



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/SPECIAL CIVIL APPLICATION NO. 16799 of 2025**

**With**

**R/SPECIAL CIVIL APPLICATION NO. 1239 of 2026**

**With**

**R/SPECIAL CIVIL APPLICATION NO. 1355 of 2026**

**With**

**R/SPECIAL CIVIL APPLICATION NO. 1356 of 2026**

**With**

**R/SPECIAL CIVIL APPLICATION NO. 1357 of 2026**

**With**

**R/SPECIAL CIVIL APPLICATION NO. 1375 of 2026**

**With**

**R/SPECIAL CIVIL APPLICATION NO. 1542 of 2026**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE A.S. SUPEHIA**

**Sd/-**

**and**

**HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

**Sd/-**

Approved for Reporting		
	Yes	No
	✓	

**DEEP INTERNATIONAL & ANR.**

**Versus**

**UNION OF INDIA & ORS.**

**Appearance:**

**IN R/SPECIAL CIVIL APPLICATION NO.16799 of 2025 :**

MR SHALIN MEHTA, SENIOR ADVOCATE with  
JEET Y RAJYAGURU(8039) for the Petitioner(s) No. 1,2  
MR N. VENKATARAMAN, ADDITIONAL SOLICITOR GENERAL WITH  
MR UTKARSH R SHARMA(6157) for the Respondent(s) No. 1,2  
TIRTH NAYAK(8563) for the Respondent(s) No. 3

**IN R/SPECIAL CIVIL APPLICATION NOS.1239 of 2026 :**

MR KUNAL NANAVATI AND MR KAUSTUBH SHRIVASTAV FOR THE  
PETITIONER(s)

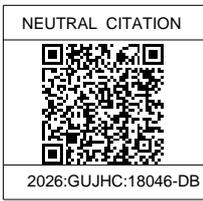
**IN R/SPECIAL CIVIL APPLICATION NOS.1355 of 2026,**

**1356 of 2026, 1357 of 2026 & 1375 of 2026 :**

MR CHIRAG SHETTY, MR AMIT LADDHA, With MR HARDIK P MODH,  
ADVOCATES for the PETITIONERS

**IN R/SPECIAL CIVIL APPLICATION NOS. 1542 of 2026 :**

MR S.N. SOPARKAR, SENIOR ADVOCATE with MR ANURAG V AGRAWAL,  
AND MR DEVENDRA HARNESHA, ADVOCATES for the PETITIONER



MR PRADIP D BHATE(1523) for the Respondent(s) No. 1  
MR N. VENKATARAMAN, ADDL. SOLICITOR GENERAL WITH  
MR UTKARSH R SHARMA(6157) for the Respondent(s) No. 2,3

=====  
**CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA**  
and  
**HONOURABLE MR. JUSTICE PRANAV TRIVEDI**  
**Date : 09/03/2026**  
**COMMON ORAL JUDGMENT**  
**(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)**

1. Since common question of law and facts arise, the matters are taken up for hearing and are being decided by this common judgment and order.

2. In all these writ petitions, the petitioners-importers, who have purchased / imported industrial oil, have challenged the action of the Directorate of Revenue Intelligence (for short, "DRI") seizing the goods by issuing seizure memos under Section 110 of the Customs Act, 1962.

3. The writ petition being Special Civil Application No.16799 of 2025 is taken up as the lead matter.

4. The fate of the respective writ petitions hinges on the Test Reports of the samples of the commodity/industrial oil, which were initially sent to the Central Revenues Control Laboratory, Visakhapatnam (for short, "CRCL") and thereafter sent to Mangalore Refinery and Petrochemicals Limited (for short, "MRPL"). Prior to sending the samples to these laboratories, the samples were tested at private laboratory at Kandla by the petitioners and the report was in their favour.

5. It is the case of the petitioners that the action of the respondents in seizing the industrial oil is illegal and that the

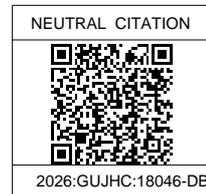


commodity/consignment is required to be released in view of the decision of the Supreme Court in the case of *Gastrade International vs. Commissioner of Customs, Kandla, 2025 INSC 411.*

**SUBMISSIONS ON BEHALF OF THE IMPORTERS:**

6. Learned Senior Advocate Mr.S.N.Soparkar and learned Senior Advocate Mr.Shalin Mehta, appearing for the respective petitioners, at the outset, have pointed out the Test Report dated 11.11.2025 issued by CRCL, Visakhapatnam, and has submitted that the report nowhere mentions that the sample in question of the industrial oil (CTH 27101990) is High-Speed Diesel (HFHSD) [IS 16861:2018] or ADF [IS 1460:2025], i.e. Automotive Diesel Fuel.

