

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

REGIONAL BENCH - COURT NO. 5

**Customs Appeal No. 87893 of 2025**

(Arising out of Order-in-Appeal No. 1323 & 1324 (Gr. II C-F)/2025(JNCH)/Appeals dated 03.11.2025 passed by the Commissioner of Customs (Appeals), Mumbai-II)

**M/s Auto Stores (India)**

355, V.P. Road, 6, Laxmi Nivas,  
Opera House, Mumbai – 400 004

**.... Appellant**

Versus

**Commissioner of Customs, Nhava Sheva-I**

JNPT, Custom House, Nhava Sheva,  
Taluka-Uran, Raigad, Maharashtra – 400 707

**.... Respondent**

**WITH**

**Customs Appeal No. 87894 of 2025**

(Arising out of Order-in-Appeal No. 1325 & 1326 (Gr.IIC-F)/2025(JNCH)/Appeals dated 03.11.2025 passed by the Commissioner of Customs (Appeals), Mumbai-II)

**Dashmesh Trade Impex**

Plot No. 11, Office No. 203,  
Gold C Sector – 19D, Vashi,  
Navi Mumbai, Thane – 400 703

**.... Appellant**

Versus

**Commissioner of Customs, Nhava Sheva-I**

JNPT, Custom House, Nhava Sheva,  
Taluka-Uran, Raigad, Maharashtra – 400 707

**.... Respondent**

**WITH**

**Customs Appeal No. 87895 of 2025**

(Arising out of Order-in-Appeal No. 1329 & 1330 (Gr.IIC-F)/2025(JNCH)/Appeals dated 03.11.2025 passed by the Commissioner of Customs (Appeals), Mumbai-II)

**Amarjeet Enterprises**

355, 6-A, Laxmi Nivas, V.P. Road,  
Mumbai – 400 004

**.... Appellant**

Versus

**Commissioner of Customs, Nhava Sheva-I**

JNPT, Custom House, Nhava Sheva,  
Taluka-Uran, Raigad, Maharashtra – 400 707

**.... Respondent**

**WITH**

**Customs Appeal No. 87896 of 2025**

(Arising out of Order-in-Appeal No. 1331 & 1332 (Gr.IIC-F)/2025(JNCH)/Appeals dated 03.11.2025 passed by the Commissioner of Customs (Appeals), Mumbai-II)

**M/s G.R. Agro & Commodities**

Near Nityanand Society 2B, Flat No. 09,

**.... Appellant**

Tolaram Nagar CHS, Chembur Colony,  
Mumbai – 400 074

Versus

**Commissioner of Customs, Nhava Sheva-I**

**.... Respondent**

JNPT, Custom House, Nhava Sheva,  
Taluka-Uran, Raigad, Maharashtra – 400 707

**WITH**

**Customs Appeal No. 87897 of 2025**

(Arising out of Order-in-Appeal No. 1333 & 1334 (Gr.IIC-F)/2025(JNCH)/Appeals dated 03.11.2025 passed by the Commissioner of Customs (Appeals), Mumbai-II)

**M/s Sunshine Enterprises**

**.... Appellant**

Office No. 58, Ground Floor,  
Shreej Tata Road No.2, Opera House,  
Girgaon, Mumbai – 400 004

Versus

**Commissioner of Customs, Nhava Sheva-I**

**.... Respondent**

JNPT, Custom House, Nhava Sheva,  
Taluka-Uran, Raigad, Maharashtra – 400 707

**WITH**

**Customs Appeal No. 87898 of 2025**

(Arising out of Order-in-Appeal No. 1335 & 1336 (Gr.IIC-F)/2025(JNCH)/Appeals dated 03.11.2025 passed by the Commissioner of Customs (Appeals), Mumbai-II)

**M/s Kiaan INC**

**.... Appellant**

A-406, Pranik Chambers, CTS No. 701,  
Sakivihar Road, Sakinaka Junction,  
Andheri East, Mumbai – 400 072

