

F.No - CUS/3597/-Gr.2(C-F) - O/o Commr. - CUS - Nhava Sheva-I



OFFICE OF THE COMMISSIONER OF CUSTOMS  
NHAVA-SHEVA-I, JAWAHARLAL NEHRU CUSTOM  
HOUSE,  
NHAVA SHEVA, TALUKA: URAN, DIST.: RAIGAD,  
MAHARASHTRA-400 707.

F.No: CUS/APR/SCN/1646/2025-Gr 2(C-F)

Date: 03-11-2025

SCN: 1246(L)/2025-26/JC/GT(C-F)NS-I/CAL/JNCH

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

A letter dated 21.05.2024 (**RUD-I**) was issued by Appraising Group 2 (C-F), JNCH Nhava Sheva to National Customs Targeting Centre (NCTC), Mumbai and Special Investigation and Intelligence Branch (Import), JNCH highlighting the modus operandi that several importers are importing goods like Mixed Hydrocarbon, Diesel, Adulterated Diesel by mis-declaring the same as 'Penetrating Oil', 'Process Oil-40 etc.' and classifying the same under CTH 3403. Accordingly, NCTC Mumbai inserted Target Alert for the goods classified under CTH 3403 and Bills of Entry No. 3730722 dated 29.05.2024 pertaining to M/s Global International and 3729714 dated 29.05.2024 pertaining to M/s Raj Traders was hit by the above Target wherein RMS system instructed for 100% examination under 1<sup>st</sup> Check basis and for drawl of sample for testing purpose to Check mis-declaration of value, quantity and quality of goods. During the process of examination and testing of goods by DYCC, JNCH, discrepancy was noticed as per above Modus Operandi Circular and the Bills of Entry No. 3730722 dated 29.05.2024 pertaining to M/s Global International and 3729714 dated 29.05.2024 pertaining to M/s Raj Traders were forwarded to CIU, JNCH by Assessing Group 2 (C-F) for further investigation. The issue in Bill of Entry No. 4008314 dated 15.06.2024 pertaining to M/s Nikk Enterprises was similar to the previous cases viz. M/s Raj Traders and M/s Global International. As CIU was already investigating similar issue, this case was sent to CIU for drawl of sample and further investigation.

2. The importer M/s Nikk Enterprises filed the Bill of Entry No. 4008314 dated 15.06.2024 for import of goods having description as 'Process Oil-40' by classifying the same under CTH 34031900 having a duty structure of BCD 7.5%, SWS 10% and IGST 18% i.e. total duty @ 27.735%. The declared assessable value of the goods is Rs. 57,23,226/- and declared duty is Rs. 15,87,337/-. The Bill of Entry was sent for examination on first check basis with an order to draw and forward RSS for testing of the goods. Bill of Entry has been forwarded to APR screen after first check examination on 04.07.2024.

3. The said Bill of Entry was sent for examination on first check basis

on 20.06.2024 with an order to draw and forward representative sample for testing of the following parameters:

- i. Nature and Composition
- ii. Description
- iii. Initial Boiling Point
- iv. Final Boiling Point
- v. Content of Base Oil
- vi. Percentage of Volume (Including loss0029)
- vii. Flashpoint
- viii. Please give specific Comment that the goods are other than Transformer Oil
- ix. Whether Base Oil otherwise, It is other than Light oils and preparations, solvents(125/240, 60/80,50/120,145/205) is 91475, Kerosene(IS: 1459/IS: 1571), Kerosene Intermediate(IS: 17793), Gas oil (IS 17789), Vacuum Gas oil (IS: 17792), Light Diesel Oil( IS: 15770), Automotive Diesel Fuel not containing Bio Diesel( IS: 1460), Diesel Blend(IS: 16531) and HFHSD fuel(IS: 16861),waste oil containing pcbs, pcts or pbbs, fuel purpose

4. The examination report was fed by the Docks Officer on 03.07.2024 and accordingly representative samples were drawn and forwarded to Central Revenues Control Laboratory (CRCL), Jawaharlal Nehru Custom House (JNCH) vide sample No. 952 dated 22.06.2024 for testing as per the above- mentioned parameters vide Test Report No. 239 dated 22.06.2024 (**RUD-II**). DYCC vide Lab No. 733/II C dated 24.06.2024 forwarded test report dated 01.07.2024 (**RUD-III**), which is as follows:

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

*Density at 15 degrees Celsius =0.8476 gm/mL*

*Flash Point (COC) = 172.0 degree Celsius*

*Kinematics Viscosity at 40 degrees Celsius = 16.02 Cst*

*Kinematics Viscosity at 100 degrees Celsius = 3.65 Cst*

*Ash Content =NIL*

*Total Acid Number (TAN)= 0.0177 mg KOH/gm*

*Aniline point = 102.0*

*The sample u/r does not meet the requirements 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, 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), Kerosene intermediate (IS:17793:2022), Base oil (IS:18722:2024 Part-I) and Industrial White Oil (IS: 1083: 2022)*



*Sealed remnant sample returned.”*

5. The test report sent by the CRCL, JNCH reported that the goods does not meet the requirements 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, 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), Kerosene intermediate (IS:17793:2022), Base oil (IS:18722:2024 Part-I) and Industrial White Oil (IS: 1083: 2022) Therefore, prima facie it appeared that goods have been mis-declared by the importer in terms of description & classification.

6. **B/E No. 4008314 dated 15.06.2024** was filed for import of goods having description as 'Process Oil - 40' and classified under CTH 34031900. However, no supporting literature/documents such as CoA/MSDS/Catalogue/Composition has been uploaded in E-Sanchit to provide any clarification with regard to the nature and composition of the goods. The importer has classified the goods in CTH 34031900. In order to classify the goods under CTH 3403 the goods must contain basic constituents less than 70% of weight of Petroleum Oil or of oils obtained from bituminous minerals. The Chapter Heading 3403 is reproduced below:

|                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>CTH 3403</b> | Lubricating preparations (including cutting-oil preparations, bolt or nut release preparations, anti-rust or anti- corrosion preparations and mould release preparations, based on lubricants) and preparations of a kind used for the oil or grease treatment of textile materials, leather, furskins or other materials, but excluding preparations containing, as basic constituents, 70% or more by weight of petroleum oils or of oils obtained from bituminous minerals. |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

By reading the exclusion part in the above heading it is clear that lubricating preparations are classifiable under CTH-3403 only if the imported goods contain less than 70% of weight of petroleum oils or oils obtained from bituminous minerals. Further, chapter Heading 2710 itself clearly states as under:

| CTH         | Heading Description                                                                                                                                                                                                                                                                                     |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>2710</b> | Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils |

However, the Test Report Lab No. Lab No. 733/II C dated 24.06.2024 (copy placed opposite) clearly indicates that the impugned goods are composed of mixture of hydrocarbons more than 70% by weight. Therefore, the goods cannot be classified under CTH 34031900 and the correct classification appears to be under CTH 27101990.

For valuation, import data of process oil under CTH 27101990 was

seen from ICES system for the month of June 2024. It is seen from ICES data that valuation of process oil under CTH 27101990 is ranging from USD 825/MTS to USD 1410 per MTS (details of relevant BE given in Table below).

| BE No                    | Importer                                        | Sup Name                 | Country              | CTH      | Item Desc                                                                                                                  | Qty (in MTS)       | Unit price | Inv Cur | Approx value in USD/MTS |
|--------------------------|-------------------------------------------------|--------------------------|----------------------|----------|----------------------------------------------------------------------------------------------------------------------------|--------------------|------------|---------|-------------------------|
| 3781649 dtd 01.06.2024   | ATC TIRES PRIVATE LIMITED                       | PANOL INDUSTRIES RMC FZE | UNITED ARAB EMIRATES | 27101990 | LOW PAH OIL (PROCESS OIL- PANOIL 2900 TRAE) - PETROLEUM OIL BOTH IMP/EXP, ARE MFG.(PTR :1206970 DT.05.03.2024 vide BE:2345 | 105                | 825        | USD     | 825                     |
| 3781651 dtd 01.06.2024   | ATC TIRES PRIVATE LIMITED                       | PANOL INDUSTRIES RMC FZE | UNITED ARAB EMIRATES |          | LOW PAH OIL (PROCESS OIL- PANOIL 2900 TRAE) - PETROLEUM OIL BOTH IMP/EXP, ARE MFG.(PTR :1206970 DT.05.03.2024 vide BE:2345 | 126                | 825        | USD     | 825                     |
| 3783092 dtd 01.06.2024   | NYNAS NAPHTHENICS PRIVATE LIMITED               | NYNAS AB                 | SWEDEN               |          | NYFLEX 223 - NAPHTHENIC PROCESS OIL (NAP) (PTR:1208270/15.03.2024 BOE:2558369/ 13.03.2024) MWML PTR:1760/18.03.2024        | 64.62              | 119877     | INR     | 1410                    |
| 3870813 dated 07.06.2024 | DARAMIC BATTERY SEPARATOR INDIA PRIVATE LIMITED | CALUMET REFINING LLC     | UNITED STATES        |          | DARAMIC 50 PROCESS OIL (1X20 ISO TANK CONTAINERS) (DYCC PTRN O. 1211665 DT. 16.04.2024 BE NO. 2961107 DT. 10.04.2024)      | 19459.097 (in KGS) | 1.016      | USD     | 1016                    |
| 3870813 dtd 07.06.2024   | DARAMIC BATTERY SEPARATOR INDIA PRIVATE LIMITED | CALUMET REFINING LLC     | UNITED STATES        |          | DARAMIC 50 PROCESS OIL (1X20 ISO TANK CONTAINERS) (DYCC PTRN O. 1211665 DT. 16.04.2024 BE NO. 2961107 DT. 10.04.2024)      | 19486.312 (in KGS) | 1.016      | USD     | 1016                    |

Thus, in view of the above, it appeared that goods imported vide BE no. 4008314 dated 15.06.2024 had been mis-declared by the importer in terms of description, classification and valuation.

7. It is pertinent to mention that, at the same time, similar cases of similar modus operandi were handled by CIU, JNCH in respect of importers viz. M/s Raj Traders and M/s Global International, therefore this case file was also transferred to CIU Section for further investigation.

It is also noted that CIU Section JNCH has already issued investigation report in case of 'Smuggling of Adulterated Diesel Oil in the guise of 'Process Oil-40' in respect of goods imported vide Bill of Entry no. 3729714 dated 29.05.2024 filed by Customs Broker M/s Aries Cargo



Movers (CB Code ABAFA0426HCH001) on behalf of importer M/s Raj Traders' and another in case of 'Smuggling of Adulterated Diesel Oil in the guise of 'Process Oil-40' in respect of goods imported vide bill of entry no. 3730722 dated 29.05.2024 filed by Customs Broker M/s Aries Cargo Movers (CB Code: ABAFA0426HCH001) on behalf of importer M/s Global International (IEC No. 0317512889).