7. It is submitted that upon arrival of the consignment at Mundra Port, the importer, with utmost caution, got the sample tested in private laboratories at Kachchh, which did not report any adverse findings. It is further submitted that the DRI collected samples and sent them to the Visakhapatnam Laboratory, which issued the Test Report as mentioned hereinabove, and subsequently, during the pendency of the writ petition, the sample was further sent to MRPL for conducting tests of 11 parameters, which is impermissible in view of the judgment of the Supreme Court in the case of ***Gastrade International (supra)*** followed by this Court in the case of *Noya Infrastructure LLP, vs. Union of India* decided vide judgment dated 09.12.2025 passed by this Court in Special Civil Application No.12943 of 2025.



8. While referring to the Test Reports, it is contended by the learned Senior Advocates that if samples having diesel fractions in the case of distillate oil, which include HFHSD (IS 16861), Automotive Diesel Fuel (IS 1460:2025), Gas Oil (IS 17789), Distillate Marine Fuel (IS 16731), and Light Diesel Oil (IS 15770), are found and the sample does not meet the requirements of any of these products as per the respective Indian Standards due to deviation from the prescribed limits with respect to one of the parameters, the sample can still be categorized as a diesel fraction based on carbon chain, distillation range and other parameters. It is submitted that the sample bears close similarity with one or more of the aforesaid IS specifications, which have overlapping parameters. Therefore, even if the product falls within the category of diesel fraction, the same would not have any adverse consequences, as all such products are diesel fractions. It is contended that the sample meets with the critical parameters of flash point and percentage distillation recovery. Hence, the seizure is uncalled for.

9. It is further contended that if the sample has close similarity with any one or more of the aforesaid Indian Standards, which have overlapping parameters and fall under the category of diesel fraction, the same would have no adverse consequences, as all such products are diesel fractions. In this regard reliance is placed on the communication dated 04.11.2025, issued by the Director, CRCL, and is submitted that this communication has been duly considered by this Court in the case of **Noya Infrastructure LLP (supra)** decided vide judgment dated



09.12.2025 passed by this Court in Special Civil Application No.12943 of 2025 and allied matters, where in, on a similar issue concerning imported distillate marine fuel, this Court has quashed and set aside the seizure memos issued by the DRI.

10. Learned Senior Advocates have extensively relied upon the judgment of the Supreme Court in the case of ***Gastrade International (supra)*** and has submitted that the Test Reports, on which reliance has been placed by the respondents are vague in nature and do not specifically mention that the consignment or the sample is in fact ADF or HFHSD. Hence, the action of the DRI is required to be quashed and set aside.

#### **SUBMISSIONS ON BEHALF OF THE DRI :**

11. Opposing the present writ petitions and the submissions advanced on behalf of the petitioners, learned Additional Solicitor General of India Mr.N. Venkatraman assisted by the learned Senior Standing Counsel Mr.Utkarsh Sharma, has submitted that the consignments declared by the petitioners as industrial oil / mixed or mineral hydrocarbon oils are not explicitly defined in the Customs Tariff. It is submitted that upon investigation, the DRI found that the actual product is Automotive Diesel Fuel ADF and HFHSD, which is a restricted commodity classifiable under CTH 2710 1944, conforming to IS 1460, and IS 16861, and cannot be imported except through State Trading Enterprises (STEs).

12. It is submitted that the goods in question have been adulterated in order to classify them under a different Customs Tariff Heading so as to circumvent the import policy

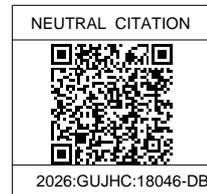


restrictions. Reliance is placed on the definition of “adulteration” under Section 2(a) of the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005,(in short ‘Malpractices Order,2005’) issued by the Government in exercise of powers conferred under Section 3 of the Essential Commodities Act, 1955.

13. It is further submitted that the sampling process conducted by the DRI was lawful and was carried out in the presence of representatives of the concerned parties. The samples were drawn container-wise after preparing the necessary panchnamas.

14. Learned ASG while referring to the Test Report of CRCL, Visakhapatnam, has asserted that according to the report, there were minor deviations in two to three parameters, namely flash point, sulphur and marginal distillation recovery, and these deviations were deliberately brought about by adulterating the product with lighter hydrocarbons, which is apparent from the test results. It is further submitted that in view of the judgment of the Supreme Court in ***Gastrade International (supra)***, the samples were also sent to MRPL, so that all 21 parameters can be tested, and the test result showed that the product corresponded with the parameters of ADF as well as HFHSD.

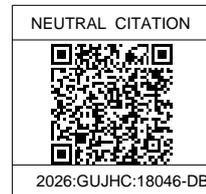
15. It is asserted by the learned ASG that the importers have deliberately adulterated the fuel by adding sulphur in order to alter the flash point, which is a critical parameter. It is further submitted that due to adulteration with sulphur, lubricity in



some cases, where sulphur levels are very high—also falls outside the prescribed range under IS 1460 for ADF. It is contended that the lowering of the flash point results from mixing or blending with lighter hydrocarbons, and such adulteration has been detected in both the Test Reports. In this regard, while referring to the statements of the importers recorded during the investigation, he has submitted that the petitioners have accepted that they had adulterated the fuel for lowering down the flash point. Thus, it is urged that the reports conclusively establish that the commodity or fuel is in fact a restricted and prohibited commodity meeting the parameters of HFHSD and ADF.