Versus

**Commissioner of Customs, Nhava Sheva-I**

**.... Respondent**

JNPT, Custom House, Nhava Sheva,  
Taluka-Uran, Raigad, Maharashtra – 400 707

**WITH**

**Customs Appeal No. 87899 of 2025**

(Arising out of Order-in-Appeal No. 1337 & 1338 (Gr.IIC-F)/2025(JNCH)/Appeals dated 03.11.2025 passed by the Commissioner of Customs (Appeals), Mumbai-II)

**M/s Ideal Impex,**

**.... Appellant**

1711, 1<sup>st</sup> Floor, Outram Lane,  
Kingsway Camp, New Delhi – 110 009.

Versus

**Commissioner of Customs, Nhava Sheva-I**

**.... Respondent**

JNPT, Custom House, Nhava Sheva,  
Taluka-Uran, Raigad, Maharashtra – 400 707.

**AND**

**Customs Appeal No. 87905 of 2025**

(Arising out of Order-in-Appeal No. 1327 & 1328 (Gr.IIC-F)/2025(JNCH)/Appeals dated 03.11.2025 passed by the Commissioner of Customs (Appeals), Mumbai-II)

**M/s Rajdeep Cans Pvt. Ltd.**

BCD Sah Indl. Estate, Dewan &  
Shah Udyog Nagar, Chintupura Road,  
Palghar – 401 404.

**.... Appellant**

Versus

**Commissioner of Customs, Nhava Sheva-I**

JNPT, Custom House, Nhava Sheva,  
Taluka-Uran, Raigad, Maharashtra – 400 707

**.... Respondent**

**Appearance:**

Shri Ramachandran Mattiyil, Advocate for the Appellants  
Shri Jitesh Kumar Jain, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)**  
**HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 86927-86934/2025**

Date of Hearing: 25.11.2025

Date of Decision: 19.12.2025

***Per: Dr. SUVENDU KUMAR PATI***

These eight identical appeals, which were heard together, are taken up for common orders as on the basis of intelligence gathered by the R&I Division of Customs, Mumbai, these Appellants had imported same goods declaring those as 'penetrating oil-60' but those were ascertained by the Respondent-Department of the category 'adulterated diesel' and seizure in respect of live consignments were all made in one day i.e. on 01.02.2024 as well as all eight orders were passed by the Commissioner (Appeals) on 03.11.2025 confirming the change in classification as well as enhancement of valuation made in Order-in-Originals which were passed on 25.07.2024 for all eight importers.

2. Detail of the happening including names of the party, Bills of entry number, classification & description of goods, Revenue's description and classification of goods, number of containers, Order-in-Original number, Order-in-Appeal number, amount of duties demanded and confirmed, redemption fines imposed, penalties imposed, including appeal numbers of the appeals filed here are all placed together by learned Counsel for the Appellant in a tabular form, which is reproduced herein below to give a comprehensive data on factual aspect.