8. To further investigate the matter, CIU, JNCH put hold on 08 containers mentioned below vide Hold no. 08/2024-25 dated 12.07.2024.

| Sr. No | Bill of Entry No. & Date | Container No.                                                                                                        | Importer & CHA name                                                                        |
|--------|--------------------------|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| 1.     | 4008314/<br>15.06.2024   | EURU1948377<br>TAHU9080721<br>EURU1645051<br>EURU1948844<br>RVSU2518025<br>EURU1447890<br>TAHU9083926<br>NCTU0240220 | M/s. Nikk Enterprises<br>(IEC: APNPS5220E)<br>CHA: Aries Cargo Movers<br>(ABAFA0426HCH001) |

Further CIU JNCH vide emails dated 13.07.2024 had intimated the importer regarding the hold and requested to participate in the sampling/ examination process. However, the importer did not participate in the sampling process. In order to carry out a comprehensive investigation in the wake of modus operandi of importing adulterated diesel oil under various names such as Industrial Oil, Process Oil, etc., the officers of CIU, JNCH had drawn representative samples under Panchnama dated 16.07.2024 from each of the 08 containers pertaining to bill of entry no. 4008314 dt. 15.06.2024. The said RSS were forwarded to Central Revenues Control Laboratory (CRCL), JNCH on 19.07.2024 for testing.

Central Revenues Control Laboratory (CRCL), JNCH forwarded Test Reports dated 09.08.2024, 14.08.2024, 26.08.2024, 27.08.2024, 28.08.2024, 09.09.2024 & 17.09.2024 (**RUD-IV to XI**) in respect of all the eight (08) containers which are stated below:

**(i) Container No- EURU1948377:**

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

It is composed of mixture of hydrocarbon more than 70% by weight.

| The sample as received has the following constants: |                                     |                |
|-----------------------------------------------------|-------------------------------------|----------------|
| Sr. No.                                             | Parameter                           | Result         |
| 1.                                                  | Density at 15° Celsius              | 0.8206 g/ml    |
| 2.                                                  | Flash Point (Abel)                  | 25.6° C        |
| 3.                                                  | Kinematics Viscosity at 40° Celsius | 2.3553 cst     |
| 4.                                                  | Ash Content                         | Nil            |
| 5.                                                  | Sulphur content by weight           | 0.0053% by wt. |
| 6.                                                  | Cetane index                        | 54.36          |
| 7.                                                  | Distillation range                  | IBP= 99.14° C  |
| 8.                                                  | 85% Distilled at temp               | 328.05° C      |
| 9.                                                  | 95% Distilled at temp               | 360.81° C      |
| 10.                                                 | FBP                                 | 376.75° C      |

The sample after removing the adulterants has the following constants:

| Sr. No. | Parameter                           | Result      |
|---------|-------------------------------------|-------------|
| 1.      | Density at 15° Celsius              | 0.8220 g/ml |
| 2.      | Flash Point (Abel)                  | 63.41° C    |
| 3.      | Kinematics Viscosity at 40° Celsius | 2.6574 cst  |
| 4.      | Ash Content                         | Nil         |
| 5.      | Sulphur content by weight           | 0.0034%     |
| 6.      | Cetane index                        | 55.15       |
| 7.      | Distillation range                  | IBP= 179° C |
| 8.      | 85% Distilled at temp               | 329.1° C    |
| 9.      | 95% Distilled at temp               | 360° C      |
| 10.     | FBP                                 | 375.8° C    |
| 11.     | Adulterant content                  | 3.24%       |

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

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

Sealed remnant sample returned."

**(ii) Container No- EURU1948844:**

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

It is composed of mixture of hydrocarbon more than 70% by weight.

|                                                     |
|-----------------------------------------------------|
| The sample as received has the following constants: |
|-----------------------------------------------------|

| Sr. No. | Parameter                           | Result         |
|---------|-------------------------------------|----------------|
| 1.      | Density at 15° Celsius              | 0.8202 g/ml    |
| 2.      | Flash Point (Abel)                  | 35.9° C        |
| 3.      | Kinematics Viscosity at 40° Celsius | 2.4026 cst     |
| 4.      | Ash Content                         | Nil            |
| 5.      | Sulphur content by weight           | 0.005%         |
| 6.      | Cetane index                        | 55.30          |
| 7.      | Distillation range                  | IBP= 104.68° C |
| 8.      | 85% Distilled at temp               | 329.38° C      |
| 9.      | 95% Distilled at temp               | 362.1° C       |
| 10.     | FBP                                 | 376.7° C       |

The sample after removing the adulterants has the following constants:

| Sr. No. | Parameter                           | Result        |
|---------|-------------------------------------|---------------|
| 1.      | Density at 15° Celsius              | 0.8240 g/ml   |
| 2.      | Flash Point (Abel)                  | 60.9° C       |
| 3.      | Kinematics Viscosity at 40° Celsius | 2.6757cst     |
| 4.      | Ash Content                         | Nil           |
| 5.      | Sulphur content by weight           | 0.008%        |
| 6.      | Cetane index                        | 54.81         |
| 7.      | Distillation range                  | IBP= 164.4° C |
| 8.      | 85% Distilled at temp               | 328.8° C      |
| 9.      | 95% Distilled at temp               | 358.51° C     |
| 10.     | FBP                                 | 375.03° C     |
| 11.     | Adulterant content                  | 1.5%          |

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

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

Sealed remnant sample returned.”

**(iii) Container No- EURU1645051:**

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

It is composed of mixture of hydrocarbon more than 70% by weight.

| The sample as received has the following constants: |                                     |            |
|-----------------------------------------------------|-------------------------------------|------------|
| Sr. No.                                             | Parameter                           | Result     |
| 1.                                                  | Density at 15° Celsius              | 0.821 g/ml |
| 2.                                                  | Flash Point (Abel)                  | 36.0° C    |
| 3.                                                  | Kinematics Viscosity at 40° Celsius | 2.50 cst   |



|     |                           |               |
|-----|---------------------------|---------------|
| 4.  | Ash Content               | Nil           |
| 5.  | Sulphur content by weight | 0.013% by wt. |
| 6.  | Cetane index              | 56.18         |
| 7.  | Distillation range        | IBP= 124.1° C |
| 8.  | 85% Distilled at temp     | 312.5° C      |
| 9.  | 95% Distilled at temp     | 352.4° C      |
| 10. | FBP                       | 375.4° C      |

The sample after removing the adulterants has the following constants:

| Sr.No. | Parameter                           | Result        |
|--------|-------------------------------------|---------------|
| 1.     | Density at 15° Celsius              | 0.825 g/ml    |
| 2.     | Flash Point (Abel)                  | 57.6° C       |
| 3.     | Kinematics Viscosity at 40° Celsius | 2.83 cst      |
| 4.     | Ash Content                         | Nil           |
| 5.     | Sulphur content by weight           | 0.013%        |
| 6.     | Cetane index                        | 54.83         |
| 7.     | Distillation range                  | IBP= 171.6° C |
| 8.     | 85% Distilled at temp               | 327.1° C      |
| 9.     | 95% Distilled at temp               | 358.6° C      |
| 10.    | FBP                                 | 375.0° C      |
| 11.    | Adulterant content                  | 1.20%         |

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

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

Sealed remnant sample returned."

**(iv) Container No- TAHU9080721:**

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

It is composed of mixture of hydrocarbon more than 70% by weight.

| The sample as received has the following constants: |                                     |               |
|-----------------------------------------------------|-------------------------------------|---------------|
| Sr. No.                                             | Parameter                           | Result        |
| 1.                                                  | Density at 15° Celsius              | 0.8191 g/ml   |
| 2.                                                  | Flash Point (Abel)                  | 26.4° C       |
| 3.                                                  | Kinematics Viscosity at 40° Celsius | 2.399 cst     |
| 4.                                                  | Ash Content                         | Nil           |
| 5.                                                  | Sulphur content by weight           | 0.003% by wt. |
| 6.                                                  | Cetane index                        | 55.27         |
| 7.                                                  | Distillation range                  | IBP= 94.49° C |
| 8.                                                  | 85% Distilled at temp               | 327.64° C     |

| 9.                                                                     | 95% Distilled at temp               | 360.39° C     |
|------------------------------------------------------------------------|-------------------------------------|---------------|
| 10.                                                                    | FBP                                 | 376.1° C      |
| The sample after removing the adulterants has the following constants: |                                     |               |
| Sr. No.                                                                | Parameter                           | Result        |
| 1.                                                                     | Density at 15° Celsius              | 0.8226 g/ml   |
| 2.                                                                     | Flash Point (Abel)                  | 54.9° C       |
| 3.                                                                     | Kinematics Viscosity at 40° Celsius | 2.5788 cst    |
| 4.                                                                     | Ash Content                         | Nil           |
| 5.                                                                     | Sulphur content by weight           | 0.002%        |
| 6.                                                                     | Cetane index                        | 54.81         |
| 7.                                                                     | Distillation range                  | IBP= 152.5° C |
| 8.                                                                     | 85% Distilled at temp               | 328.7° C      |
| 9.                                                                     | 90% Distilled at temp               | 360.9° C      |
| 10.                                                                    | FBP                                 | 374.1° C      |
| 11.                                                                    | Adulterant content                  | 0.87%         |

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

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

Scaled remnant sample returned."

**(v) Container No- NCTU0240220**

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

It is composed of mixture of hydrocarbon more than 70% by weight.

| The sample as received has the following constants:                    |                                     |               |
|------------------------------------------------------------------------|-------------------------------------|---------------|
| Sr.No.                                                                 | Parameter                           | Result        |
| 1.                                                                     | Density at 15° Celsius              | 0.8206 g/ml   |
| 2.                                                                     | Flash Point (Abel)                  | 27.93° C      |
| 3.                                                                     | Kinematics Viscosity at 40° Celsius | 2.4612 cst    |
| 4.                                                                     | Ash Content                         | Nil           |
| 5.                                                                     | Sulphur content by weight           | 0.04% by wt.  |
| 6.                                                                     | Cetane index                        | 54.95         |
| 7.                                                                     | Distillation range                  | IBP= 98.77° C |
| 8.                                                                     | 85% Distilled at temp               | 328.33° C     |
| 9.                                                                     | 95% Distilled at temp               | 360.89° C     |
| 10.                                                                    | FBP                                 | 375.83° C     |
| The sample after removing the adulterants has the following constants: |                                     |               |
| Sr.No.                                                                 | Parameter                           | Result        |
| 1.                                                                     | Density at 15° Celsius              | 0.8239 g/ml   |

|     |                                     |                |
|-----|-------------------------------------|----------------|
| 2.  | Flash Point (Abel)                  | 59.9° C        |
| 3.  | Kinematics Viscosity at 40° Celsius | 2.6423 cst     |
| 4.  | Ash Content                         | Nil            |
| 5.  | Sulphur content by weight           | 0.1%           |
| 6.  | Cetane index                        | 55.37          |
| 7.  | Distillation range                  | IBP= 170.62° C |
| 8.  | 85% Distilled at temp               | 330.85° C      |
| 9.  | 90% Distilled at temp               | 362.50° C      |
| 10. | FBP                                 | 375.94° C      |
| 11. | Adulterant content                  | 0.56%          |

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

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

Sealed remnant sample returned.”

