

 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/SCN/232/2026-Gr (1And1A)

Date of Order: 02.02.2026

Date of Issue: 03.02.2026

S/10-Adj. -129/2025-26/GR.I&IA
SCN NO. 470/2024-25 ADJ GR.I & IA NS-I/CAC/JNCH dt. 10.06.2024
Order-in-Original No.: 1569(L)/2025-26/JC/Gr.I&IA/NS-I/CAC/JNCH

DIN: 20260278NW0000323230

Order passed by: Jay G. Waghmare, Joint Commissioner of Customs, NS-I, Gr. I, JNCH, Nhava Sheva

Name of the Parties/Noticees: M/s My Own Eco Energy private limited (IEC: 3113000807)

मूलआदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त) अपील(, जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता .उरण, जिला - रायगढ़, महाराष्ट्र- 400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील (नियमावली, 1982 के अनुसार फॉर्म सी. ए.-1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
3. इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

1. This copy is granted free of charge for the use of the person to whom it is issued.
2. An appeal against this order lies with the Commissioner of Customs (Appeals), Jawaharlal Nehru Custom House, Sheva, Taluka: 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 annexed to the Customs (Appeals) Rules, 1982. The appeal should bear a Court Fee stamp of Rs.2.00 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. 2.00 only as prescribed under Schedule 1, Item 6 of the Court Fees Act, 1870.
3. 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 My Own Eco Energy private limited (IEC: 3113000807) having address at 444, A 1, 4th Floor, Shah & Nahar Industrial Estate, Sitaram Jadhav Marg, Dhanraj Mill Compound, Lower Parel, Mumbai, MH, 400013(hereinafter referred as 'the importer') filed following home consumption Bill of Entry No. for clearance of goods declared as Perfect Renewable Hydrocarbon classified under CTH imported from the

overseas supplier M/s Perfect Renewable General Trading. The details of the Bill of Entry are as under:

TABLE-I

Sr. No.	BE No./Date	Description of Goods	Qty (Kgs)(Net Weight)	Declared CTH	Declared Assessable Value (in Rs.)	Declared Duty (in Rs.)
1	2833700/ 01.04.2024	Perfect Renewable Hydrocarbon	93300	27101990	53,70,490/-	13,15,234/-
2	2833698/ 01.04.2024	Perfect Renewable Hydrocarbon	93400	27101990	52,39,503/-	12,83,155/-

2. The Bill of Entry was marked for first check examination and sample was forwarded to DYCC, JNCH for testing purpose.

3. The test report vide Test Report No. 1210965 dated 10.04.2024 (Lab No. 1227/IA dated 12.04.2024) for BE 2833698/ 01.04.2024 & Test Report No. 1210966 dated 10.04.2024 (Lab No. 1228/IA dated 12.04.2024) for BE 2833700 dtd. 01.04.2024 furnished by DYCC Lab, JNCH reported that:

For BE 2833700 dtd. 01.04.2024

The sample as received is in form of light greenish oily liquid. It is composed of mixture of hydrocarbon more than 70% by wt. having following constants.

Density at 15 °C = 0.8253 gm/cc

Flash point (Abel)= 32.01 °C

K.V.al 40 °C= 3.43 cSt

Ash content=Nil

Cetane Index = 60.73

Distillation range:

IBP=130.7°C

85 % Distilled at temp= 340.2°C

90 % Distilled at temp= 357.5 °C

95 % Distilled al temp=392.3 °C

FBP=405.2 °C

Based on analytical findings, the sample u/r is mixture of hydrocarbon mainly containing diesel fraction. It is other than renewable hydrocarbon.

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), Vacuum Gas Oil (IS:17792), Base Oil, Light diesel Oil (IS: 15770:2008), Automotive diesel fuel (IS: 1460:2019), HFHSD (IS: 16861:2018), Diesel fuel blend B6-B20 (IS: 16531:2016), Transformer Oil, Gas Oil (IS:17789:2022), Motorgasoline (IS:2796, IS:17021, IS:17586, IS:17076), Fuel Oil (IS:1593) and Kerosene intermediate (IS:17793:2022).

