI 27101990 instead of 27101944 with the malafide intention to circumvent the Import restriction in CTI 27101944. The importer has added other Hydrocarbon in the imported Diesel and has adopted adulteration with the intention to get the goods classified in CTI 27101990 instead of the applicable CTI 27101944. Therefore, it appears that the importer has misclassified the imported in CTI 27101990 with the intention to overcome the restriction in import of Automotive Diesel Fuel. Therefore, the importer has made the imported goods liable for confiscation under section 111(m) of the Customs Act 1962 and has rendered himself for penalty under section 112(a), 112(b) and 114AA of the Customs Act 1962.

15. Since it has been opined that the goods are Diesel fuel in which lower hydrocarbons has been added and it satisfies the definition of Adulteration so as per General Rules of Interpretation 3(a) the heading which provides the most specific description shall be preferred to the heading providing a more general description. The heading 27101944 is for Automotive Diesel Fuel, not containing Biodiesel conforming to standard IS 1460. So, the CTI 27101944 is more specific for the impugned goods stated as diesel fuel mixed with other hydrocarbons and so the impugned goods merits classification in CTI 27101944 instead of the declared CTI 27101990. The Import policy of CTI 27101944 is restricted and import is allowed only to State Trading Enterprises. Therefore, as the goods are prohibited the importer is

not authorized to import the impugned goods. This act of the importer to import prohibited goods has made the imported goods liable for confiscation under section 111(m) of the Customs Act 1962.

16. The importer has resorted to adulteration by adding lower hydrocarbons to the imported Diesel Fuel, which constitutes “adulteration” as defined in the Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005. As per Section 2(f) of the said Order, adulteration is a malpractice and is prohibited when read with Section 11(1) and 11(3) of the Customs Act, 1962, Section 3(2) and 3(3) of the Foreign Trade (Development and Regulations) Act, 1992, and Chapter 2.03(a) of the Foreign Trade Policy, 2023, which mandates that all domestic laws, rules, regulations, technical specifications, safety, environmental and health norms applicable to domestically produced goods apply *mutatis mutandis* to imports unless specifically exempted. The DYCC laboratory report confirming that the goods are Diesel Fuel mixed with other hydrocarbons establishes that the consignment satisfies the definition of adulterated diesel under the above-mentioned Order, and since adulteration of diesel is prohibited, import of adulterated diesel is also prohibited. Therefore, the importer has violated the provisions of the Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005, rendering the goods liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. The smuggling of adulterated diesel through mis-declaration poses a threat to national security, the economy, and the environment.

17. Further attention is drawn on Petroleum Act 1934 wherein Class A Petroleum products have been defined as *petroleum having a flash-point below twenty-three degrees Centigrade*. Therefore, the imported goods are Class A Petroleum in case of Bill of Entry No. 2215417 dated 20.02.2024. Further, in case of Bill of Entry No. 2215417 dated 20.02.2024, the importer neither uploaded any PESO licence for storage of Class A petroleum, nor has permission for storage of Class A petroleum under their PESO. The importer is required to possess valid PESO Licence for import, transport or storage of Petroleum as per Section 3 of the Petroleum Act, 1934 read with Rule 14 of Petroleum Rules, 2002. Thus, the importer has violated the said provisions by importing Petroleum Products of Class A without valid PESO licence. Thus, the goods imported under Bill of Entry No. 2215417 dated 20.02.2024 appear liable for confiscation under section 111(d) and 111(m) of the Customs Act 1962.

18. The importer has imported the said goods having flash point 8.78°C contained in Flexi bags. As per Rule 4 of Petroleum Rules 2002, the Class A & Class B petroleum products should be imported in containers approved by Chief Controller (*As per section 2(iv) of the Petroleum Rules 2002 Chief Controller means the Chief Controller of Explosives*). Rule 5 of Petroleum Rules, 2002 states that Containers for petroleum Class A shall be constructed of tinned, galvanized or externally rust proofed sheet iron or steel and be of a type approved by the Chief Controller. Further Rule 6 of Petroleum Rules 2002 states that the 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. Whereas, the importer has imported the goods in Flexi bags in violation of Rule 4, Rule 5 and Rule 6 of the Petroleum Rules 2002. This act of the Importer has put to risk the safety and security of the country. Therefore, the importer has made the goods liable for confiscation under section 111(d) and 111(m) of the Customs Act 1962.