16. It is further urged that the judgment of the Supreme Court in ***Gastrade International (supra)*** does not restrict the respondents from undertaking tests in more than one laboratory. In order to ensure that adulterated fuel does not enter the domestic market and cause environmental harm, the samples were also sent for testing to MRPL.

17. With regard to the reliance placed by the petitioners on certain communications, it is submitted that the Central Revenue Control Laboratory (CRCL) is a subordinate office functioning under the control of the Central Board of Indirect Taxes and Customs (CBIC), Department of Revenue, Ministry of Finance. It is submitted that the Chief Chemist, re-designated as Director (Revenue Laboratories) pursuant to the Ministry of Finance order dated 10.05.1999, exercises supervision and control over the technical work carried out by CRCL laboratories across the country. However, the Director



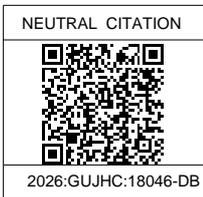
functions under the administrative and overall control of the CBIC, Department of Revenue, Ministry of Finance.

18. It is submitted that this administrative hierarchy clearly indicates that the Director, CRCL, may only advise the CBIC but is not empowered to issue circulars, directions or instructions to the CBIC or to any of its formations directly, including the Directorate of Revenue Intelligence (DRI), which reports to the CBIC through the Director General.

19. Learned ASG, while referring to the decision of the Supreme Court in ***Gastrade International (supra)***, has further submitted that the observations made therein would not assist the petitioners. In the present case, after applying the “most akin test”, the laboratory reports of CRCL, Visakhapatnam and MRPL conclusively establish that the goods in question correspond with the parameters of HFHSD and ADF. Hence, according to the learned ASG, the case of the petitioners does not fall within the ratio laid down in ***Gastrade International***. It is therefore urged that the petitions may not be entertained.

20. He has sought to distinguish the judgment of the Supreme Court in the case of ***Gastrade International (supra)*** and has prayed that the writ petitions may be dismissed with costs.

21. Finally, by placing reliance on the judgments of the Supreme Court in the case of Om Prakash Bhatia vs. Commissioner of Customs, 2003 (155) ELT 423 (SC), and in the case of Union of India vs. Rajgrow Impex LLP, 2021 (377) ELT



145 (SC), it is submitted that prohibited or restricted goods cannot be ordered to be released. It is therefore urged that this Court should not interfere with the action of the respondents in seizing the goods. In this regard, reliance is also placed on the judgment of the Supreme Court in Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra & Ors., 2021 INSC 253.

**ANALYSIS AND CONCLUSION :**

22. We have heard the learned advocates appearing for the respective parties and have perused the documents on record, more particularly the Test Reports, which were tendered by the respective parties during the course of hearing of the petitions. The said reports are not disputed by the petitioners, except to the extent that during the pendency of the petitions, the DRI has further undertaken tests of the samples drawn from the consignments, which were handed over to the respective petitioners as well as their learned advocates. The same are ordered to be taken on record.

23. It is not in dispute that HFHSD(IS 16861), and ADF(IS 1460), are restricted commodities and are only allowed to be imported by State Trading Enterprises.

24. The case of the respective parties primarily hinges on two Test Reports; one undertaken by CRCL, Visakhapatnam, and the other by MRPL, as well as on the law enunciated by the Supreme Court in the case of ***Gastrade International (supra)***.

25. Since the Test Reports in all the petitions are common, for the sake of convenience, we propose to incorporate the



Test Report in the lead matter i.e. Special Civil Application No.16799 of 2025. One of the test reports is reproduced hereunder.

### TEST REPORT

<b>Lab No:</b>	178-DRI	<b>Date:</b>	18.11.2025
<b>F.No:</b>	DRI/GRU/Int-26/2025	<b>Date:</b>	22.10.2025
<b>Test Memo No:</b>	467/2025	<b>Date:</b>	16.10.2025
<b>B.E. No:</b>	4869187	<b>Date:</b>	03.10.2025

**Sample Received from:** Senior Intelligence Officer, (DRI), Gandhidham Regional Unit.

**Description of Sample:** Industrial Oil (CTH 27101990)

**Date of Receipt:** 22.10.2025

**Sample Plan:** Sample not Drawn by this laboratory

**REPORT:** The sample is in the form of pale yellow coloured oily liquid. It is mainly composed of Mineral Hydrocarbon Oils having mineral oil content more than 70 % by weight. It is having following characteristics:

No.	Parameter	Result
1.	Appearance	= clear & bright, free from sediments, suspended matter & undissolved water
2.	Total Acid Number (mg of KOH/ gr)	= Less than 0.20% by wt.
3.	Ash content	= Nil
4.	Carbon residue on 10% Residue	= Less than 0.30% by wt.
5.	Cetane Number	= To be done at Refinery end.
6.	Cetane Index	= 54.16
7.	Pour Point	= below 3°C.
8.	Flash Point(Abel), deg. C	= 21.0°C
9.	Density at 15°C	= 0.8204 g/ml
10.	Kinematic viscosity at 40°C	= 2.11 cSt.
11.	Sulphur Content	= 1241 ppm.
12.	Distillation: IBP	= 84.4°C
	50% distilled at, °C	= 256.5°C
	85% Recovery by vol., at °C	= 330.4°C
	% Volume recovered at 360 deg. C	= 92 % by vol.