Sealed remnant returned.

For BE 2833698 dtd. 01.04.2024

The sample as received is in form of light greenish oily liquid. It is composed of mixture of hydrocarbon more than 70% by wt. having following constants.

Density at 15 °C = 0.8256 gm/ml

Flash point (Abel)= 40.68 °C

K.V.al 40 °C= 3.4423 cst

Ash content=Nil

Cetane Index = 60.56

Distillation range:

IBP=128°C

85 % Distilled at temp= 338.50 °C

90 % Distilled at temp= 355.30 °C

95 % Distilled al temp=388.30 °C

FBP=406.20 °C

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

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), Vacuum Gas Oil (IS:17792:2022), Light diesel Oil (IS: 15770:2008), Automotive diesel fuel (IS: 1460:2017), HFHSD (IS: 16861:2018), Transformer Oil, Bio Diesel, Diesel fuel blend B6-B20 (IS: 16531:2016).

Sealed remnant sample returned.

4. Since Flash Point and other parameters appears not to be clear with respect to the imported Goods, DYCC was requested vide letter dated 12.04.2024 to clarify certain parameters.
5. Accordingly, DYCC vide letter dated 04.06.2024 stated following regarding bill of entry no 2833698 dated 01.04.2024 & Bill of Entry No. 2833700 dated 01.04.2024. For both BE's the same reply has been given.
 1. Nature Already mentioned in the Test Report.
 2. Composition-Already mentioned in the Test Reports as "It is composed of mixture of Hydrocarbon more than 70% by wt." (as per the requirements of Customs Tariff) Chemical composition was also determined by GC-MS method.
 3. Description of Goods - Already mentioned in the Test Report.
 4. Flash Point Already mentioned in the Test Report.
 5. Initial Boiling Point- Already mentioned in the Test Report.
 6. Final Boiling Point- Already mentioned in the Test Report.
 7. Cetane Number-Facility does not exist in this laboratory at present.
 8. Cetane Index-56.59 (Found from the notebook of the Chemical Assistant).
 9. % of Hydrocarbon mixture - It is wholly composed of hydrocarbons.
 - 10.% of Sulphur Content - This laboratory does not have facility at present.
 11. Density-Already mentioned in the Test Report.
 12. K.V. at 40°C- Already mentioned in the Test Report.
 13. K.V. at 100°C-Not possible to determine for this product
 14. Water Content - Nil

Ash Content - Nil (Already mentioned in the Test Reports)
Sediment-Nil

- 15. % of Diesel Fraction in the sample: There is no technical literature in this laboratory at present to determine the exact % of Diesel Fraction in the sample. However, based on Kinematic viscosity, at 40°C, Density at 15°C, Cetane Index, Distillation, 95 percent v/v, recovery and GC-MS spectra pattern, the samples under reference can be considered as **Diesel Fuel mixed with small amount of other hydrocarbons.**
- 16. Type of Diesel available in sample: Diesel of Petroleum origin.
- 17. As mentioned in the Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005, the sample under reference satisfies the definition of "**adulteration**".
- 6. On the basis of DYCC lab Test Report and clarifications, 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 is 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 mis-classified. 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 Perfect

Renewable Hydrocarbon. Therefore, it appears that the importer has mis-declared the goods in term of description

7. The joint reading of Chapter Notes of Chapter 27 and General Interpretation Rule 1-3 indicates that the Imported Goods doesn't merits classification in heading 27101990 as the CTH 27101990 is for 'other' which is for goods wherein specific heading has not been prescribed. The importer has added other Hydrocarbon in the imported Diesel which doesn't change the essential character of Diesel Fuel. So as per rule 3(a) of the General Interpretation Rule the imported goods Diesel Fuel mixed with other Hydrocarbon merits classification in CTH 27101944. Even the HSN Explanatory Notes to GIR 2 and 3 confirms the same view. Therefore, it appears that the importer has misclassified the imported in CTH 27101990 with the intention to overcome the restriction in import of Automotive Diesel Fuel.
8. On testing and clarification by DYCC, the goods were found to be Diesel fuel mixed with small amount of other Hydrocarbons. 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.
9. 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 CTH 27101944 is more specific for the impugned goods stated as diesel fuel mixed with other hydrocarbons and so the impugned goods merits classification in CTH 27101944 instead of the declared CTH 27101990. The Import policy of CTH 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.
10. 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 has 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.
11. 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. 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* appears 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 mis declaring is a threat to the country and the environment.