Sl. No	Party Name	B/E. No & Date	Declared CTI & description	Revenue's classification & description	No of containers	OIO No.	Declared value	Declared value (C & F)	Redetermined value (FOB)	Seizure date	Total Duty Demanded (Only on past consignments)	C.Appeal No.	OIA No.	Redemption Fine Imposed	Penalty imposed	CESTAT Appeal No.
1	Ideal Impex	8560406 dated 31.10.2023	3403 9900 Penetrating Oil - 60	2710 1990 Adulterated diesel	6	611/(L)/2024-25/JC/Gr.II(C-F)/NS-I/CAC/JNCH dated 25.07.2024	43,52,591.18	USD 430 per MT (C&F)	USD 847.50 per MT (FOB)	01.02.2024	79,26,677	1845 of 2024	1337 & 1338 (Gr.II-C-F)/2025(JNCH)/Appeals dated 03.11.2025	30,00,000 (10,00,000 for live consignment and 20,00,000 for past consignment)	Sec 112(a):12,50,000 Sec 114A: 79,26,677 Sec 114AA: 10,00,000	C/87899/2025
2	Auto Stores	8560372 dated 31.10.2023	3403 9900 Penetrating Oil - 60 (For Industrial Use - Only)	2710 1990 Adulterated diesel	8	609/(L)/2024-25/JC/Gr.II(C-F)/NS-I/CAC/JNCH dated 25.07.24	58,42,753.21	USD 430 per MT (C&F)	USD 847.50 per MT (FOB)	01.02.2024	31,40,693	1840 of 2024	1323 & 1324 (Gr. II C-F)/2025(JNCH)/Appeals dated 03.11.2025	30,00,000 (10,00,000 for live consignment and 20,00,000 for past consignment)	Sec 112(a):14,00,000 Sec 114A:31,40,693 Sec 114AA: 10,00,000	C/87893/2025
3	Sunshine Enterprises	8560426 dated 31.10.2023	3403 9900 Penetrating Oil - 60 (For Industrial Use - Only)	2710 1990 Adulterated diesel	8	612/(L)/2024-25/JC/Gr.II(C-F)/NS-I/CAC/JNCH dated 25.07.2024	58,06,506.02	USD 430 per MT (C&F)	USD 847.50 per MT (FOB)	01.02.2024	67,04,867	1844 of 2024	1333 & 1334 (Gr.II-C-F)/2025(JNCH)/Appeals dated 03.11.2025	35,00,000 (10,00,000 for live consignment and 25,00,000 for past consignment)	Sec 112(a):13,75,000 Sec 114A:67,04,867 Sec 114AA: 10,00,000	C/87897/2025
4	Rajdeep Cans	8560399 Dated 31.10.2023 8560401 dated 31.10.2023	3403 9900 Penetrating Oil - 60 (For Industrial Use - Only)	2710 1990 Adulterated diesel	6 10	610(L)/2024-24/JC/Gr.II(C-F)/NS-I/CAC/JNCH dated 25.07.24	42,97,778.50 68,73,650.12	USD 425 per MT (C&F) USD 425 per MT (C&F)	USD 847.50 per MT (FOB) USD 847.50 per MT (FOB)	01.02.2024	90,86,081	1843 of 2024	1327 & 1328 (Gr. IIC-F)/2025(JNCH)/Appeals dated 03.11.2025	70,00,000 (20,00,000 for live consignment and 50,00,000 for past consignment)	Sec 112(a):27,00,000 Sec 114A: 90,86,081 Sec 114AA: 10,00,000	C/87905/2025
5	Kiaan Inc	8560190 dated 31.10.2023	3403 9900 Penetrating Oil - 60 (For Industrial Use - Only)	2710 1990 Adulterated diesel	8	613(L)/2024-24/JC/Gr.II(C-F)/NS-I/CAC/JNCH dated 25.07.24	55,41,425.60	USD 430 per MT (C&F)	USD 847.50 per MT (FOB)	01.02.2024	1,29,67,596	1847 of 2024	1335 & 1336 (Gr.II-C-F)/2025(JNCH)/Appeals dated 03.11.2025	60,00,000 (10,00,000 for live consignment and 50,00,000 for past consignment)	Sec 112(a):13,25,000 Sec 114A: 1,29,67,596 Sec 114AA: 10,00,000	C/87898/2025
6	Amarjeet Enterprises	8560351 dated 31.10.2023	3403 9900 Penetrating Oil - 60 (For Industrial Use - Only)	2710 1990 Adulterated diesel	8	608/(L)/2024-25/JC/Gr.II(C-F)/NS-I/CAC/JNCH dated 25.07.24	59,01,334.51	USD 430 per MT (C&F)	USD 847.50 per MT (FOB)	01.02.2024	66,35,957	1841 of 2024	1329 & 1330 (Gr.II-C-F)/2025(JNCH)/Appeals dated 03.11.2025	30,00,000 (10,00,000 for live consignment and 20,00,000 on past consignment)	Sec 112(a):14,00,000 Sec 114A:66,35,957 Sec 114AA: 10,00,000	C/87895/2025
7	Dashmesh Trade Impex	8560344 dated 31.10.2023	3403 9900 Penetrating Oil - 60 (For Industrial Use - Only)	2710 1990 Adulterated diesel	8	614/(L)/2024-25/JC/Gr.II(C-F)/NS-I/CAC/JNCH dated 25.07.24	55,48,748.27	USD 430 per MT (C&F)	USD 847.50 per MT (FOB)	01.02.2024	63,64,321	1846 of 2024	1325 & 1326 (Gr.II-C-F)/2025(JNCH)/Appeals dated 03.11.2025	30,00,000 (10,00,000 for live consignment and 20,00,000 on past consignment)	Sec 112(a):13,00,000 Sec 114A:63,64,321 Sec 114AA: 10,00,000	C/87894/2025
8	G R Agro & Commodities	8560398 dated 31.10.2023	3403 9900 Penetrating Oil - 60 (For Industrial Use - Only)	2710 1990 Adulterated diesel	10	615(L)/2024-24/JC/Gr.II(C-F)/NS-I/CAC/JNCH dated 25.07.2024	68,87,836.68	USD 430 per MT (C&F)	USD 847.50 per MT (FOB)	01.02.2024	2,96,71,189	1842 of 2024	1331 & 1332 (Gr.II-C-F)/2025(JNCH)/Appeals dated 03.11.2025	60,00,000 (10,00,000 for live consignment and 50,00,000 on past consignment)	Sec 112(a):16,25,000 Sec 114A: 2,96,71,189 Sec 114AA: 10,00,000	C/87896/2025