No.	Parameter	Result
	95% Recovery by vol., at °C	= 367.4.0°C
13.	Cold Filter Plugging Point	= Facility available at Refinery end only
14.	Oxidation stability	= To be done at refinery end only.
15.	Lubricity wear scan at 60°C	= Facility available at Refinery end only
16.	Fame Content	= Absent
17.	PAH % by max	= not determined as it is not a characteristic parameter.
18.	Water	= Less than 200 PPM.

The sample has been tested for all the characteristics parameters tested above & which are stringent parameters also to characterize petroleum fuels.

The sample meets all characteristic parameters of automotive diesel fuel except flash point (21.0°C), which is 14.0°C lower than required i.e. 35.0°C, the percentage distillation recovery at 360°C is 92% (3% lower than requirement of 95%) and Sulphur which is 1241 PPM, which is very high as comparison to required value of 10 PPM (BS-VI).

The sample also meets the stringent parameter of HFHSD as mentioned in IS: 16861 except flash point (21.0°C), which is 45.0°C lower than the required, which was lowered by using lighter hydrocarbons.

The GCMS chromatogram of sample reveals that the sample is mainly composed of diesel fraction (more than 95 % & less than 98 %) & adulterated with lighter hydrocarbons.

The sample is most akin to HFHSD (IS 16861)/ adulterated HFHSD.

Sealed remnant sample returned herewith

### ***End of the Report***

*Note 1: The results relate only to the items tested.*

*Note 2: Sample not Drawn by this laboratory.*

*Note 3: The report shall not be reproduced except in full without approval of this laboratory.*

*Note 4: Remnant sample should be collected within 30 days otherwise it will disposed off.*



26. During the pendency of the writ petition, the samples were tested for 11 parameters by MRPL. Thus, initially the Visakhapatnam Laboratory tested the samples for 18 parameters and thereafter 11 parameters were tested by MRPL, few of them are common. It is established that all 21 parameters as suggest by the Supreme court have been tested.

### SAMPLE ANALYSIS REPORT FOR 828/2025

<b>SAMPLE DRAWN BY</b>	: DRI, Gandhidham	<b>DATE OF ANALYSIS</b>	: 21/12/2025
<b>DATE OF SAMPLE DRAWN</b>	: 24.11.2025	<b>TEST REPORT No.</b>	: MRPL/DRI/2026/02
<b>DATE OF SAMPLE RECEIPT</b>	: 06.12.2025	<b>TEST REPORT DATE</b>	: 26.12.2025

S.No.	ADF(IS 1460:2025)	HFHSD(IS 16861:2018)	Result	Remarks
1	Parameter(v) Cetane number, min 51.0	-	51.2	Found meeting IS1460:2025
2	Parameter(vii) Pour point: Deg Cel. Max(a)Winter(November to February)+3°C	Parameter(vi) Pour point Deg Cel. Max(a)Winter(November to February)+3°C	-18°C	Found meeting both IS1460:2025 and IS 16861:2018 specifications
3	Parameter (vii)Copper strip corrosion for 3h at 50Deg C,Max.	Parameter (vii)Copper strip corrosion for 3h at 50Deg C,Max.	Class1	Found meeting both IS1460:2025 and IS16861:2018 specifications
4	Parameter (ix) Distillation 95%v/v recovery, Deg Cel Max360°C	Parameter (viii) Distillation percent (v/v) recovered, a) At 350Deg cel. min.85.0% b) At 370Deg cel. Min.95.0%	95% rec, temp 357°C 93.5 95.5	Found meeting both IS1460:2025 and IS16861:2018 specifications Found meeting IS16861:2018 Found meeting IS16861:2018
5	Parameter (x) Flash point, Abel, °C, Min35.0	Flash Point Pensky Martens closed cup °C, Min66.0	<20	Failed to meet IS1460:2025 and IS 16861:2018 requirement.
6	Parameter (xii) Total contamination mg/Kg, max 24	-	11	Found meeting IS1460:2025
7	Parameter (xiv) total sulphur, mg/Kg. Max.10	Parameter (xii) Total sulphur % by mass Max 0.2%	0.20%	Failed to meet IS1460:2025

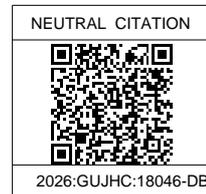


S.No.	ADF(IS 1460:2025)	HFHSD(IS 16861:2018)	Result	Remarks
				requirement. However meeting the specification IS16861:2018.
8	Parameter (xvi) Cold Filter Plugging Point (CFPP) <sup>3</sup> , °C, Max: a) Winter +6	Cold filter plugging point (CFPP), °C, report	-10	Found meeting both IS1460:2025 and IS16861:2018 specifications
9	Parameter (xvii) Oxidation stability g/m <sup>3</sup> 25 max (ASTM D2274) or 60 min (EN16091)	Parameter (xv) Oxidation stability, g/m <sup>3</sup> - Max 25.0 (ASTM D2274)	28 (ASTM D2274) and >60min (EN16091)	Failed to meet IS 16861:2018 requirement, however meets IS 1460:2025 specification through EN16091.
10	Parameter(xix) Polycyclic Aromatic Hydrocarbon(PAH)percent by mass, Max8.0	-	1.04	Found meeting IS1460:2025
11	Lubricity, wear scar diameter (wsd) at 60°C, μm, Max460	Lubricity, Corrected WSD at 60°C, microns max520	540	Failed to meetIS1460:2025 and IS 16861:2018 requirement.

