

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

REGIONAL BENCH - COURT NO. 01

Customs Appeal No. 85926 of 2025

(Arising out of Order-in-Appeal No. 369(Gr.IIC-F)/2025(JNCH)/Appeals dated 17.03.2025 passed by The Commissioner of Customs (Appeals), Mumbai-II.)

M/s Amar Hydrocarbon Pvt. Ltd.

.....Appellant

Plot No. 36, Survey No. 165 1 to 180, Near IOCL Ahmedabad,
Gujarat-382 170.

VERSUS

Commissioner of Customs, Nhava Sheva-I

....Respondent

JNPT, Custom House, Nhava Sheva,
Raigad-400 707.

APPEARANCE:

Shri J.C. Patel, Advocate for the Appellant

Shri Mahesh Patil, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

HON'BLE MR. M. M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86792/2025

Date of Hearing: 13.11.2025

Date of Decision: 13.11.2025

PER : S. K. MOHANTY

Heard both sides and perused the case records.

2. Classification of 'Penetrating Oil' is the subject matter of present dispute. The appellant had claimed the classification of the said goods under Tariff Item 3403 9900 and the department had sought to revise the classification of the same product under Tariff Item 2710 1990 as 'Diesel Oil'.

3. On perusal of the case records, we find that the representative samples drawn from the imported consignments were sent by the Customs Department to the DYCC, JNCH, Nhava Sheva, with the query

as to 'what is the correct description of the sample? and what is the nature of a composition of sample in detail percentage wise?'. Pursuant to such query made by the Customs department, the Assistant Chemical Examiner, JNCH Laboratory had confirmed vide letter dated 21.08.2023 that the facility for testing the goods in question are not available at the laboratory. Further, the department had also sent the samples for the purpose of testing to M/s. Bharat Petroleum Corporation Ltd., who vide their test reports dated 04.01.2024 had confirmed that the samples drawn from the consignments are also not confirming as 'High-Speed Diesel BS-VI'. Since, the department had not adduced any documentary evidence to show that the goods in question are in fact High-Speed Diesel Oil, in our considered view, the classification claimed by the appellant cannot be changed, in order to be categorised as the product under CTH 2710 1990. We find that an identical issue, involving the classification of self-same goods, has been dealt with by this Tribunal and vide Final Order No.85660/2024 dated 01.07.2024 in the case of *Ideal Impex Vs. Commissioner of Customs (NS-I)*, upholding the classification of the product in question under Tariff Item 3403 9900.

4. In view of the fact that the representative samples drawn from the import consignments were not tested appropriately by the department and that the issue of classification having been settled by the Tribunal vide order dated 01.07.2024 (*supra*), we do not find any merits in the impugned order, insofar as it has confirmed the adjudged demands on the appellants. Therefore, the impugned order is set aside and the appeal is allowed in favour of the appellants.

(Dictated and pronounced in the open court)

(S. K. Mohanty)
Member (Judicial)

(M. M. Parthiban)
Member (Technical)