



**BHARAT
SARKAR**

भारतसरकार/ Government of India
वित्तमंत्रालय / Ministry of Finance
कार्यालय/ Office of

आयुक्त सीमाशुल्क-(एनएस-1)

Commissioner of Customs-(NS-I)

Jawaharlal Nehru Custom House (JNCH)

Nhava Sheva, Tal: Uran, Dist: Raigad, Maharashtra-400 707



**INDIAN
CUSTOMS**

F.No.S/26-Misc-1538/2024-25/Gr.1&1A/JNCH

Date of Order: 28.10.2025

S/10-B-4-150/2025-26/Gr.1&1A/JNCH

Date of Issue: 29.10.2025

SCN No.1351/2024-25/DC/GR.1&1A/CAC/JNCH dt. 06.11.2024

Order passed by: **Atul Choudhary, Deputy Commissioner of Customs, Gr. I, NS-I, JNCH, Nhava Sheva.**

Order-in-Original No.: 33/2025-26/AC/Gr. I&IA/NS-I/CAC/JNCH

DIN: 20251078NW0000111C0B

Name of Party/Noticee: M/s. Shree Nandsai Steels Pvt. Ltd. (IEC 811012026)

मूलआदेश

- यहप्रतिजिसव्यक्तिकोजारीकीजातीहै, उसकेउपयोगकेलिएनिःशुल्कदीजातीहै।
- इसआदेशकेविरुद्धअपीलसीमाशुल्कअधिनियम1962 कीधारा128 (1) केतहतइसआदेशकीसंसूचनाकीतारीखसेसाठदिनोंकेभीतरसीमाशुल्कआयुक्त (अपील), जवाहरलालनेहरूसीमाशुल्कभवन, न्हावा-शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र -400707 कोकीजासकतीहै।अपीलदोप्रतियोंमेंहोनीचाहिएऔरसीमाशुल्क(अपील) नियमावली, 1982 केअनुसारफॉर्मसी.ए. 1 संलग्नकमेंकीजानीचाहिए।अपीलपरन्यायालयफीसकेरूपमें1.50 रुपयेमात्रकास्टांपलगायाजायेगाऔरसाथमेंयहआदेशयाइसकीएकप्रतिलगायीजायेगी।यदिइसआदेशकीप्रतिसंलग्नकीजातीहैतोइस परन्यायालयफीसकेरूपमें1.50 रुपयेकास्टांपभीलगायाजायेगाजैसाकिन्यायालयफीसअधिनियम1970 कीअनुसूची1, मद6 केअंतर्गतनिर्धारितकियागयाहै।
- इसनिर्णययाआदेशकेविरुद्धअपीलकरनेवालाव्यक्तिअपीलअनिर्णीतरहनेतक, शुल्कयाशास्तिकेसंबंधमेंविवादहोनेपरमाँगेगयेशुल्कके7.5% का, अथवाकेवलशास्तिकेसंबंधमेंविवादहोनेपरशास्तिकाभुगतानकरेगा।

ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Sheva, Tal :Uran, Dist : Raigad, Maharashtra – 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
- Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s. Shree Nandsai Steels Pvt. Ltd. (IEC 811012026) having office at 1, FF, Nataraj Estate, Near Nagarwel, Hanuman Mandir, Rakhial, Ahmedabad, Gujarat, 380021 (hereinafter referred to as the "Importer") had filed 01 Bill of Entry as detailed in Table-A below, for clearance of the goods described as "Fuel Oil" (hereinafter referred to as the "goods"). The goods were classified under CTH 27101951. The Bill of Entry was assessed only after Test Reports of the imported goods were received. The duty was assessed and paid @ 2.5% (BCD, read with Notification No. 50/2017, S.No. 147B) + 10% SWS + 18% (IGST).