**(vi) Container No- RVSU2518025:**

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

It is composed of mixture of hydrocarbon more than 70% by weight.

| The sample as received has the following constants:                    |                                     |                |
|------------------------------------------------------------------------|-------------------------------------|----------------|
| Sr.No.                                                                 | Parameter                           | Result         |
| 1.                                                                     | Density at 15° Celsius              | 0.8193 g/ml    |
| 2.                                                                     | Flash Point (Abel)                  | 27.0° C        |
| 3.                                                                     | Kinematics Viscosity at 40° Celsius | 2.3867 cst     |
| 4.                                                                     | Ash Content                         | Nil            |
| 5.                                                                     | Sulphur content by weight           | 0.0041% by wt. |
| 6.                                                                     | Cetane index                        | 54.42          |
| 7.                                                                     | Distillation range                  | IBP= 97.9° C   |
| 8.                                                                     | 85% Distilled at temp               | 325.3° C       |
| 9.                                                                     | 95% Distilled at temp               | 357.1° C       |
| 10.                                                                    | FBP                                 | 376.5° C       |
| The sample after removing the adulterants has the following constants: |                                     |                |
| Sr.No.                                                                 | Parameter                           | Result         |
| 1.                                                                     | Density at 15° Celsius              | 0.8233 g/ml    |
| 2.                                                                     | Flash Point (Abel)                  | 52.9° C        |
| 3.                                                                     | Kinematics Viscosity at 40° Celsius | 2.6188 cst     |
| 4.                                                                     | Ash Content                         | Nil            |
| 5.                                                                     | Sulphur content by weight           | 0.0029%        |
| 6.                                                                     | Cetane index                        | 54.84          |



|     |                       |               |
|-----|-----------------------|---------------|
| 7.  | Distillation range    | IBP= 162.4° C |
| 8.  | 85% Distilled at temp | 328.3° C      |
| 9.  | 90% Distilled at temp | 360.4° C      |
| 10. | FBP                   | 374.7° C      |
| 11. | Adulterant content    | 1.4%          |

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

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

Sealed remnant sample returned."

**(vii) Container No- EURU1447890:**

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

| The sample as received has the following constants:                    |                                     |                |
|------------------------------------------------------------------------|-------------------------------------|----------------|
| Sr.No.                                                                 | Parameter                           | Result         |
| 1.                                                                     | Density at 15° Celsius              | 0.8215 g/ml    |
| 2.                                                                     | Flash Point (Abel)                  | 38.4° C        |
| 3.                                                                     | Kinematics Viscosity at 40° Celsius | 2.4304 cst     |
| 4.                                                                     | Ash Content                         | Nil            |
| 5.                                                                     | Sulphur content by weight           | 0.0031% by wt. |
| 6.                                                                     | Cetane index                        | 55.51          |
| 7.                                                                     | Distillation range                  | IBP= 127.9° C  |
| 8.                                                                     | 85% Distilled at temp               | 327.8° C       |
| 9.                                                                     | 95% Distilled at temp               | 359.1° C       |
| 10.                                                                    | FBP                                 | 376.6° C       |
| The sample after removing the adulterants has the following constants: |                                     |                |
| Sr.No.                                                                 | Parameter                           | Result         |
| 1.                                                                     | Density at 15° Celsius              | 0.8231 g/ml    |
| 2.                                                                     | Flash Point (Abel)                  | 54.5° C        |
| 3.                                                                     | Kinematics Viscosity at 40° Celsius | 2.4930 cst     |
| 4.                                                                     | Ash Content                         | Nil            |
| 5.                                                                     | Sulphur content by weight           | 0.0029%        |
| 6.                                                                     | Cetane index                        | 55.26          |
| 7.                                                                     | Distillation range                  | IBP= 159.9° C  |
| 8.                                                                     | 85% Distilled at temp               | 328.5° C       |
| 9.                                                                     | 95% Distilled at temp               | 360.3° C       |
| 10.                                                                    | FBP                                 | 374.9° C       |
| 11.                                                                    | Adulterant content                  | 0.9%           |

On the basis of above analytical findings, the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per

IS:1460:2017 except Sulphur content.

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

Sealed remnant sample returned."

**(viii) Container No- TAHU9083926**

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

It is composed of mixture of hydrocarbon more than 70% by weight.

| The sample as received has the following constants:                    |                                     |                |
|------------------------------------------------------------------------|-------------------------------------|----------------|
| Sr.No.                                                                 | Parameter                           | Result         |
| 1.                                                                     | Density at 15° Celsius              | 0.8203 g/ml    |
| 2.                                                                     | Flash Point (Abel)                  | 28.0° C        |
| 3.                                                                     | Kinematics Viscosity at 40° Celsius | 2.344 cst      |
| 4.                                                                     | Ash Content                         | Nil            |
| 5.                                                                     | Sulphur content by weight           | 0.0035% by wt. |
| 6.                                                                     | Cetane index                        | 54.67          |
| 7.                                                                     | Distillation range                  | IBP= 102.5° C  |
| 8.                                                                     | 85% Distilled at temp               | 326.6° C       |
| 9.                                                                     | 95% Distilled at temp               | 358.3° C       |
| 10.                                                                    | FBP                                 | 376.1° C       |
| The sample after removing the adulterants has the following constants: |                                     |                |
| Sr.No.                                                                 | Parameter                           | Result         |
| 1.                                                                     | Density at 15° Celsius              | 0.8228 g/ml    |
| 2.                                                                     | Flash Point (Abel)                  | 53.0° C        |
| 3.                                                                     | Kinematics Viscosity at 40° Celsius | 2.5623 cst     |
| 4.                                                                     | Ash Content                         | Nil            |
| 5.                                                                     | Sulphur content by weight           | 0.0023%        |
| 6.                                                                     | Cetane index                        | 54.6           |
| 7.                                                                     | Distillation range                  | IBP= 155.6° C  |
| 8.                                                                     | 85% Distilled at temp               | 328.1° C       |
| 9.                                                                     | 95% Distilled at temp               | 359.7° C       |
| 10.                                                                    | FBP                                 | 374.8° C       |
| 11.                                                                    | Adulterant content                  | 1.5%           |

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

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

Sealed remnant sample returned."

## 9. Findings of the test reports are produced as under:

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

The test report also confirmed that the **percentage of adulterants present in the sample varied from 0.56 to 3.24%**, indicating purity of 96.7% to 99% Diesel fuel. Further, the Test report also reveals that the CRCL, JNCH conducted tests- **(i)** Without removal of adulterants as received, and **(ii)** After removal of adulterants. In the first case, the FLASH Point was found as between 25.6 to 38.4 (25.6, 26.4, 27, 27.93, 28, 35.9, 36 & 38.4) Degree Celsius whereas in second case (after removal of adulterants) the FLASH point was found between 52.9 to 63.41 (52.9, 53, 54.5, 54.9, 57.6, 59.9, 60.9 & 63.41) Degree Celsius. It may be mentioned that flash point of the samples in the second case (after removal of adulterants) confirms to the standards of High-Speed Diesel Oil.

**10.** Vide the test reports, it is evident that impugned goods are adulterated diesel fuel with only 0.56% to 3.24% of adulterants. It is clear that the adulterants have been deliberately mixed in diesel in order to camouflage the actual goods i.e. Automotive Diesel Fuel as per IS: 1460:2017, which can straight away be used as Automotive Diesel Fuel in automobiles in the open market as no further processing is required. Therefore, the mixing of adulterants appears to be an ingenious modus operandi and the mens-rea (conspiracy/malafide intention) to smuggle Diesel into the Indian Territory which is contrary to the restrictions/ Prohibitions imposed by the existing Laws, Rules and Regulations (viz. Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005, Petroleum Act, 1934, Petroleum Rules 2002) is apparent. Further, such adulterated Automotive Diesel Fuel is an environmental hazard and injurious to public health at large. Hence, allowing adulterated Diesel Fuel to enter into domestic market outside Customs Area will tantamount to violations of fundamental rights of the Indian citizen and the use of adulterated Diesel fuel is also an environmental hazard which is clearly banned under Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005.

**11.** The initial CRCL test report dated 01.07.2024 in respect of the sample purportedly drawn by the Docks officer vide sample no. 952 dated 22.06.2024 mentioned that the goods does not meet the requirements 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, 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), Kerosene intermediate (IS:17793:2022), Base oil (IS:18722:2024 Part-I) and Industrial White Oil (IS: 1083: 2022). However, the test reports received in respect of the



samples drawn by CIU indicate that the goods are Automotive Diesel Fuel as per IS:1460:2017 instead of Process Oil-40. Such divergent results of samples drawn by Docks officer and sample drawn by CIU raise doubts regarding the genuineness of the initial sample submitted to CRCL, JNCH vide sample no. 952 dated 22.06.2024. Hence, the office of CIU initiated the investigation in the matter in respect of the possibility of any replacement of the samples done in the process of forwarding the sample to CRCL, JNCH, as so much of variation in composition of goods is not possible. Thus, it is evident that the initial representative sealed sample vide sample no. 952 dated 22.06.2024 drawn by the Docks officer can no longer be relied upon for deciding the future course of action in the instant case.

**12.** The outcome of the test reports in respect of eight (08) containers proves that the importer has imported 'Automotive Diesel Fuel' conforming to the IS: 1460:2017 except Sulphur content in the guise of declared goods i.e. 'Process Oil-40'. Thus, there is reason to believe that the impugned goods imported vide bill of entry no. 4008314 dt. 15.06.2024 are liable for absolute confiscation under section 111(d) and 111(m) of the Customs Act, 1962. Consequently, the goods covered under the bill of entry were seized under section 110 of the Customs Act, 1962 vide Seizure memo No 07/2024 dated 05.11.2024 **(RUD-XII)**.

**13.** Based upon the outcome of all the test reports dated 09.08.2024, 14.08.2024, 26.08.2024, 27.08.2024, 28.08.2024, 09.09.2024 & 17.09.2024 wherein RSS was drawn by CIU, JNCH, it has been established that the goods covered under the subject bill of entry are Adulterated Diesel Fuel contrary to the Process Oil-40 which was the outcome of the initial test report dated 01.07.2024 for the sample drawn by the Docks Officer. Thus, this office initiated investigation in respect to the potential sample replacement.

**14.** During the investigation, the CCTV footages were checked with the assumption that the samples were changed. To ascertain, this office had requested to the concerned CFS (Conex CFS & Balmer Lawrie) to provide CCTV footage of all the above relevant incidents pertaining to dates 22.06.2024 under Section 63B of BSA, 2023. Accordingly, this office received the concerned CCTV footages. On scrutiny, movement of 3 persons was observed namely: **(1) Shri Sagar Mhatre (employee of CB Aries Cargo Movers) (2) Shri Rutik Nalavade (employee of CB I S Machado) and (3) Shri Atul Mulay (private person)** All these 3 persons were assistants of Shri Hakeem Shaikh, Customs Broker (Director of M/s Aries Cargo Movers) who employed them for ground work related to examination, withdrawal of sample and submission of the same to the scaleman etc.