27. A careful analysis of the Test Report of CRCL, Visakhapatnam, specifically indicates that the sample has been tested for all the characteristic parameters i.e. 18 parameters, which are stringent parameters for characterizing petroleum fuel.

28. A categorical finding has been recorded by CRCL, Visakhapatnam that *“the sample meets all characteristic parameters of HFHSD as mentioned in IS: 16861, except the flash point (21.0°C), which is 45° C lower than the required 66.0°C, and the percentage distillation recovery at 370°C, which is 94%, i.e. 1% lower than the requirement of 95%.”*

29. The test result further records that the sample is mainly composed of diesel fraction (more than 95%, less than 98%)



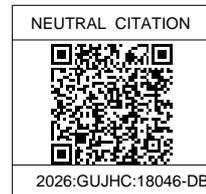
and is adulterated with lighter hydrocarbons. It has been opined that “the sample is most akin to HFHSD (IS 16861) / adulterated HFHSD”. Thus, CRCL, Visakhapatnam has opined that the sample is most akin to HFHSD / adulterated HFHSD and meets all the characteristic parameters of HFHSD as mentioned in IS 16861, except the flash point and the MRPL in its Test Report dated 26.12.2025, has analyzed the sample for 11 parameters.

30. Thus, cumulatively, the tests conducted by MRPL and CRCL cover 21 parameters, which has been emphasized by the Supreme Court in the case of ***Gastrade International (supra)***.

31. The remarks recorded in the MRPL Test Report indicate that the sample meets the parameters of ADF (IS 1460:2025), i.e. Automotive Diesel Fuel (ADF), as well as certain parameters of HFHSD (IS 16861). The parameters mentioned at Sr. No.1 onwards in the MRPL report are found to be meeting the requirements of ADF as prescribed under IS 1460:2025.

32. The sample meets the parameters of HFHSD (IS 16861) with respect to the parameters namely Parameters II, III, IV, VII, VIII, IX and XI.

33. Thus, except for the flash point, which is a common parameter in both the reports of CRCL and MRPL, the sample does not meet the Indian Standards prescribed for ADF and HFHSD. It is the case of the respondents that the flash point has been lowered by adulterating the commodity i.e. the



industrial oil, so that the same appears to fall within permissible parameters and the consignment can be cleared. The Test Report strengthens the submission, since it categorically records that the flash point has been lowered by using hydrocarbons.

34. It is not in dispute that industrial oil falling under CTH 2710 1990 as declared by the petitioners, is not specifically defined in the Customs Tariff. It is a residual tariff entry and is freely importable as per the prevailing policy, with no defined IS specification.

35. According to the DRI, if the combined reading of both the Test Reports is considered, the actual product imported by the petitioners is Automotive Diesel Fuel (ADF) / HFHSD, which is a restricted commodity classifiable under CTH 2710 1944 and conforming to IS 1460. The Test Reports of CRCL, Visakhapatnam and MRPL record that the sample meets several stringent parameters of HFHSD.

36. The report of CRCL, Visakhapatnam specifically records that the sample is adulterated with lighter hydrocarbons and is most akin to HFHSD (IS 16861) / adulterated HFHSD. The MRPL report has also examined the sample with reference to both ADF and HFHSD and has tested 11 parameters .

37. The DRI has specifically contended that sulphur is added to make the imported petrochemical product fall outside the prescribed sulphur range under IS 1460 for ADF. It is further contended that lubricity naturally decreases when sulphur is reduced during the desulphurization process undertaken to



make diesel compliant with emission standards prescribed under the relevant IS standards.

38. It is the specific case of the DRI that, due to adulteration of the sample with sulphur, lubricity in some cases, where sulphur content is very high, also falls outside the prescribed range under IS 1460 for ADF. It is further contended that a low flash point results from mixing or blending with lighter hydrocarbons due to adulteration, which has been detected and reported by CRCL, Visakhapatnam.

39. Keeping in mind the aforesaid observations as well as the Test Reports, we may now examine the legal proposition enunciated by the Supreme Court in the case of ***Gastrade International (supra)***.

40. At this stage, we may briefly advert to the facts recorded by the Supreme Court in the case of ***Gastrade International (supra)***. The importers had approached the Supreme Court after challenging the orders passed by the appellate authorities, and the matter had reached the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) after the necessary investigation, which is not the fact in the present case.