Table-A

Sr. No.	BE Number	BE Date	OOB Date
1	3368928	18-11-2022	18-11-2022

2. During Post Clearance Audit it was observed that S.No. 147B was inserted in Notification No. 50/2017-Cus, vide Notification No. 2/2022-Cus dated 01.02.2022. This entry exempts the 'Fuel Oil' falling within sub-heading 271019 from so much of BCD which is in excess of 2.5%. The pertinent text of the notification is provided below for quick reference:

:

Notification No. 02/2022-Customs

New Delhi, the 1st February, 2022

G.S.R.(E).— In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and sub-section (12) of section 3 of the Customs Tariff Act, 1975 (51 of 1975), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 50/2017-Customs, dated the 30th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 785(E), dated the 30th June, 2017, namely:-

In the said notification, -

- (36) after S. No. 147A and the entries relating thereto, the following S. Nos. and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)	(6)
"147B.	2710 19	Fuel oil	2.5%	-	-
147C.	2710 19	Straight run fuel oil	2.5%	-	-
147D.	2710 19	Low sulphur wax residue	2.5%	-	-
147E.	2710 19	Vacuum residue, Slurry	2.5%	-	-
147F.	2710 19	vacuum gas oil	2.5%	-	-";

2.1 It was also observed that CTH 27101951 covers the goods of following description:

With effect from 01.02.2022:

	--- Fuel oils conforming to standard IS 1593:			
2710 19 51	---- Grade LV	kg.	10%	-
2710 19 52	---- Grade MV1	kg.	10%	-
2710 19 53	---- Grade MV2	kg.	10%	-
2710 19 59	---- Grade HV	kg.	10%	-

With effect from 01.05.2022:

	--- Fuel oils conforming to standard IS 1593:			
2710 19 51	---- Grade LV	kg.	5%	-
2710 19 52	---- Grade MV1	kg.	5%	-
2710 19 53	---- Grade MV2	kg.	5%	-
2710 19 59	---- Grade HV	kg.	5%	-

3. The CTI 27101951 to 27101959 cover **'Fuel oils of different grades conforming to standard IS 1593:'**. Also, as per Supplementary Notes to Chapter 27 – 'Fuel Oil' means any hydrocarbon oil conforming to the Indian Standards Specification of Bureau of Indian Standards IS:1593:1982 (Reaffirmed in the year 1997).

3.1 As per the said BIS standard, **all** the following 9 parameters are required to be fulfilled by the imported goods to be classified as 'Fuel Oil'.

S. No.	CHARACTERISTIC	REQUIREMENT FOR FUEL OILS			
		Grade LV	Grade MV1	Grade MV2	Grade HV
(1)	(2)	(3)	(4)	(5)	(6)
i)	Acidity, inorganic	Nil	Nil	Nil	Nil
ii)	Ash, percent by mass, Max	0.1	0.1	0.1	0.1
iii)	Gross, calorific value	Not limited but to be report (See Note 1)			
iv)	Relative density at 15/15°C	Not limited but to be report (See Note 2)			
v)	Flash point, (Pensky martens (closed), Min	66°C	66°C	66°C	66°C
vi)	Kinematic viscosity in centistrokes at 50°C, Max	80	125	180	370
vii)	Sediment, percent by mass, Max	0.25	0.25	0.25	0.25
viii)	Sulphur, total, percent by mass, Max (See Note 3)	3.5	4.0	4.0	4.5
ix)	Water content, percent by volume, Max	1.0	1.0	1.0	1.0

Note1 – Normally the gross calorific value is of the order of 10,000 cal/g.