3. On the legal aspects, pleadings were made before the Commissioner (Appeals) by both sides, who preferred separate appeals before him and

unsuccessful Importer-Appellants therein are before this Tribunal seeking necessary remedy against classification and valuation orders confirmed by the Commissioner (Appeals) on the basis of precedent decision passed in one of the Appellants namely M/s. Ideal Impex's own case on dated 01.07.2024 in respect to its another consignment of same 'penetrating oil-60' i.e. the same product, brought by the same importer that had undergone same tests with same test results and settled against the same allegation on classification and valuation.

4. In a nut shell, the factual backdrop would go to reveal that Appellants have imported several consignments classifying it as "penetrating oil-60 (for industrial use)" that is covered under CTH 3403 9900 (industrial lubricating preparations) which were goods of non-fuel 'penetrating oils-60', and filed Bills of entry on dated 31.10.2023 individually. Goods were subjected to first check examination and second CRCL test. Reports of both the tests indicated that the product does not meet the requirement of automotive diesel as per BIS 1460 but mainly composed of diesel fractions as well as mixture of hydrocarbons (petroleum) of more than 70% by weight. Some foreign materials were traceable therein for which Respondent-Department concluded in its findings that those were adulterated diesel and that resulted in change in classification from CTH 3403 9900 to CTH 2710 1990, which is petroleum oil of other category obtained from bituminous minerals other than crude oil preparations not elsewhere specified or included containing weight 70% or more of petroleum oil or oil obtained from bituminous minerals oils but ultimately valuation for high speed diesel was taken up for determination of value and differential duty with interest, penalty, confiscation with redemption fine for re-export alone for live consignments and redemption fine with penalty for past consignments were being confirmed in the Order-in-Appeal against all eight Importers. The other reason for confiscation of goods is traceable from the show-cause notices that would go to show that in violation of Rule 30 of Petroleum Rules, 2002 *vis. a vis.* rules framed by Petroleum and Explosives Safety Organization (PESO) that restricts importation of bulk petroleum in Plastic Flexi Tanks, those imported products were being brought in plastic safety bags in shipping containers and transported with other Cargo, that received also approval of the

Commissioner (Appeals). Appellants are before us assailing legality of the said orders passed by the Commissioner (Appeals).