41. The Supreme Court had also considered the evidence of an expert, who did not specifically opine on the nature of the tested sample or whether it met the standards prescribed under IS 1460:2005.

42. It is also pertinent to note that three Test Reports were placed before the Supreme Court in respect of the samples



collected from the consignment, which was alleged to be HFHSD oil (Automotive Diesel Fuel). The first Test Report merely opined that the sample had characteristics of High-Speed Diesel / Automotive Diesel Fuel. The second and third Test Reports, namely those of CRCL, Vadodara and CRCL, New Delhi, recorded that out of 12 parameters tested, at least two parameters did not fulfill the requirements prescribed under IS 1460:2005.

43. Thus, there was no categorical finding or opinion in these Test Reports that the samples were in fact High Speed Diesel, except for broadly indicating that certain parameters corresponded with the relevant IS specifications. Thereafter, a third Test Report prepared by the Indian Oil Corporation was also inconclusive and did not provide a definite opinion that the samples were in fact High Speed Diesel (Automotive Diesel Fuel).

44. In the backdrop of these Test Reports, as well as deposition of expert, which did not specifically conclude that the sample was High Speed Diesel / Automotive Diesel Fuel, the Supreme Court emphasized the application of the “most akin test”. The Supreme Court also directed the competent authority to undertake testing of all 21 parameters in order to ascertain the true nature of the petroleum product. The relevant observations which weighed with the Supreme Court in the case of **Gastrade International (supra)**, while setting aside the action of the respondents and order of the High Court are reproduced hereunder.

*“70. Specification regarding flash point is accordingly of some significance, even if it may not be the most important parameter in*



*determining whether a petroleum product is HSD or not. From the specification provided under IS:1460:2005, HSD will have flash point of minimum 66 C. Thus, it will be treated as Petroleum Class C in terms of the Petroleum Act. It is not anyone's case that HSD is not a hydrocarbon and not an automotive fuel. If that is so, it will be classifiable under the Petroleum Act as a Class C Petroleum product, if not Class B or Class A product. As mentioned above, the range of the flash point of Petroleum Class C is between 65 C and 93 C whereas the test results show a higher flash point.*

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*72. We would however, like to clarify that we are not stepping into the shoes of the scientific expert relating to the determination of the nature of the oil, as to whether it is HSD or Base Oil. Nevertheless, we are satisfied that there is a very germane and relevant factor on which the expert had failed to clarify, and in respect of which the test reports have also remained silent, that is, relating to flash point, making the classification of the imported oil as HSD by the Customs authority highly doubtful. If the expert or the test reports had clearly mentioned that in spite of the high degree of flash point shown by the samples, and non-examination in respect of all the parameters, these samples can still be considered to be that of HSD, we would have accorded due deference to such opinion.*

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*78. What the aforesaid decisions postulate is that there may be varying range in the degree of probabilities. Certainly, where the proceedings involve requirement of fulfilment of technical/scientific parameters with confiscatory and penal consequences, the degree of probability would be of a higher order and not mere probability.*

*79. In the present case, what we have observed is that the High Court, on the basis of the laboratory tests, more particularly the third test conducted by IOCL, Mumbai Laboratory and the opinion of the expert, namely Dr. Gobind Singh, and by observing that it is not necessary to establish on the part of the Revenue to prove the fact with mathematical precision, held that the Department has been able to establish its case on the basis of preponderance of probability that the imported oil was not Base Oil but HSD, which could not have been imported by the appellants and upheld the order of the Adjudicating Authority.*

*80. However, this analysis and conclusions arrived at by the High Court are problematic for the following reasons:*

*(i) There was no expert opinion at all that the samples which were tested were indeed of HSD.*

*(ii) The opinion as contained in the test results was merely mentioning about conformity of the samples with certain specifications of IS 1460:2005 and not about conformity with all the*



specifications.

(iii) Once the rule making authority had clearly delineated the requisite parameters for ascertaining the nature of the goods/substance, compliance/conformity with the stated parameters would be the requirement.

(iv) There are 21 parameters laid down under IS 1460:2005 and none of the tests have shown compliance with all these parameters. The last and third test have reported compliance with 14 parameters, though as discussed above in respect of 2 of the aforesaid 14 parameters, namely, flash point and distillation range, the same are not in conformity. Thus, it cannot be said there is substantial compliance with the parameters of IS 1460:2005.

(v) Flash point, though may not be the most important parameter, yet, its importance in determining the nature of the Automotive oil cannot be ignored. Flash point being a very important criteria to classify petroleum products, non-compliance of the samples on this parameter would make the classification doubtful.

(vi) Evasive answers and non-clarification on certain aspects of the flash point of the samples by the expert Dr. Gobind Singh certainly cast a serious doubt on the samples being identified as that of HSD. The expert himself also has not said that the samples are of HSD except for stating that the samples conform to certain specifications of the IS 1460:2005.

(vii) In view of the ambiguity and lack of clarity in the expert opinion/laboratory test results, it would be unsafe to draw the inference that the Department had been able to prove their case even by applying the test of preponderance of probability merely because the samples conform to certain parameters.