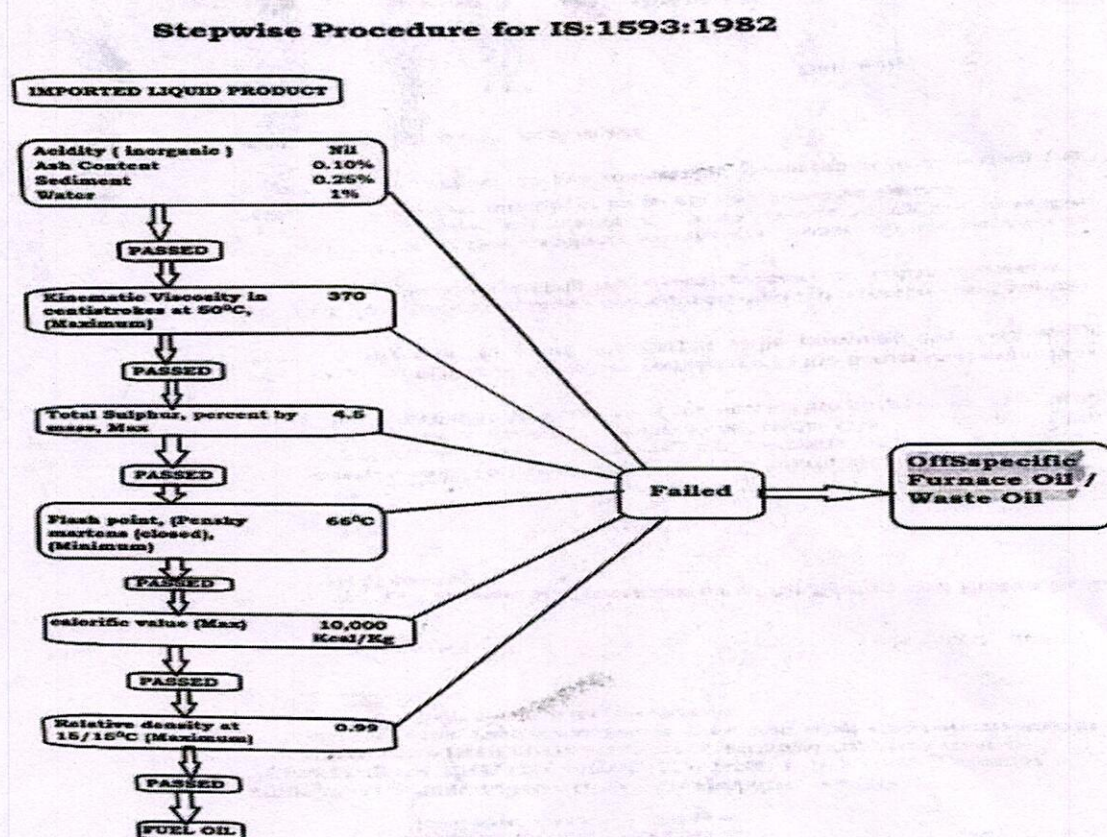
Note 2 – Fuel oil for marine uses in diesel engines shall not exceed a limit of 0.99.

Note 3 – Recognizing the necessity for low-sulphur fuel oils in some specialized user a lower limit may be specified by mutual agreement between the purchaser and the supplier.

4. For testing Fuel Oil as per IS:1593:1982, CBIC has issued guidelines vide Circular No. 33/2001-Cus dated 04.06.2001. The circular outlines a step-by-step procedure to ascertain whether an imported consignment should be categorised as '**Fuel Oil**' or an '**Off-specification Product**'.

4.1 As per the aforementioned circular, imported goods are required to undergo **basic screening tests for Acidity, Ash content, Sediment, and Water** initially. Products that do not meet the screening test requirements should be categorized as 'Off-specification Furnace oil/Waste oil'. Only those products which successfully pass the initial screening test should proceed to further testing for the remaining BIS specifications, following the sequence of Kinematic Viscosity, total Sulphur percentage by weight, Flash Point, Calorific value, and Density.

4.2 To facilitate understanding of the steps outlined in Circular No. 33/2001 mentioned above, a visual flowchart is provided below:



5. Therefore, Samples from the imported goods covered under the Bill of Entry mentioned in Table-A at Para 1 above were drawn and sent to DyCC, JNCH for testing inter alia to verify whether an imported consignment is to be categorized as a 'Fuel Oil confirming to standard IS 1593:'. The Test Reports in respect of the above said Bill of Entry categorically stated that "the sample does not meet the requirement of IS:1593 specification of fuel oil/furnace oil. As per Board's Circular No. 33/2001, it is Off specification Fuel/Waste Oil as sample

failed the **Screening Test**. Sample is to be tested for hazardous parameters for which testing facilities are not available here at present.”

5.1 The goods being Off-specification Fuel Oil, the samples were sent to Mumbai Waste Management Co. Ltd. to verify hazardous nature of the goods. On perusal of these reports it is seen that the samples were tested for parameters 9 to 14 of the Appendix-1 in Board’s Circular No. 33/2001 and results were found within prescribed limits.