5. During course of hearing of the appeal learned Counsel for the Appellant Mr. Ramachandran Mattiyil submitted that burden of re-determining the classification is not discharged by the Department and with an inconclusive test report, that at least confirmed that goods are not meeting the requirement of high speed diesel as per IS 1460: 2025, without any reference to any kind of adulteration, the proper officer had jumped into the conclusion made by the Investigating Authority but when testing laboratory (JNCH report) admitted that they had no expertise to comment as to if the fuel of the type seized could be used in automobile vehicle fitted with spark ignition engines or compression ignition engines, without any absolute percentage of diesel constituent, the classification was changed as well as rate of duty was enhanced, which order is neither maintainable in law nor in fact. He further submitted that the issue in question has already been settled by this Tribunal in the case of one of the Importers/Appellants herein namely *M/s. Ideal Impex in appeal No. C/85316/2024 (Date of order – 01.07.2024)* whereby both classification and enhancement of duty were being overturned by holding the classification and rate of duty, as declared by the Appellant as proper. He also submitted that to establish that Appellant had imported adulated diesel, the first thing that was required to be confirmed was that the constituent was diesel so as to bring some foreign material into it for the purpose of adulteration but instead of establishing the burden to prove its stand, the Respondent-Department had enhanced the price of High Speed Diesel by taking the notified market price determined by the petroleum Authority. With reference to decision of this Tribunal rendered in the case of *Victory Trading Company Vs. Commissioner of Customs* passed in *Customs appeal No. 85549 of 2024 dated 25.02.2025*, he further argued that there was a clear finding in the said order at para 9.5 and para 10.1 that though it transpires that imported goods under dispute are mixture of hydrocarbon oil, containing diesel fraction, it does not fulfill the standard requirement as specified under IS 1460: 2005 to be considered as automotive diesel fuel and in view of well settled law in the matter emerged through decision of the Hon'ble Supreme Court in the case of *H.P.L. Chemicals Ltd. Vs. Commissioner of Central Excise* as reported in *2006 (197) ELT 323 (S.C.)* classification of

goods being a matter relating to chargeability, the burden of proof is squarely upon the Revenue which it failed to discharge.

6. In respect of violation of other provisions including Motor Spirit and High Speed Diesel Regulation Order 2005, FTDR Regulation No. 3, Petroleum Act, 1934 and Petroleum Rules, 2002, learned Counsel for the Appellant submitted that Appellant had valid PESO license as per Petroleum Rules, 2002 that was uploaded on e-Sanchit, that would cover up compliance of those Regulations and in respect of Rule 30 of the Petroleum Rules, 2002, he further submitted that the same relates to ship/vessel/vehicle carrying petroleum Class A, Class B, Class C products in bulk in the same ship that is carrying passenger or any combustible Cargo other than petroleum and therefore Appellants being Importers simpliciter cannot be held liable for any such violation meant for ship or vessel, for which the orders passed by Commissioner (Appeals) confirming different classification with enhancement of duty, penalty redemption fine etc. are required to be set aside.

7. *Per contra*, learned Authorised Representative Mr. Jitesh Kumar Jain argued in support of the reasoning and rationality of the order passed by the Commissioner (Appeals), on both correctness of classification as well as order confirming violation of public safety and prohibitions and even had gone to the extent of saying that even though issue of classification is settled by this Tribunal in the other appeal preferred by M/s. Ideal Impex in favour of the importer, confiscation is sustainable since goods are prohibited under Section 111(d) of the Customs Act, 1962 and there is violation of Petroleum Act, 1934 as well as its Rule, for which he sought no interference by the Tribunal in the order passed by the Commissioner (Appeals).

8. We have perused the appeal paper book, written notes submitted by the adversaries as well as relied upon case laws placed on record by the Appellant. It is an admitted fact that because of presence of mixture of hydrocarbons of more than 70% weight, Respondent-Department had come to the conclusion that imported goods were petroleum as defined in Petroleum Act, 1934 and presence of lighter hydrocarbons, which do not belong to diesel CRM, establishes presence of foreign substance in diesel that amounts to adulteration as defined in Motor Spirit and High Speed Diesel (Regulation of

Supply, Distribution and Prevention of Malpractices) Order, 2005 (para 2.6 and 2.14 of Order-in-Appeal), for which conclusion was drawn by the Respondent-Department that those were adulterated diesel to be appropriately classifiable under CTH 2710 1990 by rejecting the classification made by the importers under CTH 3403 9900. Therefore, it is imperative to have a look at the Chapter Heading 3403 *vis. a vis.* Chapter Heading 2710 so as to enable us to form our opinion.