12. Further the importer has imported the goods declared as Mixed Hydrocarbon Oil (For Industrial Use Only) wherein tests by DYCC has stated the goods as Adulterated diesel having flash point of Class B petroleum products in Flexi bags. As per section 4 of Petroleum Rules 2002 the 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). Further Section 6 of Petroleum Rules 2002 stated 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 section 4 and section 6 of the Petroleum Rules 2002.

13. 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.

Section 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.

(vi) Section 11 of the Customs Act, 1962.

(vii) 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;

- (viii) 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;
- (ix) 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;
- (x) 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.
- (xi) 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.
- (xii) 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.
- (xiii) 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;
- (xiv) 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.
- (xv) Section 124 of Customs Act, 1962- Issue of show cause notice before confiscation of goods, etc-
- (xvi) 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.

14. From the above DYCC lab Test Report and clarification, it appears that the importer has resorted to mis-declared 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 Perfect Renewable Hydrocarbon. 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.

15. Further, the Importer has misclassified the Goods in CTH 27101990 instead of 27101944 with the malafide intention to circumvent the Import restriction in CTH 27101944. The importer has added other Hydrocarbon in the imported Diesel and has adopted adulteration with the intention to get the goods classified in CTH 27101990 instead of the applicable CTH 27101944. Therefore, it appears that the importer has misclassified the imported in CTH 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.

16. 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 CTH 27101944 is more specific for the impugned goods stated as diesel fuel mixed with other hydrocarbons and so the

impugned goods merits classification in CTH 27101944 instead of the declared CTH 27101990. The Import policy of CTH 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.

17. The importer has also resorted to Adulteration by adding lower hydrocarbon in the imported goods. i.e. Diesel Fuel. So, attention is drawn to the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005, where in "adulteration" has been defined. 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 has 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. The above act of the importer to import Diesel by adulteration has violated the provisions of above said rules and has made the imported goods liable for confiscation under section 111(d) and 111(m) of the Customs Act 1962.

18. Chapter 2.03 (a) of the Foreign Trade Policy, 2023 states that imported goods must comply with Domestic Laws / Rules/ Orders/ Regulations/ technical specifications/ environmental/ safety and health norms applicable to domestically produced goods, 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* appears 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 mis declaring is a threat to the country and the environment.

19. Further the importer has imported the goods which are Diesel Fuel mixed with other hydrocarbons having flash point of 31.4 degree Celsius of Class B Petroleum products in Flexi bags. And as per section 4 of Petroleum Rules 2002 the 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). Further Section 6 of Petroleum Rules 2002 stated 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 section 4 and section 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.

20. The importer M/s My Own Eco Energy private limited 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.

21. 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.

22. 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 under CTH 27101944.

23. 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.

24. 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.**

25. In view of above, M/s My Own Eco Energy private limited 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 "Perfect Renewable Hydrocarbon" and declared classification of the goods under CTI 27101990 covered under Bill 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 Bill of Entry as mentioned in Table-I having total declared assessable value of **Rs.1,06,09,993/-** (Rupees Once Crore Six Lakh Nine Thousand Nine Hundred Ninty Three 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 My Own Eco Energy private limited under Section 112(a) & (b) of the Customs Act, 1962.
- iv. Penalty should not be imposed on the importer M/s My Own Eco Energy private limited under Section 114AA of the Customs Act, 1962.

26. RECORDS OF PERSONAL HEARING AND SUBMISSION OF THE IMPORTER:

26.1 The importer, vide letter dated 23.01.2026, informed that the identical issue of classification for the same product was challenged before the Commissioner of Customs (Appeals).