19. The importer M/s Apex Industries has subscribed to a declaration as to the truthfulness of the contents of the bills of entry in terms of Section 46(4) of the Act in all their import declarations. Section 17 of the Act, w.e.f. 08.04.2011, provides for self-assessment of duty on imported goods by the importer themselves by filing a bill of

entry, in the electronic form. Section 46 of the Act makes it mandatory for the importer to make an entry for the imported goods by presenting a bill of entry electronically to the proper officer. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

20. In terms of the provisions of **Section 46(4) of the Customs Act, 1962**, 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. In terms of the provisions of Section 47 of the Customs Act, 1962, the importer shall pay the appropriate duty payable on imported goods and then clear the same for home consumption. However, in the instant case the importer while filing the bill of entry has resorted to wilful misdeclaration in terms of description and classification.

21. Thus, it is established beyond doubts that the importer has acted in a fraudulent manner, solely to clear the Imported Goods by way of mis-statement and suppression of facts and resorting to adulteration to bypass the import restriction applicable under CTI 27101944.

22. In view of the above, it becomes evident that the Importer has mis-declared the actual description and classification thereby rendering the said goods liable for confiscation under **Section 111(m) and 111(d)** of the Customs Act, 1962. Hence the importer is **liable to penalty** under **Section 112(a), 112(b) & 114AA** of the Customs Act, 1962.

23. Also, by the above acts of omission and commission, the importer has failed to abide by the provisions of **the Customs Act, 1962, Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005, Petroleum Act 1934, Petroleum Rules 2002 and PESO.**

24. Now, therefore, M/s Apex Industries is hereby called upon to show cause to the Additional/Joint Commissioner of Customs, Group-1/1A, NS-I, Jawaharlal Nehru Customs House, Nhava Sheva, Tal: Uran, Dist.-Raigad, Maharashtra – 400 707 within 15 days of receipt of this notice, as to why –

- i. The declared description of the goods “Hydrocarbon Oil” and declared classification of the goods under CTI 27101990 covered under Bills of Entry as mentioned in Table-I should not be rejected and goods should not be re-classified under CTI 27101944 with description **Adulterated Diesel Fuel.**
- ii. The impugned goods imported under Bills of Entry as mentioned in Table-I having declared assessable value of **Rs 74,75,490 /-** (Rupees Seventy Four Lakh Seventy Five Thousand Four Hundred Ninety Only), should not be confiscated under Sections 111(d) & 111(m) of the Customs Act, 1962;
- iii. Penalty should not be imposed on the importer M/s Apex Industries under Section 112(a) & (b) of the Customs Act, 1962.
- iv. Penalty should not be imposed on the importer M/s Apex Industries under Section 114AA of the Customs Act, 1962.

25. All the noticees are hereby required to reply to this notice within 15 (fifteen) days from the date of receipt of this notice/display of the SCN on the Notice Board of office. If no reply is received within 15 days or if the noticees fails to appear before the Adjudicating Authority whenever the case is posted for hearing, the case will be adjudicated on the basis of the evidence on record, without any further reference to them. Further the importer is required to state specifically in their written reply if they

do not wish to be heard in person before the Adjudicating Authorities, before the case is adjudicated.

26. This Show Cause Notice is issued without prejudice to any other action that may be taken in respect of the impugned goods and/or the persons/firms mentioned in the notice, under the provisions of the Customs Act, 1962 and/or any other law for the time being in force, in the Republic of India.

27. The Department reserves its right to amend, modify or supplement this notice at any time on the basis of available/further evidences prior to the adjudication of the case.