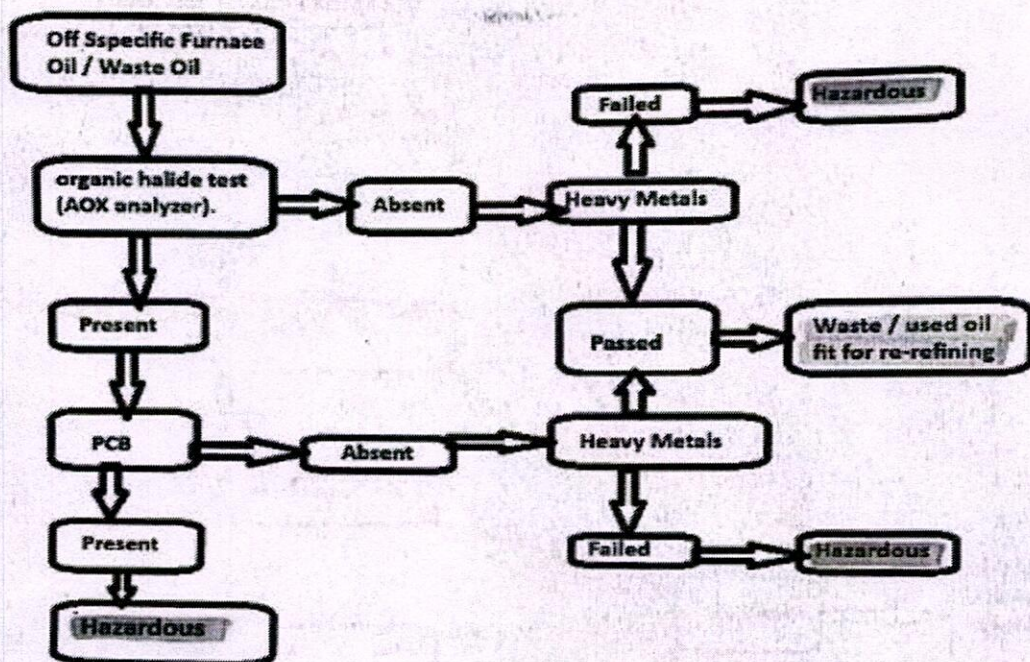
6. The CBIC Circular No. 33/2001-Cus dated 04.06.2001 (supra), further prescribes an Organic Halide test (AOX analyzer) for Off specification furnace oil /waste oil. Off specification furnace oil /waste oil indicating absence of Organic Halide is required to be further tested for heavy metals (may not be tested for PCBs). **Samples conforming to heavy metal concentrations listed in Appendix 1 for re-refining could be re-refined and those not confirming should be classified as hazardous waste.** Appendix 1 contains following parameters.

APPENDIX-1 (Used Oil Specification for Re-refining)

S. No.	Constituents/Property	Acceptable Limits (Max.)
1	Colour	8
2	Water	15%
3	Density	0.85 to 0.95%
4	Flash point COC	Min. 94 Degree Centigrade
5	Kinematic Viscosity c St at 100-degree centigrade grades	1.0 to 32
6	Dilutents	15% Vol.
7	Neutralization No.	3.5 mg KOH/g
8	Saponification value	18 mg KOH/g
9	Total Halogen (Organic Halide Test)	4000 ppm
10	PCBs	Absent
11	Lead	Heavy Metals 100 ppm
12	As	
13	Cd+Cr+Ni	
14	PAH	500 ppm
		6%

For ease of understanding visual flow chart is given below:

Further Testing of Offspecific Furnace Oil/Waste Oil as per Board Circular 33/2001- Cus dated 04.06.2001



Parameter	Acceptable Limits(Max)
Total Halogen(AOX)	4000 ppm
PCBs	Absent
Lead	100 ppm
As	5 ppm
Cd+Cr+Ni	500 ppm
PAH	6%

7. The samples were tested by Mumbai Waste Management Ltd. to decide hazardousness of the imported goods. These reports are enclosed herewith. It is seen that the samples were tested for parameters 9 to 14 of the Appendix-1 above and results were found within prescribed limits.

8. From the Test Reports of DyCC, JNCH, it appears that **the imported goods do not meet at least one of the Screening Tests for Acidity, Ash content, Sediment and Water required under IS:1593**. Therefore, the imported goods are not eligible to be classified under CTH 27101951. Consequently, these goods are not eligible for benefit of Notification No. 2/2022-Cus dated 01.02.2022.

8.1 It is also clear from the holistic reading of Test Reports of DyCC, JNCH and Mumbai Waste Management Ltd. vis-à-vis CBIC Circular No. 33/2001 dated 04.06.2001 that **the imported goods are non-hazardous re-refinable waste oil and hence merits classification under CTI 27101990** and duty is chargeable @ 10% BCD + 10% SWS + 18% IGST for the period from 01.02.2022 till 30.04.2022 and @ 5% BCD + 10% SWS + 18% IGST w.e.f. 01.05.2022.