26.2 The importer has waived their right to a Personal Hearing and requested the closure of the current proceedings in light of the settled legal position.

27. The Commissioner of Customs (Appeals) vide the Order in Appeal No. 1146 (Gr.I&IA)/2025(JNCH)/Appeals dated 08.10.2025 has set aside the said O-in-O and passed the following Order;

"In view of the foregoing discussions and findings, I set aside the Order-In-Original No. 358/2024-25/ADC/GR.1&1A/NS-1/CAC/JNCH dt.

13.06.2024 passed by the Addl. Commissioner of Customs, Group-1&1A, NS-1, JNCH. The Appeal No. 1786/2025 filed by M/s. My Own Eco Energy Private Limited is allowed with consequential relief, if any, in accordance with law. With regard to waiver of detention/demurrage charges, the Respondents may approach competent authority for consideration in terms of Rule (6)(1) of the Handling of Customs Cargo Regulations, 2018 and Sea Cargo Manifest & Transshipment Regulations, 2009, and Sea Cargo Manifest & Transshipment Regulations, 2018."Vide **Order-in-Appeal No. 1146 of 2025 dated 08.10.2025**, the learned Commissioner (Appeals) set aside the Department's classification and allowed the appeal with consequential relief.

28. As informed vide letter letter F. No. CUS/APR/APPL/C(A)/350/2025-Review dated 13.01.2026, Committee of Commissioners, has accepted the said OIA on merits.

29. **DISCUSSION AND FINDINGS:** I have gone through the facts of the case and the case records.

29.1 I find that M/s My Own Eco Energy Pvt Ltd filed Bills of Entry No. 2833700 and 2833698 both dated 01.04.2024 for the clearance of "Perfect Renewable Hydrocarbon," classifying the same under CTH 27101990. The Department, however, alleged misclassification under CTH 27101944 and subsequently issued Show Cause Notice (SCN) No. 470/ADC/GR. 1&1A/NS-1/CAC/JNCH dated 10.06.2024.

29.2 I find that the importer, vide letter dated 23.01.2026, informed that the identical issue of classification for the same product was challenged before the Commissioner of Customs (Appeals).

29.3 The importer has waived their right to a Personal Hearing and requested the closure of the current proceedings in light of the settled legal position.

29.4 I find that the classification dispute involved in the current SCN dated 10.06.2024 is identical to the issue settled in OIA No. 1146/2025. Since the Department has accepted the appellate decision, the charges of misclassification in the present SCN do not survive.

30. In view of above, I pass the following order:

ORDER

i. I, the undersigned, in view of the accepted Order-in-Appeal No. 1146/2025 dated 08.10.2025, hereby **drop the proceedings** initiated via Show Cause Notice No. 470/ADC/GR. 1&1A/NS-1/CAC/JNCH dated 10.06.2024.

ii. The Bills of Entry No. 2833700 and 2833698 both dated 01.04.2024 are to be finalized under CTH 27101990 as declared by the importer. Consequential relief, including the issuance of a detention waiver certificate for the period of the dispute, is hereby granted.

31. This order is issued without prejudice to any other action which may be taken against the importer under the provisions of Customs Act, 1962 or under any other law for the time being in force in India.

Digitally signed by
Jay Girijappa Waghmare
Date: 02-02-2026
16:11:45

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

To,

M/s My Own Eco Energy private limited, 444, A 1, 4th Floor, Shah & Nahar Industrial Estate, Sitaram Jadhav Marg, Dhanraj Mill Compound, Lower Parel, Mumbai, MH, 400013

Received OIO
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Copy to:

- 1) The Deputy Commissioner of Customs, CAC, JNCH, Nhava-Sheva,
- 2) The Deputy Commissioner of Customs, Review Cell, JNCH, Nhava-Sheva,
- 3) The Deputy Commissioner of Customs, EDI, JNCH, Nhava-Sheva,
- 4) The Deputy Commissioner of Customs, CHS Section, JNCH, Nhava-Sheva,
- 5) Office Copy.