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

**TABLE-A**

| Sr. No. | Camera Name/ Area | Date and Time                        | Incident at CONEX CFS                                                                                                                                                                                                                                                                                                       |
|---------|-------------------|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1       | Custom Backside   | 01:49PM/<br>22.06.2024               | Hakeem Shaikh arrived in Conex CFS in his white coloured car and parked it behind the customs building.                                                                                                                                                                                                                     |
| 2       | Custom Backside   | 02:09PM/<br>22.06.2024               | Hakeem Shaikh took out a large brown coloured box from backseat of his car and put the same in driver side's backseat of the car parked next to his. This car was Maruti Swift Dzire.                                                                                                                                       |
| 3       | Custom Passage    | 02:34PM/<br>22.06.2024               | Docks officer Shri Sunil Kumar arrived at the CFS.                                                                                                                                                                                                                                                                          |
| 4       | Custom Passage    | 03:42PM -<br>05:20PM<br>/22.06.2024  | Hakeem Shaikh, Sagar Mhatre, Rutik Nalavade and Atul Mulay were seen moving in and out of the docks officer's chamber                                                                                                                                                                                                       |
| 5       | Custom Passage    | 05:22PM/<br>22.06.2024               | Docks officer Shri Sunil Kumar went out of the custom building from back gate and proceeded towards the container yard.                                                                                                                                                                                                     |
| 6       | Custom Passage    | 05:30PM/<br>22.06.2024               | Rutik Nalavade was seen leaving the chamber of docks officer with a blue coloured file containing documents in it.                                                                                                                                                                                                          |
| 7       | Custom Passage    | 05:40PM/<br>22.06.2024               | Hakeem Shaikh, Sagar Mhatre and Atul Nalavade came out of chamber of docks officer and headed towards back gate of customs building. After a short discussion, Atul Mulay headed towards front gate of customs building and Hakeem Shaikh along with Sagar Mhatre proceeded towards the car parked behind customs building. |
| 8       | Custom Backside   | 05:42 PM -<br>05:47PM<br>/22.06.2024 | Hakeem Shaikh opened door of silver Maruti swift dzire car, opened the brown box and took out approximately 20 bottles which appeared empty. Those bottles were put inside 06 white coloured plastic bags by Sagar Mhatre.                                                                                                  |
| 9       | Custom Backside   | 05:50PM/<br>22.06.2024               | Sagar Mhatre proceeded towards container yard area.                                                                                                                                                                                                                                                                         |
| 10      | Custom backside   | 07:05PM/<br>22.06.2024               | Sagar Mhatre and an unidentified person were seen carrying two white coloured plastic bags which appeared heavy. It is observed that the said bags contained samples drawn from containers. Hakeem Shaikh was seen near his car. Sagar Mhatre and unidentified person approached Hakeem Shaikh who was near his car.        |

|    |                 |                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----|-----------------|------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                 |                                    | <p>Hakeem Shaikh opened left side backdoor of his white car and Sagar Mhatre put the plastic bags inside the car. Thereafter, Hakeem Shaikh opened right side backdoor of his car and took out and took out 05 white coloured plastic bags which were identical to those brought by Sagar Mhatre containing samples from 03 different Bills of Entry No. 4008314 dated 15.06.2024 of M/s Nikk Enterprises, 3984390 dated 13.06.2024 of M/s. Geopetro Industries Pvt. Ltd. and 4009278 dated 15.06.2024 of M/s Westwey International.</p> <p>The said fresh plastic bags appeared heavy and it is observed that they contained the samples to be replaced.</p> <p>Sagar Mhatre was seen sprinkling/ dropping a liquid substance on these 05 bags from a metal bottle which was taken from one of the original plastic bags.</p> <p>Hakeem Shaikh, Sagar Mhatre and one unidentified person who was helping Sagar Mhatre entered the chamber of docks officer and put the fresh samples inside the chamber.</p> |
| 11 | Custom passage  | 07:23PM/<br>22.06.2024             | Docks officer Shri Sunil Kumar returned to his chamber.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 12 | Custom Passage  | 07:25PM-<br>08:20PM/<br>22.06.2024 | Sepoy Shri Lahu Tandel arrived at the custom building. After few minutes, Shri Lahu Tandel along with Sagar Mhatre and Atul Mulay left the custom building along with the white plastic bags and head toward the yard area from back gate of customs building.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 13 | Custom Backside | 08:20PM/<br>22.06.2024             | Shri Lahu Tandel along with Sagar Mhatre and Atul Mulay return to chamber of docks officer along with the white plastic bags and submit the same inside the chamber.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 14 | Custom Passage  | 08:36PM/<br>22.06.2024             | Sagar Mhatre and Rutik Nalavade left the building of Conex CFS along with 02 plastic bags containing samples.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 15 | Custom Passage  | 08:48PM/<br>22.06.2024             | Atul Mulay and an unidentified person left the building of Conex CFS along with 02 plastic bags containing samples.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 16 | Custom Backside | 10:20PM/<br>22.06.2024             | Docks officer Shri Sunil Kumar left the CFS.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 17 | Custom Backside | 10:30PM/<br>22.06.2024             | Hakeem Shaikh left the CFS.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |



**Table-B**

| Sr. No. | Camera Name/ Area | Date and Time              | Incident at Balmer Lawrie CFS                                                                                                                                                                                             |
|---------|-------------------|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1       | Custom Passage    | 08:15PM-10:00PM/22.06.2024 | Sagar Mhatre and Rutik Nalavade arrived along with 02 plastic bags and submitted the same to scale man. Few Minutes later, Atul Mulay arrived with 02 plastic bags containing samples and submitted the same to scaleman. |

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

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

All the above footages have been obtained from the respective CFSs under section 63B of Bhartiya Sakshya Adhiniyam, 2023 vide letters dated 02.09.2024 and 14.09.2024 (**RUD-XIII**).

**16.** Based upon the scrutiny of CCTV footages as mentioned above, it is evident that Shri Hakeem Shaikh arrived in Conex CFS in his white-colored car and parked it behind the customs building. He was seen taking out a large brown colored box from his vehicle and placing it in the backseat of a silver colored Maruti Swift Dzire parked nearby. Subsequently, Shri Sunil Kumar, Docks Officer, arrived at the CFS. Thereafter, Shri Hakeem Shaikh, Shri Sagar Mhatre, Shri Rutik Nalavade and Shri Atul Mulay were observed frequently moving in and out of the chamber of the Docks Officer. Shri Sunil Kumar thereafter proceeded out

of the customs building from the back gate towards the container yard, while Shri Rutik Nalavade was seen leaving the chamber of the Docks Officer with a blue-colored file containing documents. Further, Shri Hakeem Shaikh, Shri Sagar Mhatre and Shri Atul Mulay came out of the chamber of the Docks Officer and, after a short discussion, dispersed towards different directions. At this time, Shri Hakeem Shaikh opened the Maruti Swift Dzire car and from the brown box inside, took out approximately 20 bottles which appeared empty. These bottles were then placed into six white-colored plastic bags by Shri Sagar Mhatre, who subsequently carried them towards the container yard. Shortly thereafter, Shri Sagar Mhatre along with an unidentified person were seen carrying two heavy looking white colored plastic bags, which appeared to contain samples drawn from containers, and approached Shri Hakeem Shaikh. The said bags were kept inside Shri Hakeem Shaikh's white car and in exchange, five fresh white-colored plastic bags, identical to the earlier ones and appearing heavy, were taken out. It is further observed that Shri Sagar Mhatre sprinkled/dropped some liquid substance from a metal bottle (taken from one of the original plastic bags) over these five fresh plastic bags, thereby giving them the same external appearance. Thereafter, Shri Hakeem Shaikh, Shri Sagar Mhatre and the unidentified person entered the chamber of the Docks Officer and placed the fresh plastic bags (containing replaced samples) inside the chamber, at which juncture Shri Sunil Kumar returned to his chamber.

17. After some time, Sepoy Shri Lahu Tandel arrived at the customs building and along with Shri Sagar Mhatre and Shri Atul Mulay, took the white plastic bags towards the yard area through the back gate. After a short while, they returned with the same bags and submitted them in the chamber of the Docks Officer. Subsequently, Shri Sagar Mhatre and Shri Rutik Nalavade were seen leaving Conex CFS with two plastic bags containing samples, followed by Shri Atul Mulay and another unidentified person also carrying two plastic bags of samples. Thereafter, Shri Sunil Kumar, Docks Officer, left the CFS, and subsequently Shri Hakeem Shaikh was also seen leaving the premises.

18. Therefore, prima facie it appears that the samples were not drawn from all the containers. Further, due diligence was not exercised for sealing of the samples drawn (if any) and further submission to the Scaleman sitting at the Balmer & Lawrie CFS as the samples in the instant case were handled by private persons/CHA for sealing and further submission to the Scaleman.

19. Since in the CCTV footage it was seen that the samples were exchanged pertaining to Bill of Entry, Summons to the following persons were issued for recording of statement under section 108 of the Customs Act 1962 tabulated as under: -

| Sr. No. | Name of the Person | Summons for the date | Response |
|---------|--------------------|----------------------|----------|
|         |                    |                      |          |

|    |                                                              |                                                                        |                                                                            |
|----|--------------------------------------------------------------|------------------------------------------------------------------------|----------------------------------------------------------------------------|
| 1. | Shri Sagar Mhatre                                            | 05.11.2024,<br>02.12.2024,<br>16.12.2024,<br>22.08.2025                | Shri Sagar Mhatre has not responded to Summons and is absconding.          |
| 2. | Shri Hakeem Shaikh                                           | 05.11.2024,<br>02.12.2024,<br>16.12.2024,<br>22.08.2025                | Shri Hakeem Shaikh has not responded to Summons and is absconding.         |
| 3. | Director, M/s Arics Cargo Movers, Shri Taranjeet Singh Lamba | 05.11.2024,<br>02.12.2024,<br>16.12.2024,<br>22.08.2025,<br>24.10.2025 | Shri Taranjeet Singh Lamba has not responded to Summons and is absconding. |
| 4. | Shri Rutik Nalavade                                          | 05.11.2024,<br>02.12.2024,<br>06.12.2024,<br>22.08.2025                | Shri Rutik Nalavade has not responded to Summons and is absconding.        |
| 5. | Shri Atul Mulay                                              | 05.11.2024,<br>02.12.2024,<br>16.12.2024,<br>22.08.2025                | Shri Atul Mulay has not responded to summons and is absconding.            |

**20. Search of Premises:** In addition to the aforementioned summons, Officers of the Ludhiana Customs along with the Officers of CIU JNCH conducted a search under panchanama dated 24.10.2025 (**RUD-XIV**) on the declared address of M/s Nikk Enterprises, located at "Block C, SCO No. 1, B 35-307-C/1, Bhai Randhir Singh Nagar, Ludhiana-141001". However, Shri Taranjeet Singh Lamba was not found at the said address and no incriminating document was found and a summons dated 24.10.2025 bearing DIN No. 20251078NU0000444B6D was hand delivered to the brother of Shri Taranjeet Singh Lamba. Although, during the search proceedings a GST number was found and after further inquiry of that GST number, it was found that the registered address was "1<sup>st</sup> floor, Office No. 105, Supariwala Estate, Tata Road No. 1, Girgaon, Mumbai, Maharashtra-400004". Also, a search was conducted at the premises having address at 294-B, Bhai Randhir Singh Nagar, Rajguru Nagar, Ludhiana-141012 under Panchnama dated 24.10.2025 (**RUD-XV**). During the course of the search, the bank account statement of M/s Nikk



Enterprises was recovered. The said statement, pertaining to an account maintained with Punjab & Sind Bank, revealed financial transactions with M/s Raj Traders, M/s Global International, and M/s Westwey International (copy enclosed with RUD-XV). It is pertinent to note that the CIU/JNCH has unearthed a nexus of the aforementioned importers engaged in the smuggling of adulterated diesel oil under the guise of Process Oil.

**21.** Based on aforesaid GST registered address, another search under Panchnama dated 24.10.2025 (**RUD-XVI**) was conducted on the same day. During this search, the said premises was found to be locked. A duplicate key was made with the help of keymaker with which the premises was opened in the presence of local police officials and the search was initiated. During the search few incriminating documents related to imports were found which were seized during the search and the same were listed in the Panchnama.