*CTH 3403 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 mineral.***

*CTH 2710 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.*

*(Underlined to emphasis)*

The above Chapter Headings are also reproduced in the Order-in-Original. In a complex sentence general rules of English Grammar would require that things put within two commas if taken out, would make the sentence complete as it is extraneous to the main sentence but its addition makes it qualified/conditional. However, in the instant case "but excluding preparations containing, as basic constituent" which was supposed to be taken off from the sentence to attach 70% of more weight of Petroleum to lubricating preparations of the descriptions made above in CTH 3403, were taken as a component of lubricating preparation. Further under Chapter Heading 2710, it is also clearly mentioned that petroleum preparations not elsewhere, specified or included, if containing weight more than 70% would fall in the description given in the Chapter Heading 2710. In other words, lubricating preparation containing more than 70% of the weight of the petroleum oil can be covered under CTH 3403 if it is a base constituent since

'but excluding preparation containing' and 'as basic constituent' are both separated by another comma. The observation in the Order-in-Appeal is made in vice versa that goods under CTH 3403 must contain basic constituent less than 70% since it has excluded preparation containing base constituent appears to be erroneous.

9. Now coming to the claim of the Appellant regarding classification of its imported goods, it is a common knowledge that penetrating oil constitutes blend of certain substances and acids which are available in lube oil base i.e. lubricant oil base and lubricant oil base is composed of 80 to 90% petroleum distilled with 10 to 20% additives, as could be noticed from scientific literatures. This being so, in the penetrating oil, the basic elements of which are more than 80% petroleum hydrocarbon and other additives, the presence of more than 70% hydrocarbon including lighter hydrocarbons, as found in the test examination report would not be considered as unusual. Though no argument was led by either of the adversaries in this line *vis. a vis.* interpretation of CTH3403 with CTH2710, as we discussed above, such goods as imported can never be equated with adulterated diesel since test reports are also silent on this aspect. It was also held in the decision of the *Victory Trading Company, cited supra* at para 9.4 as follows:

*"9.4 From plain reading of the above tariff extract (2710), it transpires that in order to determine the classification of the goods, particularly in respect of the goods specified in Supplementary Note 1 to Chapter 27, Natural Gasoline Liquid (NGL), Superior Kerosine Oil (SKO), Aviation Turbine Fuel (ATF), High Speed Diesel (HSD), Light diesel oil (LDO) etc. are required to fulfil the characteristics of goods as per the Standard of Measures prescribed by Bureau of Indian Standards (BIS). As the same IS standard provide for product specifications on various criteria/parameters, on the basis of which the same can be classified under a particular entry, conformity with specific IS standard parameters is of paramount importance to classify the goods under that specific tariff item. ..."*

*(2710 is added to clarify)*

We are, therefore, of the considered view that Appellants have appropriately classified the imported goods under CTH3403 since it is not meeting the

IS1460 specification and discharged the applicable duties thereon and Respondent-Department has failed to discharge its burden of proving the classification to the contrary.

10. At this juncture, it would be worthwhile to reproduce para 7 to para 9 of the order passed in respect of *M/s. Ideal Impex* for its another consignment of the same goods imported *vide* Bills of entry dated 28.10.2023 i.e. three days prior to these importations, that would provide the justification about correct declaration of the goods both in terms of description as well as value that resulted in setting aside the order of Commissioner passed in confirming the classification, on value and proposal for confiscation etc. made by the Respondent-Department. It reads as hereunder:

*"7. Without deliberating further on this mis-adventure, we turn to the classification exercise undertaken by the lower authorities. We have, time and again, set out the rules for engagement in classification disputes which the Hon'ble Supreme Court has set out in Hindustan Ferodo Ltd v. Collector of Central Excise [1997 (89) ELT 16 (SC)] thus*

*'It is not in dispute before us as it cannot be, that onus of establishing that the said rings fell within Item No. 22-F lay upon the Revenue. The Revenue led no evidence. The onus was not discharged. Assuming therefore, the Tribunal was right in rejecting the evidence that was produced on behalf of the appellants, the appeal should, nonetheless, have been allowed.'*

*and in HPL Chemicals Ltd v. Commissioner of Central; Excise, Chandigarh [2006 (197) ELT 324 (SC)] thus*

*'28. This apart, classification of goods is a matter relating to chargeability and the burden of proof is squarely upon the Revenue. If the Department intends to classify the goods under a particular heading or sub- heading different from that claimed by the assessee, the Department has to adduce proper evidence and discharge the burden of proof. In the present case the said burden has not been discharged at all by the Revenue.....'*

8. *The show cause notice proposed that*

*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'*

*corresponding to heading 2710 of First Schedule to Customs Tariff Act, 1975 was apt considering that the test report demonstrated the sample to contain more than 70% of petroleum oils or oils obtained from bituminous minerals. Leaving aside that inference from the test report for the nonce, we take note that the said heading is delineated not just at the usual 'sub-heading' and 'tariff item' levels but that these are fitted within sub-classifications, excluding waste oil, as containing 'biodiesel' and others conforming to the description. The adjudicating authority narrowed down the residual 'sub-heading', comprising of other than 'light oils and preparations' of the latter sub-classification which appears to be illogical inasmuch as 'diesel oil' of both types fall within the other sub-heading. It would, therefore, appear that the adjudicating authority has chosen not to classify the impugned goods as 'diesel oil' and took recourse to the residual tariff item within the residual sub-classification merely to deny the declared classification and to insist on re-export. This is not in conformity with neutrality envisaged in the General Rules for Interpretation of the Import Tariff appended to Customs Tariff Act, 1975 and is in discord with the onus devolving on 'proper officer' in the decisions of the Hon'ble Supreme Court supra.*

9. *From a perusal of the finding of the original authority, and sustained in the impugned order, which relied upon the test reports for overruling the declared classification solely by the content of 'petroleum oils or oils obtained from bituminous minerals' being above 70%, the test report, at serial number 11, offers no clue about the manner of computation or conformity thereof with the heading proposed in the show cause notice. In both the test reports relied upon, besides indicating lack of*

*conformity with IS:1460 in that of their own laboratory and in that of the state level coordinator – oil industry of sample not meeting the test of high speed diesel, the possibility of conforming to the other tariff line for diesel oil had not been considered. That is a flaw in the classification exercise which the lower authorities were required to in the light of the reports of non-conformity. Without support of ascertainment of one, and despite the reported non-conformity with the other, the lower authorities sustained finding of the impugned goods being diesel oil and, yet, resorted to an unrelated sub-heading to determine rate of duty. The impugned order may be set aside on this count alone.”*

11. Hence in carrying forward the judicial precedent set by this Tribunal in respect of one of the Appellants and issue including products imported, allegation raised, test conducted, etc. in all these appeals being identical, the following order is passed to ensure consistency and predictability in the order to be passed by this Tribunal, when submissions of the Appellants concerning non-application of Rule 30 of the Petroleum Rules, 2002 on the Appellants is agreeable, coupled with deprivation of the opportunity of cross examination to the Examiners, who have furnished the test reports.

#### THE ORDER

12. All these eight appeals are allowed and the orders passed by the Commissioner of Customs (Appeals), Mumbai-II *vide* Order-in-Appeal dated 03.11.2025 in respect of these eight Appellants are hereby set aside with consequential relief.

(Order pronounced in the open court on 19.12.2025)

**(Dr. Suvendu Kumar Pati)**  
**Member (Judicial)**

**(M.M. Parthiban)**  
**Member (Technical)**