Digitally signed by
Jay Girijappa Waghmare
Date: 23-02-2026
18:10:01

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

REGD. AD/SPEED POST

To

Apex Industries (IEC No. FKMPS8605C

Plot No. C-10, Industrial Area South Sector,
Sathariya Jaunpur, Uttar Pradesh-222202

Copy to:

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

Enclosure: **RUD-1**

LAB Copy

Lab Code : CL00NSA1

LAB Name : CRCL JNPT

LAB Address : JAWAHARLAL NEHRU CUSTOM HOUSE (JNCH), NHAVA SHEVA, POST-URAN, DISTRICT-RAIGAD,

Test Memo No 1206831 Test Memo Date 04-MAR-24 Doc No 2215417 Doc Date 20-FEB-24

Group 1A CHA Name

Importer Name APEX INDUSTRIES

Supplier Name ABBIGOSH TRADING

Item Desc HYDROCARBON OIL (EACH CONTAINER CONSIST OF 1 FLEXI TANK)

Sample Qty 2 UQC KGS

Query Desc 1) NATURE 2) COMPOSITION 3) DESCRIPTION OF GOODS 4) INITIAL BOILING POINT 5) FINAL BOILING POINT 6) CONTENT OF BASE OIL 7) % OF VOLUME (INCLUDING LOSS) 8) FLASH POINT 9) PLEASE GIVE SPECIFIC COMMENTS THAT THE GOODS ARE OTHER THAN TRANSFORMER OIL 10) WHETHER BASE OIL OR OTHERWISE. IT IS OTHER THAN LIGHT OILS AND PREPARATIONS, SOLVENTS (125/240, 60/80, 50/120, 145/205) IS 91475), KEROSENE


 RANGRAO DNYANU PATIL
 INDIAN CUSTOMS

 CamScanner

Signature Not Verified

Digitally signed by RANGRAO DNYANU PATIL

Date: 2024.03.27 13:10:16 IST

Reason: Secure Document

Location: India



Lab No - 815/IA

Dt - 06-03-24

B/E No- 2215417 Dt-20-02-2024

Report:

The sample as received is in the form of yellowish oily liquid.

It is composed of mixture of hydrocarbon more than 70 % by wt. having following constants.

Density at 15 °C = 0.8285 g/ml

Flash point (Abel)= 8.78 °C

K.V.at 40 °C = 2.13 cst

Ash content= Nil

Cetane index = 52.43

Distillation range: - IBP= 59.1 °C

85 % Distilled at temp= 323.8 °C

90 % Distilled at temp= 333.7 °C

95 % Distilled at temp= 350.2 °C

FBP= 361.8 °C

Based on GC-MS and other analytical findings, the sample u/r is mixture of hydrocarbon mainly containing diesel fraction.

The sample u/r does not meet the requirement of light oil and preparation solvent 60/80, 50/120, 145/205, 125/240 (IS: 1745:2018) kerosene (IS: 1459:2018, IS: 1571:2017), Gas Oil (IS:17789:2022, Vacuum Gas Oil (IS:17792:2022) Light diesel oil (IS: 15770:2019), Automotive diesel fuel (IS: 1460:2017), HFHSD (IS: 16861:2018), transformer oil, biodiesel, diesel fuel blend B6- B20 (IS: 16531:2016).

Sealed remnant sample returned

Abhayankar
14-03-2024

ABHAYANKAR MAHARAJ
Chemical Assistant

[Signature]
14.03.2024
Dr. Purnima Mishra
रसायन प्रयोगशाला, एच.ए.सी. डिपार्टमेंट, ग्रेड-1
जवाहरलाल नेहरू कृषि विज्ञान प्रयोगशाला
एच.ए.सी. डिपार्टमेंट, मुंबई

Signature Not Verified

Digitally signed by RANGRAO DNYANU PATIL
Date: 2024.03.27 13:10:16 IST
Reason: Secure Document
Location: India