**22. Summons to M/s. Nikk Enterprises:** M/s Nikk Enterprises vide E-mail dated 12.11.2024 and 10.12.2024 requested that the statement of their authorized representative, Shri G.S. Kochhar, be considered. Accordingly, summonses dated 07.10.2025, 14.10.2025 and 27.10.2025 was issued to Shri G.S. Kochhar. However, he has failed to respond to the summons or appear for the statement. The non-cooperation of importer M/s Nikk Enterprises in response to examination and summons issued by the Central Intelligence Unit (CIU), JNCH raises concerns regarding the transparency and compliance of Customs Act, 1962 and its allied acts by the importer. This apparent lack of cooperation by the importer appears to be a deliberate attempt to obstruct the investigation, signaling potential motives that extend beyond mere reluctance. The reluctance to comply with these procedures raises questions about the importer's adherence to legal and regulatory requirements. It raises concerns about potential dilatory tactics to obstruct the investigation and suggests a mens-rea on the part of the importer to withhold vital information about the downward supply chain of petroleum products.

**23.** Further, as described in Para 2.6, the CIU section at JNCH was also handling cases related to Bills of Entry (B/Es) filed by different importers, all of whom appeared to follow the same modus operandi. It is pertinent to mention that the individuals involved in the alleged swapping of samples remain the same across these cases. Accordingly, it is taken on record that the CIU conducted searches at the premises of individuals who are also involved in the case pertaining to importer M/s Raj Traders, in relation to the goods imported under **Bill of Entry No. 3729714 dated 29.05.2024** as follows:

**TABLE-D**

| Sr. No. | Search Address (persons) & date of search                                     | Outcome                                                                   |
|---------|-------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| 1.      | 9/825, Govathane, Raigarh-410206, Maharashtra- Residence of Shri Sagar Mhatre | Search was conducted at residence of Sagar Mhatre. Sagar Mhatre was found |

|    |                                                                                                                                                           |                                                                                                                            |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
|    | (13.08.2024)                                                                                                                                              | hiding inside the bathroom. Upon requesting, he accompanied the team CIU to the office of CIU for recording the statement. |
| 2. | M/s Aries Cargo Movers, Office No. 801, Crystal Plaza, Guru Hargovindji Road, Opp. Solitaire Corporate Park, Chakala, Andheri East 400093<br>(16.08.2024) | Search was authorised at office of CHA M/s Aries Cargo Movers. Search could not be carried out as the office was locked.   |
| 3. | M/s Ovi Transport, Flat No. C302, Ashapura Regancy, Kamothe, Plot No. 25, Sector 6, Raigadh, Navi Mumbai, Maharashtra, 410209-<br>(16.08.2024)            | Shri Atul Mulay. Search was executed but no conclusive information was obtained regarding Shri Atul Mulay.                 |
| 4. | A3, LIG IA 39, Sector 2, Kalambolicity, Navi Mumbai, Maharashtra 410218-<br>(17.08.2024)                                                                  | Search was authorised at residence of Shri Atul Mulay. Search could not be carried out as the premises was locked.         |

In the view of the outcome of investigation, it is evident that the persons involved in the said case namely Shri Hakeem Shaikh, Shri Sagar Mhatre, Shri Atul Mulay and Shri Rutik Nalavade are not cooperating with the investigation.

Further, in similar case of M/s Raj Traders as mentioned in para 2.6 above, it is to note that Shri Sagar Mhatre vide his statement dated 13.08.2024 and 14.08.2024 in that case (**RUD-XVII**) has stated that the replacement of the Samples for the goods was done by him on the directions of Shri Hakeem Shaikh, representative of CB M/s Aries Cargo Movers.

In view of the above, CIU/JNCH has unearthed a nexus of importer and Customs Broker wherein they attempted to import prohibited goods i.e Adulterated Diesel Oil by mis-leading the Customs. To investigate the case CIU/JNCH issued various summons to Importer, Customs Broker and other private persons as per para 3.13 above. Despite four Summonses for the dates 05.11.2024, 02.12.2024, 16.12.2024 and 22.08.2025, Shri Taranjeet Singh Lamba, proprietor of M/s Nikk Enterprises did not turn up for recording of statement under section 108 of Customs Act, 1962.

On similar lines, 4 Summonses dated 05.11.2024, 02.12.2024, 16.12.2024 and 22.08.2025 have been issued to Shri Hakeem Shaikh (M/s Aries Cargo Movers) to which he has also not turned up. Further, it has come to notice that Shri Sagar Mhatre (employee of M/s Aries Cargo), Shri Rutik Nalavade and Shri Atul Mulay are not responding to the Summons and are absconding. Since the parties involved in the instant case are same as the ones involved in similar cases investigated

by CIU, JNCH as mentioned in para 2.6 above, it is brought on record that in respect of case of goods imported vide bill of entry no. 3729714 dated 29.05.2024 filed by Customs Broker M/s Aries Cargo Movers (CB Code ABAFA0426HCH001) on behalf of importer M/s Raj Traders (IEC No. 0316949132), one summons under section 108 of Customs Act, 1962 has been issued to all the concerned persons on 23.07.2025 to record their statement on 23.07.2025/25.07.2025 with a plan to serve the summons by hand. Accordingly, officers of CIU, JNCH visited the addresses of the concerned persons to serve the summons by hand.

Further, as stated earlier, it is also noted that one such summon delivery by hand was also attempted to the importer of the instant case. The details of all such visits are tabulated as under:

| Sr. No. | Name of the Person | Address                                                                                                                                    | Brief details                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1       | Mr. Hakeem Shaikh  | M/s Aries Cargo Movers, Office No. 801, Crystal Plaza, Guru Hargovindji Road, Opp. Solitaire Corporate Park, Chakala, Andheri East 400093- | The officers visited the office premises of Mr. Hakeem Shaikh on 23.07.2025 to serve the summons. The office premises were locked. Therefore, the officers pasted the summons on the door of the office. The officers enquired about the address from Shri Uday Patil, Chairman of the society. He informed that the office remains closed from last 8-10 months. He informed that the premises were on rent and the owner of the premises is Mr. Arora. |
|         |                    | Flat No. 1201, Tower 3 (Banyan), Orchard Residency, Near R City Mall, Ghatkopar West, Mumbai.                                              | The officers visited the residential premises of Shri Hakeem Shaikh on 23.07.2025. Smt. Minaj Shaikh W/o Shri Hakeem Shaikh received the Summons. She informed that Shri Hakeem Shaikh is not in Mumbai for the past one month. She informed that she does not know his whereabouts. However, she provided his mobile no. 9819524088.                                                                                                                    |
| 2       | Shri Sagar Mhatre  | 9/825, Govathane, Raigarh- 410206, Maharashtra- Residence                                                                                  | The officers visited the residential premises of Shri Sagar Mhatre on 23.07.2025 to serve the summons to record his statement on 23.07.2025 and 25.07.2025. Shri Sagar Mhatre received the summons for statement on 23.07.2025 and stated that he will come                                                                                                                                                                                              |



|   |                     |                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---|---------------------|---------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |                     | o f Shri Sagar Mhatre                                                                                   | on 24.07.2025 for statement. Further, Smt. Pranali Sagar Mhatre, w/o - Shri Sagar Mhatre received the summons for statement on 25.07.2025.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|   |                     |                                                                                                         | A search was also conducted under panchanama on 23.07.2025 ( <b>RUD-XVIII</b> ) by officers of CIU at the residential premises of Shri Sagar Mhatre. During search following documents were seized: BCBA Pass Card No. 1892 of Shri Sagar Mhatre valid upto 31.03.2026. One Polythene Carry Bag of Customs Related Documents alongwith some summons issued by CIU, JNCH. Mobile Handset with IMEI No. SIM1-860950053581562113 SIM2-860950053581570113. To participate in the forensic procedure of the mobile with above description, a letter was sent to Shri Sagar Mhatre vide letter 28.07.2025 ( <b>RUD-XIX</b> ) by hand to conduct forensic on 29.07.2025. Mrs. Pranali Sagar Mhatre, wife of Shri Sagar Mhatre received the same on 28.07.2025. However, neither Shri Sagar Mhatre nor any of his representatives came forward to participate in the forensic procedure of the above mobile phone. They did not respond for the same. Therefore, the forensic procedure has been done under panchanama dated 29.07.2025 ( <b>RUD-XX</b> ) at Cyber Forensic Science Laboratory, Ground Floor, Directorate of Revenue Intelligence Building (UTI Building), Opp. Patkar Hall, New Marine Lines, Mumbai - 400020. On perusal of extracted data, no relevant information with respect to this case has been found. |
| 3 | Shri Rutik Nalavade | 802, Crystal Plaza, Guru Hargovindji Road, Opp. Solitaire Corporate Park, Chakala, Andheri East 400093- | Shri Rutik Nalavade was the employee of CB M/s I S Machado. The CIU officers visited the office premises of CB M/s I S Machado on 23.07.2025 to serve the summons to Shri Rutik Nalavde. The office premises were found to be locked. Therefore, the officers pasted the summons on the door of the office. The officers enquired about the address from Shri Uday Patil, Chairman of the society. He informed that the office remains closed from last 8-10 months. He                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

|   |                 |                                                                                                                             |  |                                                                                                                                                                                                                                                                                                                                                                                                              |
|---|-----------------|-----------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |                 |                                                                                                                             |  | informed that the premises were on rent and the owner of the premises is Mr. Arora.                                                                                                                                                                                                                                                                                                                          |
| 4 | Shri Atul Mulay | M/s Ovi Transport, Flat No. C302, Ashapura Regancy, Kamotha, Plot No. 25, Sector 6, Raigad, Navi Mumbai, Maharashtra-410209 |  | The officers visited the premises on 23.07.2025 to serve the summons to Shri Atul Mulay. The premises were in the name of Shri Dattatraya Pandharinath More. Shri More informed that they are residing at this address since 2011. However, they do not know about any person in the name of Shri Atul Mulay or M/s Ovi Transport                                                                            |
|   |                 | A3, LIG 1A 39, Sector 2, Kamboli City, Navi Mumbai, Maharashtra - 410218.                                                   |  | The officers visited the premises on 23.07.2025 to serve the Summons. On visit, the officers noticed that the premises is in the name of Smt. Hirabai Sakharan Kawate. Her son, Mr. Santosh Kawathe, informed telephonically that Mr. Atul Mulay was on rent at this address. He had left the premises and shifted somewhere in Taloja approximately three months ago. His whereabouts are not known to him. |

Despite hand delivery of summons, none of the parties mentioned above appeared for recording their statement. In this regard, it is on record that CIU JNCH vide emails/letters had requested the importer multiple times to participate in the investigation. However, the importers/CB neither participated in the sampling process nor responded to summons.

Despite hand delivery of summons, Mr. Hakeem Shaikh did not appear for recording his statement on 25.07.2025. Mr. Hakeem Shaikh vide his email dated 25.07.2025 informed that he is in Mundra for day-to-day activities for his survival. He has stated his inability in attending the summons. The replies of Mr. Hakeem Shaikh are only a delay tactic. His very disregard of summons issued under section 108 of Customs Act, 1962 to him further corroborate his ill motive and collusion with the importer in illegal import of prohibited goods i.e. "Adulterated Diesel Oil".

Despite hand delivery of summons, Shri Sagar Mhatre did not appear for recording his statement on 23.07.2025/25.07.2025. He completely disregarded the summons issued in this regard which substantiates his active involvement in the sample changing process.