9. A Consultation Letter 1215/2022-23 E1 dated 12.12.2022 was sent to **M/s. Shree Nandsai Steels Pvt. Ltd. (IEC 811012026)** notifying them that the imported goods do not appear to fall under the category of "Fuel Oil" (CTI 27101951) with a duty structure of 2.5% BCD + 10% SWS+ 18% IGST. Instead, they appear classifiable as "Off-specification Oil fit for re-refining" (CTI

27101990) with a duty structure of 5% BCD+ 10% SWS + 18% IGST. The Importer was advised to pay the differential duty along with interest.

9.1 In response to CL, the importer vide their letter dated 26.12.2022 inter alia submitted that :

- (i) The classification of goods is governed by ITC/HS/BTN. The classification of goods imported is CTH 271019. The classification of goods is international. The goods imported cannot be classified in any other CTH i.e. "Others".
- (ii) RSS has been tested by DYCC as well as Mumbai Waste management Lab. Both the Test Reports confirm that the goods are Fuel Oil.
- (iii) DYCC Lab is not authorized Lab to certify the BIS standard. There is no query raised by Group to DYCC to Test the goods with reference of BIS parameters.
- (iv) The imported goods are examined on 1st check examination and tested. The Bill of Entry has been verified by the Proper Officer as per examination order and allowed to be cleared on payment of duty as assessed and verified.

10. It is seen that the importer has contested the RSS that had been tested by DyCC as well as Mumbai Waste Management Lab. Also, both the Test Reports confirm that the goods are FUEL OIL. This contention of the importer appears factually incorrect for the reason that as per Schedule-I to Customs Tariff Act, 1975, only that 'Fuel Oil' which confirms to IS:1593 is classifiable under CTI 27101951 to 27101959. The Test Reports of DyCC, uploaded by the importer themselves in e-sanchit categorically state that - *"the sample does not meet the requirement of IS:1593 specification of fuel oil/furnace oil"*. It is construed from the reply of the importer that they have defended the original classification of the goods under CTI 27101951 on the argument that the goods were assessed on first check basis after drawing sample and verifying Test Reports. The importer has not given any other plausible evidence/reason to justify the classification of Fuel Oil which does not meet the requirement of IS:1593, under CTI 27101951 and availing benefit of Notification No. 02/2022-Cus dated 01.02.2022 (S.No.147B).

10.1 Therefore, in view of Test Reports of DyCC, JNCH and Mumbai Waste Management Co. Ltd. and the reasons explained in foregoing Paras 2 to 10 above, the impugned goods appear mis-classified under CTI 27101951. The imported goods are correctly classifiable under CTI 27101990 and consequently not eligible for benefit of Notification No. 02/2022-Cus dated 01.02.2022. Hence, differential duty in respect of said 01 Bill of Entry, along with interest appear recoverable. The particulars of duty difference, during the

relevant period (which were not taken into account while issuing CL dated 12.12.2022) as follows:

With effect from 01.02.2022 to 30.04.2022

2710 19 90 --- Other kg. 10%

With effect from 01.05.2022

2710 19 90 --- Other kg. 5%

	BE Number	AV (in INR)	Duty paid (Challan + Scrip) (in INR)	Total Duty Payable (in INR)	Differential Duty (in INR)
1	3368928/ 18-11-2022	7269966	1544504	1780415	235911

11. In view of above, it appears that the importer has mis-classified the goods under CTH 27101951 instead of CTH 27101990 with the intention to evade the applicable customs duty. This act of omission and commission by the importer has made the goods liable for confiscation under section 111(m) of the Customs Act 1962.

12. In view of the above facts, the importer **M/s. Shree Nandsai Steels Pvt. Ltd. (IEC 811012026)** was called upon to show cause to The Deputy/ Assistant Commissioner of Customs, Gr.1, Jawaharlal Nehru Custom House, Nhava Sheva -I, Taluk - Uran, District Raigad, Maharashtra - 400 707, as to why: -