(viii) If the Department with all the resources at their command and access to various laboratory facilities could not get the samples tested in respect of all the 21 parameters, expecting the assesses/appellants to get the samples tested to show that these do not conform the specifications and are not HSD does not appear to be reasonable. Thus, shifting of onus to the assesses to prove otherwise appears to be unreasonable and meaningless.

(ix) The burden was not on the assesseees to demonstrate that non-conformity with the remaining 8 parameters would vitiate the conclusion that the samples were of HSD.

81. The aforesaid difficulties in our opinion can be overcome, if we apply the test of 'most akin' as contemplated under Rule 4 of the General Rules for Interpretation referred to above.

82. The real test for classification, according to us, would be as to whether any goods or substance in question is 'most akin' or bears the closest resemblance or similarity to any of the specified goods mentioned under the Headings and relative Section or Chapter



*Notes under the Tariff Act, and not by applying the test of preponderance of probability.*

*83. By way of illustration, we may explain the position. If an importer classifies the imported goods as 'X', which is disputed by the Customs authority and classifies the same as 'Y', the test would be whether the goods imported are 'most akin' to 'X' or 'Y' in terms of Rule 4 of the aforesaid Rules. The importer may also claim if he so wishes, that the goods are most akin to 'Z', though it may be akin to 'Y' also, if such claim is more beneficial to him. Thus, it has to be shown by the Customs Authority that the imported goods bear the most affinity or resemblance or similarity to be 'most akin' to the specified goods and not mere similarity or akinness. In other words, the test will be whether the imported goods bear the closest resemblance or similarity with the specified good so that these can be considered to be 'most akin' to the specified good. Certainly, the principle of preponderance of probability may fall short of the more heightened test of 'most akin' for proper classification. The imported goods may bear resemblance to more than one specified goods, in which event, unless the high degree in the test of preponderance of probability is applied, there may be difficulties in the proper classification. However, the said difficulty may be overcome if the test of 'most akin' is applied. If the attributes of the imported goods show that the goods are 'most akin' to the specified goods amongst an array of other specified goods, these imported goods have to be classified as the specified goods with which these goods bear the most resemblance or most akinness. Thus, in our view, application of the principle of preponderance of probability does not provide an accurate test. The more accurate and precise test will be whether the goods in question are 'most akin' or most similar to the specified goods, as provided under Rule 4 referred to above.*

*84. In the present case, as noticed above, the finding of the High Court is based primarily on applying the test of preponderance of probability which may not necessarily fulfil the 'most akin' test. The High Court came to the conclusion based on the incomplete test reports and noncommittal opinion of the expert Dr. Gobind Singh who in categorical terms had not stated that the imported goods are HSD. There was no opinion that the imported goods are most similar to HSD to satisfy the test of 'most akin'. The definitive opinion and finding that the imported goods are 'most akin' to HSD is missing in the reports and opinion for classifying the imported goods as HSD."*

45. In context of the test reports in the instant case, the relevant observations of the Supreme Court, are succinctly stated as under:



*“a) where the proceedings involve requirement of fulfilment of technical/scientific parameters with confiscatory and penal consequences, the degree of probability would be of a higher order and not mere probability.*

*b) The opinion of the test report specifying the goods under the Headings of IS has to be unambiguous relating the specification.*

*c) The testing of all 21 parameters is mandatory as laid down in the IS specifications.*

*d) Flash point being a very important criteria to classify petroleum products, non-compliance of the samples on this parameter would make the classification doubtful.*

*e) The predicaments for conforming the goods can be overcome by applying the test of 'most akin' for determining the goods mentioned under the Headings and relative Section or Chapter Notes under the Tariff Act, and not by applying the test of preponderance of probability.”*

46. Keeping in mind the aforesaid principles enunciated by the Supreme Court, we have attempted to distinguish the case of the petitioners for the following reasons.

47. Significantly, in the Test Reports in the case of **Gastrade International (supra)**, the Apex Court has recorded that there was no opinion and finding expressed that the imported goods are “most akin” to HSD, which is not the issue in the Test Reports in question. In the first test report of CRCL, Visakhapatnam, out of 18 parameters tested, except for the parameters relating to flash point, distillation recovery and sulphur, the report categorically records that the sample is mainly composed of diesel fraction, is adulterated with lighter hydrocarbons, and is most “akin to HFHSD (IS 16861) / adulterated HFHSD”. The diesel fraction is found to be between 95% to 98%). Thus, out of 21 parameters, the 18 parameters tested by CRCL, Visakhapatnam and MRPL, there is a clear



opinion by the laboratory that the sample meets all characteristics of ADF and HFHSD, except the flash point, which is lowered by mixing lighter hydrocarbons. In this context, we may refer to the definition of 'adulteration' as supplied in the 'Malpractices Order,2005'. It reads thus:

*"2(a) "adulteration" means [presence of marker in motor spirit and high speed diesel and/or] [Inserted by Notification No. G.S.R. 18(E) dated 12.1.2007 (w.e.f. 21.12.2005).] the introduction of any foreign substance into motor spirit or high speed diesel illegally or unauthorisedly with the result that the product does not conform to the requirements of the Bureau of Indian Standards specifications number IS 2796 and IS 1460 for motor spirit and high speed diesel respectively or any other requirement notified by the Central Government from time to time;"*

Thus, any foreign substance, which is blended in high speed diesel illegally or unauthorizedly, which ultimate results into failure of requirements of BIS specifications IS 1460 is an adulteration.