During visit of CIU/JNCH officers, it is found that Shri Rutik

Nalavade and Shri Atul Mulay were not present at their respective address. It appears from the investigation carried out by CIU/JNCH that Shri Hakeem Shaikh is the main kingpin for changing of samples and Shri Sagar Mhatre, Shri Rutik Nalavade and Shri Atul Mulay were his allies who implemented the same. He (Shri Hakeem Shaikh) directed all these 3 persons to not to come forth in the investigation of CIU and all these 3 persons have been following the directions of Mr. Hakeem Shaikh. Their avoidance of summons issued under section 108 of Customs Act, 1962 only emphasizes their respective roles in sample changing process.

24. In the meantime, the importer in one of the similar cases of M/s Raj Traders as mentioned in para 2.6 above alleged that the DyCC is not equipped to test the impugned goods imported vide Bill of Entry No. 4008314 dated 15.06.2024. Therefore, CIU/JNCH sought clarification from CRCL(DyCC)/ JNCH for expert opinion regarding parameters for testing of samples to meet IS 1460:2017. The CRCL, JNCH has submitted their reply vide letter dated 04.09.2024 as under:

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

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

*Diesel oil is manufactured from crude oil through fractional distillation. **Distillation range is fundamental property of fuel based on which the petroleum products are separated in refineries. Diesel fuel is a complex mixture produced by the fractional distillation of crude oil. It has boiling point in the range of 150°C to-360°C.***

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

*One of the most accurate and powerful method for identification/quantification of any organic compound/mixture of organic compounds is **chromatography**. This is helpful to know the chemical composition of compound/a mixture of compounds at the molecular level. Diesel is composed of C8to C26 carbon chains. The chromatographic*



analysis of Diesel fuel is not included in IS 1460: 2017. However, there are plenty of scientific literature to support the efficacy of this analytical method. The samples are compared with the certified reference material (CRM) of diesel fuel by gas chromatography mass spectrometry (GC-MS). After removal of adulterants, **GC-MS spectra (which is indicative of the molecular composition of the fuel) of the sample matched with the (CRM) of diesel and also with the reference literatures.**

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

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

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

Thus, based upon the outcome of the test reports of the CRCL, JNCH and clarification of CRCL, JNCH it is evident that the subject goods are **“Adulterated Diesel Fuel”**. It is evident that the subject goods meet the requirement of Automotive Diesel Fuel as per IS:1460:2017 (96.7%-99% purity) except Sulphur contents after removal of adulterants and thus, the mixing of adulterants appears to be an **modus operandi** and the mens rea (conspiracy/malafide intention) to **smuggle Diesel** into the Indian Territory which is contrary to the restrictions/ Prohibitions imposed by the existing Laws, Rules and Regulations (**viz. Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Preventive of Malpractices) Order, 2005, Petroleum Act, 1934, Petroleum Rules 2002**). Further, such **adulterated Automotive Diesel Fuel is an environmental hazard and injurious to public health at large**. Hence, allowing adulterated Diesel Fuel to enter into domestic market outside Customs Area will tantamount to violations of fundamental rights of the Indian citizen to use unadulterated Diesel fuel, and the use of adulterated Diesel fuel is also environmental hazard which is clearly **banned under Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005.**

25. Based on the investigation carried out so far following has been noticed:

#### 25.1 Violations:

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

have been defined in Regulation 2(f) of the Order supra as reproduced below:

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

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

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

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

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

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

Thus, combined reading of Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005 and CRCL, JNCH Test Reports dated 09.08.2024, 14.08.2024, 26.08.2024, 27.08.2024, 28.08.2024, 09.09.2024 & 17.09.2024 and Section 11 (3) of the Customs Act 1962 establishes that since adulteration of Diesel is prohibited, therefore, the import of Adulterated Diesel is also prohibited.

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

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

"petroleum, other than petroleum, which may be stored without a license under sections 7, 8 and 9 of the Act, shall not be imported into India except under a license granted under these rules. Provided that, such Petroleum

products may also be imported by a person not having a licence if adequate advance arrangements are made by such person to receive and store the imported petroleum products in licensed premises."

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

**7. No licence needed for transport or storage of limited quantities of petroleum Class B or petroleum Class C.**

—Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the transport or storage of—

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

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

i. Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the import, transport or storage of petroleum Class A not intended for sale if the total quantity in his possession does not exceed thirty litres.

ii. Petroleum Class A possessed without a licence under this section shall be kept in securely stoppered receptacles of glass, stoneware or metal which shall not, in the case of receptacles of glass or stoneware, exceed one liter in capacity or, in the case of receptacles of metal exceed twenty-five litres in capacity.]

iii. Exemptions for motor conveyances and stationary engines.—(1) The owner of a motor conveyance, who complies with the requirements of the law for the time being in force relating to the registration and licensing of such conveyance and its driver or pilot and the owner of any stationary internal combustion engine, shall not be required to obtain a licence—

- a. for the import, transport or storage of any petroleum contained in any fuel tank incorporated in the conveyance or attached to the internal combustion engine, or
- b. for the transport or storage of 2[petroleum Class A], not exceeding 3[one hundred litres] in quantity in addition to any quantity possessed under clause (a),

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

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



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

Evidently, the import of impugned goods does not fall under Section 7, 8 and 9 of the Petroleum Act 1934 as the import is not done for small quantities of petroleum product as prescribed vide section 7,8 and 9 of the said Act and thus require license for the import. **The importer has neither uploaded any such License in e- Sanchit while filing the Bill of Entry nor the importer has declared the actual goods i.e Diesel.** Further in contravention to rule 14 of the petroleum rules 2002 as mentioned above the importer has not intimated the Customs in any manner that adequate advance arrangements are made by them to receive and store the imported petroleum products in licensed premises. **Therefore, import of impugned goods imported vide bill of entry no. 4008314 dated 15.06.2024 appears prohibited in absence of such license.**

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

**Rule 19. Production of certificate and license for import:**

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

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

25.1.7 The importer in the instant case has not complied with the relevant provisions of Petroleum Act, 1934 and Petroleum Rules, 2002 which poses is a serious risk to health and safety of Officers and the persons handling

the impugned goods as well as public property and environment.

## **26. Relevant Legal provisions as applicable:**

### **Regulation 3 (6) of Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005,**

*no dealer, transporter, consumer or any other person shall indulge in any manner in any one or more of the malpractices.*

### **Regulation 2(f) of Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005,**

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

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

### **Regulation 2(a) of Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order 2005,**

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

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

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

## **Regulation 3(2) of FTDR Regulations 1992:**

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

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

**Regulation 3(3) of FTDR Regulations 1992 :**

*All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly*

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

*"The importer while presenting a bill of entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods".*

**Section 11 of Customs Act, 1962 reads as under**

- 11. Power to prohibit importation or exportation of goods. — (1) If the Central Government is satisfied**

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

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

- a. the maintenance of the security of India;
- b. the maintenance of public order and standards of decency or morality;
- c. the prevention of smuggling;
- d. the prevention of shortage of goods of any description;
- e. the conservation of foreign exchange and the safeguarding of balance of payments;
- f. the prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver;
- g. the prevention of surplus of any agricultural product or the product of fisheries;
- h. the maintenance of standards for the classification, grading or marketing of goods in international trade;
- i. the establishment of any industry;
- j. the prevention of serious injury to domestic production of goods of any description;
- k. the protection of human, animal or plant life or health;
- l. the protection of national treasures of artistic, historic or archaeological value;
- m. the conservation of exhaustible natural resources;
- n. the protection of patents, trademarks, copyrights, designs and geographical indications;



- o. the prevention of deceptive practices;
- p. the carrying on of foreign trade in any goods by the State, or by a corporation owned or controlled by the State to the exclusion, complete or partial, of citizens of India;
- q. the fulfilment of obligations under the Charter of the United Nations for the maintenance of international peace and security;
- r. the implementation of any treaty, agreement or convention with any country;
- s. the compliance of imported goods with any laws which are applicable to similar goods produced or manufactured in India;
- t. the prevention of dissemination of documents containing any matter which is likely to prejudicially affect friendly relations with any foreign State or is derogatory to national prestige;
- u. the prevention of the contravention of any law for the time being in force; and
- v. any other purpose conducive to the interests of the general public.

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

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

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

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

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

*"[any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 3 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section*

*(1) of section 54"*

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

*"Penalty for improper importation of goods, etc- Any person, -*

- a. *who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section*

- 111, or abets the doing or omission of such an act, or
- b. who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111; shall be liable, -

(1) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 5[not exceeding the value of the goods or five thousand rupees], whichever is the greater;

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;]

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

#### **Section 114AA. Penalty for use of false and incorrect material.-**

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

#### **Regulations 10 of Customs Broker Licensing Regulations, 2018:**

- d. advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- e. exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;
- f. not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;
- g. co operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.

#### **Section 124. Issue of show cause notice before confiscation of goods, etc. -**

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person -

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

### **Provisions pertaining to Petroleum Rules, 2002.**

#### **3. Restriction on delivery and dispatch of petroleum. -**

1. No person, shall deliver or dispatch any petroleum to anyone in India other than the holder of a storage licence issued under these rules or his authorized agent or a port authority or railway administration or a person who is authorized under the Act to store petroleum without a licence.
2. The petroleum delivered or dispatched under sub-rule (1) shall be of the class, and shall not exceed the quantity, which the person to whom it is delivered or dispatched is authorized to store with or without a licence under the Act.
3. Notwithstanding anything contained in sub-rule (2), petroleum Class B not exceeding 15,000 litres in quantity packed in sealed airtight approved containers may be dispatched to a person not holding a storage licence provided that the person dispatching the petroleum has satisfied himself that prior arrangements have been made by the person to whom the petroleum is dispatched for the immediate disposal in the original sealed packages or such quantity as in excess of 2,500 litres : Provided that a dry chemical powder fire extinguisher as a means of fighting fire in emergency shall be carried in the case of the containers with more than 2,500 litres.
4. Nothing in sub-rules (1) and (2) shall apply to the delivery or dispatch of petroleum to the Defence Forces of the Union and to the delivery or dispatch of kerosene (petroleum Class B) to the person holding licence in form XVIII for decantation into containers from tank vehicle: Provided that the person dispatching the Kerosene has satisfied himself that prior arrangements have been made by the person to whom the kerosene is dispatched for the immediate disposal into containers in lots of 2,500 litres or less.