- (i) the self-assessments in the classification of Fuel Oil CTH 27101951 declared by the importers **M/s. Shree Nandsai Steels Pvt. Ltd. (IEC 811012026)** at the time of import of Fuel Oil in respect of the bill of entry as mentioned in Table-A, should not be rejected as not in order and instead be classified under tariff item 27101990 of the Customs Tariff and that Customs duty on the subject goods should not be levied at applicable rates corresponding to the tariff item 27101990;
- (ii) the differential Customs duty amounting to **Rs. 2,35,911/- (Rupees Two Lakh Thirty Five Thousand Nine Hundred Eleven only)** on impugned goods, should not be demanded and recovered from them under Section 28(1) of the Customs Act, 1962;
- (iii) the applicable interest should not be recovered from them on the said differential Customs duty, as at (ii) above, under Section 28AA of the Customs Act, 1962;
- (iv) The subject goods covered under said Bill of Entry should not be confiscated under section 111(m) of the Customs Act, 1962.
- (v) The penalty under Section 112(a)/114A of the Customs Act, 1962 should not be imposed on the importer.

EXTENSION OF TIME LIMIT

13. Show Cause Notice in the subject matter had been issued on 06.11.2024. The last date for adjudication of the case was 05.05.2025, which has been extended by the competent authority for 06 months up to 05.11.2025, in light of provision of Section 28(9) of Customs Act-1962.

PERSONAL HEARING AND WRITTEN SUBMISSIONS

14. In order to comply with the Principles of Natural Justice, the noticee was given opportunities for Personal Hearing on 10.10.2024, 15.10.2024 and 23.10.2025 with prior intimation. However, no one appeared for the personal hearing. I, therefore, proceed to decide the case ex-parte on the basis of available record.

RELEVANT LEGAL PROVISIONS:

15. *The relevant legal provisions in so far as they relate to the facts and circumstances of the subject imports are as follows:-*

The Customs Act, 1962

- (i) **Section 28** – Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded–
 - (1) *Where any duty has not been levied or paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any willful mis statement or suppression of facts, -*
 - (a) *the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short levied or short paid or to whom the refund has been erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.*
 - (b) *the person chargeable with the duty or interest, may pay before service of notice under clause (a) on the basis of, -*
 - (i) *his own ascertainment of the duty; or*
 - (ii) *the duty ascertained by the proper officer,*
 - the amount of duty along with the interest payable thereon under Section 28AA or the amount of interest which has not been so paid or part-paid.*
- (ii) **Section 28AA** - Interest on delayed payment of duty:
 - (1) *Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made there under, the person, who is liable to pay duty in accordance with the provisions*

of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

- (2) Interest at such rate not below ten per cent and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

- (iii) **Section 46:** Entry of goods on importation. - (1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically to the proper officer a bill of entry for home consumption or warehousing in the prescribed form:

Provided that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

...

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

- (iv) **Section 111(m):** states that 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;

- (v) **Section 112:** 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, -

- 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;
- In the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;
- 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;
- 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 [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;
- in the case of goods falling both under clauses (i) and (iii), to a penalty [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;
- in the case of goods falling both under clauses (ii) and (iii), to a penalty [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

DISCUSSION AND FINDINGS

16. I have carefully gone through the facts of the case and from the Test Reports of DyCC, JNCH, I find that **the imported goods do not meet at least one of the Screening Tests for Acidity, Ash content, Sediment and Water required under IS:1593**. Therefore, the imported goods are not eligible to be classified under CTH 27101951. Consequently, these goods are not eligible for benefit of Notification No. 2/2022-Cus dated 01.02.2022.

17. I also find that from the holistic reading of Test Reports of DyCC, JNCH and Mumbai Waste Management Ltd. vis-à-vis CBIC Circular No. 33/2001 dated 04.06.2001 that **the imported goods are non-hazardous re-refinable waste oil and hence merits classification under CTI 27101990** and duty is

chargeable @ 10% BCD + 10% SWS + 18% IGST for the period from 01.02.2022 till 30.04.2022 and @ 5% BCD + 10% SWS + 18% IGST w.e.f. 01.05.2022.

18. I find that a Consultation Letter 1215/2022-23 E1 dated 12.12.2022 was sent to **M/s. Shree Nandsai Steels Pvt. Ltd. (IEC 811012026)** notifying them that the imported goods do not appear to fall under the category of "Fuel Oil" (CTI 27101951) with a duty structure of 2.5% BCD + 10% SWS+ 18% IGST. Instead, they appear classifiable as "Off-specification Oil fit for re-refining" (CTI 27101990) with a duty structure of 5% BCD+ 10% SWS + 18% IGST.