48. In the instant case, there is a definite conclusion that the flash point, which is one of the most important parameters as emphasized by the Supreme Court, has been lowered by the use of lighter hydrocarbons and the product is therefore characterized as adulterated HFHSD. No such clear and unambiguous opinion was rendered by any of the three laboratories in the case of **Gastrade International(supra)** and also by the expert, who was examined during the inquiry. This Court while placing reliance on this decision, had directed for release of seized distillate marine fuel vide decision in case of **Noya International(supra)**, on which heavy reliance is placed by the petitioner. We may clarify that in the case of those



petitioners, the Test Reports of CRCL, Vizag were considered, which were ambiguous in nature.

49. The petitioners have also placed reliance on the communication dated 04.11.2025. The same is written in response to the clarification sought by the Assistant Commissioner, Kandla relating to the Test Reports of CRCL, Vizag in case of goods of importer M/s. Prajakt Agro Industries. In view of the specific findings of the laboratories in case of the present petitioners, the said communication cannot come to their rescue. However, we do not agree with the submissions, of the respondent department of discarding the clarificatory communications for the reason that the Director of the Central Revenues Control Laboratory functioning under the Central Board of Indirect Taxes and Customs has not been shown to lack the authority to issue such clarification. In the present case, the respondent cannot disown the letters/ clarifications, particularly in view of the fact that no communication has been placed before this Court indicating that any cautionary advice has been issued to the Director restraining him from issuing the clarification or suggesting him that he lacked the authority to issue the same.

50. Thus, if the rule of the “most akin test” is applied, the product declared by the petitioners as industrial oil is found to be Automotive Diesel Fuel / HFHSD, which is a restricted commodity. Hence, in view of the settled legal position laid down in the cases of **Om Prakash Bhatia (supra)** and **Raj Grow Impex (supra)**, we are not inclined to set aside the action of seizure of goods in question. Though, reliance is

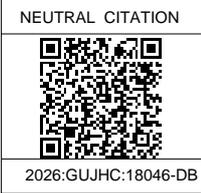


placed on the inculpatory statements of the petitioners/importers before us by DRI, we have not expressed any opinion in this regard, since the investigation is still in progress.

51. We do not agree to the submissions advanced on behalf of the petitioners that the laboratory test results are liable to be discarded merely because the samples are tested in two different laboratories. The petitioners have not questioned the collection of the samples. Once the samples of the same commodity are duly collected, they can be tested in different laboratories, particularly when one laboratory may not be fully equipped to undertake testing of all 21 parameters.

52. We have also noticed that DRI has acted positively in releasing the seized goods by issuing NOC to 333 containers based on favourable reports. The petitioners have not alleged any *mala fides* against the officers of the DRI, who undertook the sampling and testing process. The petitioners have not challenged the test results. Hence, even if there are two or more Test Reports from different laboratories, so long as they conform to the directions of the Supreme Court in the case of ***Gastrade International (supra)*** and test the parameters prescribed under the relevant Indian Standards, such test results cannot be discarded merely because they were undertaken by different laboratories.

53. The product imported by the petitioners, if released, will have a direct environmental impact affecting society at large. In such circumstances, having regard to the nature of the product, the Test Reports cannot be discarded merely because different parameters were tested in two different laboratories.



**Order in SCA Nos.1355/2026, 1356/2026 & 1357/2026 :**

54. Since the petitioners did not cooperate with the respondent authority in collecting a further sample to be sent to Mangalore Refinery and Petrochemicals Limited, we have placed reliance on the report of CRCL, Visakhapatnam dated 28.11.2025, which is akin to the reports in the lead matter being Special Civil Application No.16799 of 2025. Hence, on two counts, the petitions are required to be dismissed – firstly, on the basis of the Test Report of CRCL, Visakhapatnam; and secondly, on account of the non-cooperation of the petitioners in permitting the DRI to collect the sample and send the same to the MRPL.

**Order in SCA No.1679/2026 :**

55. The order passed in the lead matter shall apply to those Bills of Entry where the report of CRCL, Visakhapatnam and MRPL has already been received. In respect of the Bills of Entry where the MRPL report is awaited, if the same parameters and results, as recorded in other Bills of Entry already considered by this Court are found, the action of the DRI in seizing such consignments shall be treated as appropriate.

56. All the captioned writ petitions, stand ***dismissed***. Rule discharged. No order as to costs. However, we clarify that in case the petitioners file an application for re-export of goods, the DRI shall consider the same, and pass appropriate orders on such application.

Sd/-  
(A. S. SUPEHIA, J)  
Sd/-  
(PRANAV TRIVEDI, J)

MAHESH /02to09