#### **4. Approval of containers. -**

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

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



**5. Containers for petroleum Class A.**

*1. Containers for petroleum Class A shall .....*

**6. Containers for petroleum Class B and Class C**

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

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

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

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

**27. From the foregoing investigation, it appears that:**

- i. The importer M/s Nikk Enterprises imported "Adulterated Diesel Oil" vide bill of entry no. 4008314 dated 15.06.2024 by mis-declaring the same as "Process Oil-40". The same is confirmed by CRCL/DYCC, JNCH Test Report dated 09.08.2024, 14.08.2024, 26.08.2024, 27.08.2024, 28.08.2024, 09.09.2024 & 17.09.2024. Hence, from the test reports of CRCL, JNCH, it is evident that the goods have been mis-declared in terms of description and were not found to be "Process Oil-40" instead goods were found to be "Adulterated Diesel Oil". The import of Adulterated Diesel Oil is prohibited as per Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005 read with of Petroleum Act, 1934 and Petroleum Rules 2002, and therefore, prohibited for import in terms of FTDR Regulations 3(2) and 3(3) read with Section 2(33) of the Customs Act 1962, thereby, the goods imported vide bill of entry no. 4008314 dated 15.06.2024 are liable for confiscation under section 111 (d) of the Customs Act 1962.
- ii. Importer has classified the goods under CTI 3403 9900 mentioning the description as "Process Oil-40". However, no documentary proof was uploaded in the e-Sanchit with regards to the composition of the goods to classify them as 'Process-Oil' under CTI 3403 9900. The RSS was forwarded to DYCC Lab, JNCH for testing wherein DYCC, JNCH vide Test Report dated 09.08.2024, 14.08.2024, 26.08.2024,

27.08.2024, 28.08.2024, 09.09.2024 & 17.09.2024 reported that the samples after removal of adulterants meets the requirement of Automotive diesel fuel as per IS:1460:2017 except Sulphur content which may have been intentionally added in the range of 0.56% to 3.24% to camouflage the exact description of goods i.e. Diesel Fuel as per IS:1460:2017. As per the definition of "adulteration" mentioned in the motor speed and high-speed diesel (regulation of supply, distribution and prevention of malpractices) order, 2005, the sample under reference is "Adulterated Diesel Fuel". Therefore, the goods appear to be mis-classified and accordingly should be re-classified under CTH 27101990, thereby, rendering the goods liable for confiscation under section 111 (m) of the Customs Act 1962.

iii. Since the goods have been found mis-declared, the declared value of goods is also liable for rejection under Rule 12 of the CVR 2007, thereby rendering the goods liable for confiscation under Section 111(m) of the Customs Act, 1962.

iv. Since the value is rejected as per Rule 12 of CVR 2007, the same should be re-determined in accordance with the said Rules. In this regard, Rule 3(4) provides as under:

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

Since the goods imported vide impugned BE No. 4008314 dt. 15.06.2024 is Adulterated Diesel Oil is prohibited for import; hence, the data of identical goods cannot be retrieved. Therefore, Rule 4 can be ruled out and we can proceed to Rule 5 of CVR, 2007 on the basis of value of similar goods.

Petroleum Planning & Analysis Cell of the Ministry of Petroleum & Natural Gas, Govt. of India has published the prices of diesel INCO terms FOB as US \$ 92.01 per barrel relating to the month of May 2024 (**RUD-XXI**) the month in which the impugned goods were imported. One barrel of diesel is equal to 160 liters and 1.2 liters diesel (density 0.8192 gm/cc) is equal to one kg. Based on this, as per the prices published as aforesaid, value of the impugned goods works out to be US \$ 690.07 per M Ton FOB as against the declared value of US \$ 430 per M Ton C & F. Accordingly, the total value of the goods imported vide B/E No. 4008314 dated 15.06.2024 having total net weight of 156.13 M ton has been re-determined as USD 1,07,740.629/- FOB.

v. The deliberate nature of non-cooperation in examination and not attending the summons issued by CIU, JNCH suggests that M/s Nikk Enterprises may be employing dilatory tactics to derail the investigation. Such tactics appear to be used to create delays, hindering the progress of inquiries and potentially allowing parties involved to evade accountability which is supported by Shri Sagar Mhatre acceptance vide his statement dated 13.08.2024 & 14.08.2024 that the samples were carried from outside and also his reluctance in submission of his smart phone as it contains lots of evidence related to this case. By avoiding or delaying the submission of necessary documents and information, the importer M/s Nikk Enterprises is attempting to limit the scope of the investigation and

control the narrative surrounding their importation practices. The motivation behind such actions could range from concealing irregularities in the supply chain to avoid scrutiny on aspects of the importation process that may be legally questionable. It further hampers the effectiveness of the investigation and impedes the investigation's ability to ensure compliance with regulations. This deliberate non-cooperation, further strengthens the reason to believe that this may have been done to conceal irregularities in the supply chain and to avoid detail scrutiny on the aspects of importation process of restricted goods. Therefore, the importer M/s Nikk Enterprises is liable for penalty under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.

## **28. Role of Concerned Persons:**

**28.1 Shri Taranjeet Singh Lamba of M/s Nikk Enterprises:** Shri Taranjeet Singh Lamba is the proprietor of M/s Nikk Enterprises. He imported "Adulterated Diesel Oil" by mis-declaring the same as "Process Oil-40" in violation of The Motor Spirit & High-Speed Diesel (Regulation of Supply & Distribution and Prevention of Malpractices) Order, 2005 read with petroleum Act, 1934 and Petroleum Rules, 2002 thereby rendered the goods liable for confiscation under section 111(d) and 111(m) of Customs Act, 1962. Therefore, Shri Taranjeet Singh Lamba is liable for penalty under section 112(a) of Customs Act, 1962. Further, it is confirmed from DyCC Test Report dated 09.08.2024, 14.08.2024, 26.08.2024, 27.08.2024, 28.08.2024, 09.09.2024 & 17.09.2024 that the impugned goods are "Adulterated Diesel Oil" as against declared description of goods "Process Oil". The deliberate nature of non-cooperation in examination and not attending the summons issued by CIU, JNCH suggests that Shri Taranjeet Singh Lamba may be employing dilatory tactics to derail the investigation and it appears that he may be deeply involved in smuggling of "Adulterated Diesel Oil". Also, during the course of the search of his residence in Ludhiana, the bank account statement of M/s Nikk Enterprises was recovered. The said statement, pertaining to an account maintained with Punjab & Sind Bank, revealed financial transactions with M/s Raj Traders, M/s Global International, and M/s Westwey International (copy enclosed with RUD-XV). It is pertinent to note that the CIU/JNCH has unearthed a nexus of these aforementioned importers engaged in the smuggling of adulterated diesel oil under the guise of Process Oil. Therefore, it appears that Shri Taranjeet Singh Lamba attempted to import "Adulterated Diesel Oil" using forged invoice and packing list as the description of goods declared in the invoices and Packing list uploaded in E-sanchit was Process Oil-40 whereas the goods on testing from CRCL, JNCH were found to be Adulterated Diesel Oil. Further, Shri Taranjeet Singh Lamba while filing the bill of entry has subscribed the declaration under section 46(4) that all the particulars are correct. Hence, he signed wrong declaration under section 46(4) of Customs Act, 1962 rendered themselves liable for penalty under section 114AA of Customs Act, 1962.

**28.2 Shri Gurvinder Singh Kochar :** Shri Taranjeet Singh Lamba vide his email dated 12.11.2024 (RUD-XXII) informed that he has appointed



Shri Gurvinder Singh Kochar to represent him as his authorized agent for the Bill of Entry No. 4008314 dated 15.06.2024 Shri Sagar Mhatre vide his statement dated 14.08.2024 informed that *"W.r.t. knowing any person with surname as Shri G.S. Kochar, he stated that he was introduced to him by Shri Hakeem Shaikh at Seabird CFS where he was present during some oil case of 80 containers booked by R & I department. Shri Hakeem also informed him that he is the main person behind import of the oil consignments. He was referred by Shri Hakeem as 'Gullu'."* In similar cases, such as that of Geopetro Industries Private Limited, the IEC holders have appointed him as their representative. However, he (Shri Gurvinder Singh Kochar) never came forward to record his statement. He completely avoided the summons issued by CIU/JNCH either on his name. From the investigation carried out, it appears that he is the man behind the smuggling of "Adulterated Diesel Oil". He gave the idea of smuggling of "Adulterated Diesel Oil" to various companies, such as Nikk Enterprises, Global International etc. and imported prohibited goods i.e "Adulterated Diesel Oil" covering the impugned bill of entry no. 4008314 dated 15.06.2024. He aided and facilitated in import of "Adulterated Diesel Oil" by mis-declaring the same as "Process Oil-40" in violation of The Motor Spirit & High-Speed Diesel (Regulation of Supply & Distribution and Prevention of Malpractices) Order, 2005 read with petroleum Act, 1934 and Petroleum Rules, 2002 thereby rendered the goods liable for confiscation under section 111(d) and 111(m) of Customs Act, 1962. The deliberate nature of non-cooperation and not attending the summons issued by CIU, JNCH suggests that Shri Gurvinder Singh Kochar may be employing dilatory tactics to derail the investigation and it appears that he may be deeply involved in smuggling of "Adulterated Diesel Oil". Therefore, Shri Gurvinder Singh Kochar is also liable for penalty under section 112(a) and/or 112(b) and Section 114AA of Customs Act, 1962.

**28.3 Shri Hakeem Shaikh, Representative of Customs Broker M/s Aries Cargo Movers:** Shri Hakeem Shaikh played the central role in orchestrating the sample tampering process. He arrived in his white car carrying a large brown box containing bottles, which were used in the replacement exercise. He facilitated the exchange by keeping original sample bags in his car and then providing five fresh plastic bags that appeared identical to the originals. He also supervised the placement of these substituted bags into the Docks Officer's chamber in the absence of proper customs oversight. His actions demonstrate that he was the key facilitator and coordinator of the entire operation. He was the main kingpin in swapping of samples, thereby facilitating the clearance of adulterated diesel by declaring the same as process oil. He was the Custom Broker who managed to change the sample deliberately. The first sample which was not actually drawn by the Docks Officer from the goods lying at CONEX CFS but carried from outside on 22.06.2024 to submit in customs for testing. The DyCC Test Report dated 29.06.2024 shows that the impugned goods are *"composed of mixture of hydrocarbon more than 70% by weight"*. However, the sample drawn by CIU, JNCH on 16.07.2024 and test report dated 09.08.2024, 14.08.2024, 26.08.2024, 27.08.2024, 28.08.2024, 09.09.2024 & 17.09.2024 confirmed that the goods are

"Adulterated Diesel Oil". Hence, it appeared that the samples were changed during 1st drawl of RSS. Hence, CCTV footage of CFS M/s CONEX was scrutinized which confirmed that sample were carried from outside on direction of Shri Hakeem Shaikh. Further, Shri Sagar Mhatre vide his statement dated 14.08.2024 stated that ***"he followed the orders of Hakeem Shaikh and he is not responsible nor he had any knowledge of the cargo imported in the flexi bags covered under the two bills of entry but Hakeem Shaikh had full knowledge of the cargo covered under the said two Bills of entry and he had replaced the samples drawn from the flexi bags and replaced with processed oil on his directions and handed over to scale man. He had followed the orders of Hakeem Shaikh."*** Hence, it is clear that M/s I. S. Machado and Shri Hakeem Shaikh is doing conspiracy in attempt of clearing prohibited goods i.e. Adulterated Diesel Oil. He did not advise his client M/s Nikk Enterprises to comply with the provisions of The Motor Spirit & High-Speed Diesel (Regulation of Supply & Distribution and Prevention of Malpractices) Order, 2005 read with petroleum Act, 1934 and Petroleum Rules, 2002. He was aware that Adulterated Diesel is being smuggled in the guise of "Process Oil-40". however, he did not exercise due diligence in production of correct information to the department. Moreover, he facilitated the same in connivance with the importer M/s Nikk Enterprises. Also, they avoided the Summons issued to him by CIU and did not Co- operate with the investigation in violation of Regulation 10 (q) of Customs Brokers Licensing Regulations, 2018. By the act of omission & commission on their part M/s Aries Cargo Mover and his representative Shri Hakeem Shaikh rendered the goods liable for confiscation under Section 111(d) of Customs Act, 1962 thereby rendered themselves liable for penalty under section 112(a) and/or 112(b) and 114AA of Customs Act, 1962. **Therefore, he is also liable for Penalty under Regulation 14 of CBLR 2018 for non- fulfillment of obligations mandated under Regulation 10 (d), (e), (f) and (q) of Customs Brokers Licensing Regulations, 2018.**

**28.4 Shri Sagar Mhatre employee of Customs Broker M/s AriesCargo Movers:** Shri Sagar Mhatre was directly involved in the execution of the tampering process. He filled empty bottles into white plastic bags, carried them to and from the yard, and actively participated in the exchange with Hakeem Shaikh. He further sprinkled liquid from a metal bottle over the substituted plastic bags to give them the appearance of genuine samples. He also transported sample bags outside the CFS premises along with others. His role was that of the primary executor of the manipulation and concealment of samples. Shri Sagar Mhatre knowingly created a criminal conspiracy in submission of sample carried from outside. He was aware that the sample should be drawn for testing from the goods imported vide Bill of Entry No. 4008314 dated 15.06.2024 from the container at CFS. He was aware that the imported goods do not meet the specification as declared in the Bill of Entry, hence Shri Hakeem Shaikh directed him to carry sample outside and submit to scaleman at Balmer& Lawrie CFS. He followed the directions of Shri Hakeem Shaikh knowingly that the same is against Customs Act, 1962 and other allied rules and regulations. Shri Sagar Mhatre vide his statement dated 13.08.2024 and 14.08.2024

accepted that samples were carried from outside. By the above acts of omission & commission on his part Shri Sagar Mhatre rendered the goods imported vide bill of entry no. 4008314 dated 15.06.2024 liable for confiscation under section 111(d) of Customs Act, 1962 thereby Shri Sagar Mhatre rendered himself liable for penalty under section 112(a) and/or 112(b) and Section 114AA of Customs Act, 1962.