19. I find that in response to CL, the importer vide their letter dated 26.12.2022 contested the RSS that had been tested by DyCC as well as Mumbai Waste Management Lab. Also, both the Test Reports confirm that the goods are FUEL OIL. This contention of the importer appears factually incorrect for the reason that as per Schedule-I to Customs Tariff Act, 1975, only that 'Fuel Oil' which conforms to IS:1593 is classifiable under CTI 27101951 to 27101959. The Test Reports of DyCC, uploaded by the importer themselves in e-sanchit categorically state that - *"the sample does not meet the requirement of IS:1593 specification of fuel oil/furnace oil"*. It is construed from the reply of the importer that they have defended the original classification of the goods under CTI 27101951 on the argument that the goods were assessed on first check basis after drawing sample and verifying Test Reports. The importer has not given any other plausible evidence/reason to justify the classification of Fuel Oil which does not meet the requirement of IS:1593, under CTI 27101951 and availing benefit of Notification No. 02/2022-Cus dated 01.02.2022 (S.No.147B).

20. Therefore, in view of Test Reports of DyCC, JNCH and Mumbai Waste Management Co. Ltd. and the reasons explained in foregoing Paras 2 to 10 above, the impugned goods appear mis-classified under CTI 27101951. The imported goods are correctly classifiable under CTI 27101990 and consequently not eligible for benefit of Notification No. 02/2022-Cus dated 01.02.2022. Hence, differential duty in respect of said 01 Bill of Entry, along with interest appear recoverable.

21. I find that the importer has mis-classified the goods under CTH 27101951 instead of CTH 27101990 with the intention to evade the applicable customs duty. This act of omission and commission by the importer has made the goods liable for confiscation under section 111(m) of the Customs Act 1962.

22. I find that as per section 46(4) of the Customs Act, 1962, the importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such

declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

46(4A) The importer who presents a bill of entry shall ensure the following:

- (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.

Accordingly, the importer has not fulfilled his duty as per Section 46(4) of the Customs Act 1962. Therefore, it appears that the importer has violated provisions of Section 46(4) and therefore has made the goods liable for confiscation under section 111(m) of the Customs Act 1962.

Since the goods are liable for confiscation under Section 111(m) as per omission and commission discussed above, the importer has rendered himself for penalty under Section 112(a) of the Customs Act 1962.

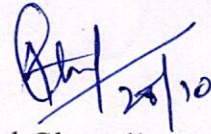
23. In view of the factual details of the case as discussed above, I pass the following order:

ORDER

- i. I **reject the claimed classification** of the impugned goods under CTH 27101951 and order to re classify under CTH 27101990 and Customs duty on the subject goods should be levied at applicable rates corresponding to the tariff item 27101990.
- ii. I order to recovery of differential Customs Duty of **Rs. 2,35,911/- (Rupees Two Lakh Thirty Five Thousand Nine Hundred Eleven only)** under section 28(1) of the Customs Act, 1962 along with applicable interest under section 28AA *ibid*.
- iii. I held the goods covered under Bill of Entry No. 3368928 dated 18.11.2022 are liable for confiscation under **Section 111(m)** of the Customs Act, 1962. However, as the goods are not available for such confiscation, I impose a **redemption fine of Rs. 25000/- (Rupees Twenty Five Thousand Only)** under section 125 of the Customs Act, 1962 in lieu thereof.
- iv. I impose a penalty 10,000/- **(Rupees Ten Thousand Only)** on the importer, **M/s. Shree Nandsai Steels Pvt. Ltd. (IEC 811012026)** under **section 112(a)** of the Customs Act, 1962..

24. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/ firms concerned, covered or not covered by this show cause notice, under the provisions of

Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.



(Atul Choudhary)

Deputy Commissioner of Customs
Gr I&IA, JNCH

To

M/s. Shree Nandsai Steels Pvt. Ltd. (IEC 811012026)

1, FF, Nataraj Estate, Near Nagarwel, Hanuman Mandir,
Rakhial, Ahmedabad, Gujarat, 380021.

Copy to;

- 1) DC/CAC, JNCH (for information only),
- 2) DC/Audit Circle, A1, JNCH,
- 3) DC/CRAC Section, JNCH,
- 4) DC/ EDI, JNCH,
- 5) Notice Board (for display),
- 6) Office Copy.