**28.5 Shri Rutik Nalvade, employee of Customs Broker M/s I S Machado:** Shri Rutik Nalvade was the co-conspirator of Shri Hakeem Shaikh and Shri Sagar Mhatre in submission of sample carried from outside. Shri Rutik Nalavade was observed handling a blue-colored file containing documents, suggesting his involvement in the documentation aspect of the activity. He later carried plastic bags containing samples out of the CFS premises along with Sagar Mhatre. His role indicates that he was responsible for handling both paperwork and the physical transport of tampered samples, thereby actively supporting the scheme. He was aware that the imported goods do not meet the specification as declared in the Bill of Entry, hence the sample is being carried from outside. He followed the direction of Shri Hakeem Shaikh and Shri Sagar Mhatre knowingly which is a conspiracy and against Customs Act, 1962 and other allied rules and regulations. By the act of omission & commission on their part, Shri Rutik Nalavade rendered the goods imported vide bill of entry no. 4008314 dated 15.06.20 liable for confiscation under section 111(d) of Customs Act, 1962 thereby Shri Rutik Nalavade rendered himself liable for penalty under section 112(a) and/or 112(b) and Section 114AA of Customs Act, 1962.

**28.6 Shri Atul Mulay (Private Person):** Shri Atul Mulay was also the co- conspirator of Shri Hakeem Shaikh and Shri Sagar Mhatre in submission of sample carried from outside. Shri Atul Mulay assisted throughout the process by frequently moving in and out of the Docks Officer's chamber. He was actively seen carrying plastic bags to and from the yard along with others. Later, he left the CFS with tampered sample bags accompanied by another unidentified person. His role was that of an active participant, providing physical support and ensuring the substituted samples were moved and concealed as planned. It appears that Shri Atul Mulay followed the direction of Shri Hakeem Shaikh and Shri Sagar Mhatre knowingly which is a criminal conspiracy in submission of sample carried from outside which is punishable under Customs Act, 1962 and other allied act, rules and regulations. By the act of omission & commission on their part, Shri Atul Mulay rendered the goods imported vide bill of entry no 4008314 dated 15.06.2024 liable for confiscation under section 111(d) of Customs Act, 1962 thereby Shri Atul Mulay rendered himself liable for penalty under section 112(a) and/or 112(b) and Section 114AA of Customs Act, 1962.

It appears that the import of "Adulterated Diesel Oil" by mis- declaring the same as "Process Oil-40" in violation of the Motor Spirit & High-Speed Diesel (Regulation of Supply & Distribution and Prevention of Malpractices) Order, 2005 read with Petroleum Act, 1934 and Petroleum Rules, 2002 was carried out by Shri Taranjeet Singh Lamba and Shri Gurvinder Singh Kochar in connivance with Shri Hakeem Shaikh, Shri



Sagar Mhatre, Shri Rutik Nalavade and Shri Atul Mulay thereby rendering the goods confiscable and the above persons liable to penalty under for penalty under section 112(a) and/or 112(b) and Sec 114AA of Customs Act, 1962.

**29. Now, therefore in terms of Section 124 of the Customs Act, 1962, M/s Nikk Enterprisess (IEC No. APNPS5220E), is hereby called upon to Show Cause to the Joint Commissioner of Customs, Group II(C-F), NS-I, JNCH, Nhava-Sheva, Taluka-Uran, District-Raigad, Maharashtra-400707, within 30 days of receipt of this notice, as to why: -**

- I. The impugned goods with declared description as "Process Oil-40" imported vide B/E No. 4008314 dt. 15.06.2024 should not be absolutely confiscated for the reasons stated above under Section 111 (d) and 111 (m) read with Section 11(2) and 11(3) of the Customs Act, 1962 with provisions of FTDR Regulations 3 (2) and 3(3) and Motor Spirit and High-Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005 read with of Petroleum Act 1934, Petroleum Rules 2002.
- II. The declared classification of the goods which is declared for "Process Oil-40" under B/E No. 4008314 dated 15.06.2024 should not be rejected under CTI 3403 9900 and the same should be re-classified under CTI 27101990/27101944 which is found as Adulterated Diesel Fuel.
- III. The declared assessable value of Rs. 57,23,226/- of the goods imported vide BE No. 4008314 dated 15.06.2024 should not be rejected and re-determined to Rs. 90,82,535/- as stated above.
- IV. Penalty should not be imposed on M/s Nikk Enterprises under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- V. Penalty should not be imposed on Shri Taranjeet Singh Lamba proprietor of M/s. Nikk Enterprises under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- VI. Penalty should not be imposed on Shri Gurvinder Singh Kochar under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- VII. Penalty should not be imposed on Customs Broker M/s Aries Cargo Movers under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- VIII. Penalty should not be imposed on Customs Broker M/s. Aries Cargo movers under Regulations 14 of CBLR 2018 for non- fulfillment of obligations mandated under Regulation 10(d), (e), (f) and (q) of Custom Broker Licensing Regulations 2018.
- IX. Penalty should not be imposed on Representative of Customs Broker Shri Hakeem Shaikh under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- X. Penalty should not be imposed on Shri Sagar Mhatre under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.
- XI. Penalty should not be imposed on Shri Rutik Nalavade under

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

XII: Penalty should not be imposed on Shri Atul Mulay under Section 112(a) and/or (b) and Section 114AA of the Customs Act 1962.

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

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

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

Digitally signed by

K Mahipal Chandra

Date: 03-11-2025

(K Mahipal Chandra)

16:42:32  
Joint Commissioner of Customs

Group 2(C-F), NS-I, JNCH, Mumbai

Encls: Relied Upon Documents

To,

i. M/s Nikk Enterprises (IEC No. APNPS5220E)  
Block C, SCO No. 1, B 35-307-C/1,  
Bhai Randhir Singh Nagar, Ludhiana - 141001

ii. M/s. Taranjeet Singh Lamba  
Block C, SCO No. 1, B 35-307-C/1,  
Bhai Randhir Singh Nagar, Ludhiana - 141001

iii. Shri Gurvinder Singh Kochar  
Block C, SCO No. 1, B 35-307-C/1,  
Bhai Randhir Singh Nagar, Ludhiana - 141001

iv. M/s Aries Cargo Movers (ABAFA0426HCH001)  
Office No. 801, Crystal Plaza,  
Guru Hargovindji Road,  
Opp. Solitaire Corporate Park,  
Chakala, Andheri East, Mumbai - 400093

v. Shri Hakeem Shaikh  
Flat No. 1201, Tower 3 (Banyan),  
Orchard Residency, Ghatkopar (W), Mumbai

vi. Shri Sagar Mhatre  
9/825, Govathane, Raigarh - 410206, Maharashtra

vii. Shri Atul Mulay  
Flat No. C-302, Ashapura Regency, Plot No. 25,  
Sector 6, Kamothe, Raigarh, Navi Mumbai - 410209

viii. Shri Rutik Nalavade  
Office No. 801, Crystal Plaza,  
Guru Hargovindji Road,  
Opp. Solitaire Corporate Park,  
Chakala, Andheri East, Mumbai - 400093

Copy to :

1. The Dy./Asstt. Commissioner of Customs, Adjudication Cell(I), JNCH, Nhava Sheva 2.
2. The Dy./Asstt. Commissioner of Customs, CIU, JNCH, Mumbai.
3. The Dy./Asstt. Commissioner of Customs, CBS, NCII, Mumbai.
3. The Dy./Asstt. Commissioner of Customs, CIIS, JNCII, Nhava Sheva (For displaying on Notice Board)
4. The Dy./Asstt. Commissioner of Customs, EDI, JNCII, Nhava Sheva
5. Office Copy

#### List of Relied Upon Documents

| RUD   | Content                                                                                                                                                           |
|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I     | Letter dated 21.05.2024 issued by Appraising Group 2 (C-F), JNCH Nhava Sheva                                                                                      |
| II    | Sample No. 952 dated 22.06.2024                                                                                                                                   |
| III   | Test report dated 01.07.2024 issued vide DYCC vide Lab No. 733/II C                                                                                               |
| IV-XI | Central Revenues Control Laboratory (CRCL), JNCH forwarded Test Reports dated 09.08.2024, 14.08.2024, 26.08.2024, 27.08.2024, 28.08.2024, 09.09.2024 & 17.09.2024 |



|       |                                                                                                                                                        |
|-------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| XII   | Seizure memo No 07/2024 dated 05.11.2024                                                                                                               |
| XIII  | Letters dated 02.09.2024 and 14.09.2024                                                                                                                |
| XIV   | Panchanama dated 24.10.2025 of search at address "Block C, SCO No. 1, B 35-307-C/1, Bhai Randhir Singh Nagar, Ludhiana-141001"                         |
| XV    | Panchnama dated 24.10.2025 of address "1 <sup>st</sup> floor, Office No. 105, Supariwala Estate, Tata Road No. 1, Girgaon, Mumbai, Maharashtra-400004" |
| XVI   | Panchnama dated 24.10.2025 of address "1 <sup>st</sup> floor, Office No. 105, Supariwala Estate, Tata Road No. 1, Girgaon, Mumbai, Maharashtra-400004" |
| XVII  | Statement dated 13.08.2024 and 14.08.2024 of Shri Sagar Mhatre                                                                                         |
| XVIII | Panchanama on 23.07.2025 of search at the premises of Shri Sagar Mhatre                                                                                |
| XIX   | Letter was sent to Shri Sagar Mhatre vide letter 28.07.2025 to participate in the forensic procedure of the mobile phone.                              |
| XX    | Panchanama dated 29.07.2025 of the forensic procedure.                                                                                                 |
| XXI   | Published prices of diesel INCO terms FOB by Petroleum Planning & Analysis Cell of the Ministry of Petroleum & Natural Gas, Govt. of India             |
| XXII  | Email dated 12.11.2024 sent by M/s Nikk Enterprises.                                                                                                   |
| XXIII | CCTV footage of M/s Conex CFS and M/s Balmer Lawrie CFS                                                                                                |