

**Customs, Excise & Service Tax Appellate Tribunal  
West Zonal Bench at Ahmedabad**

REGIONAL BENCH-COURT NO.2

**Customs Misc. Application (Stay) No. 10068 of 2026**

(On behalf of applicant)

**in**

**Customs Appeal No. 10139 of 2026**

(Arising out of Order-in-Appeal No. MUN-CUSTM-000-APP-625-25-26 dated 26.12.2025 passed by the Commissioner of Customs (Appeals), Ahmedabad)

**Commissioner of CUSTOMS - Mundra Customs**

**.....Appellant**

Office of the Pr. Commissioner of Customs,  
Custom House, Mundra, Kutch,  
Mundra Port and Special Economic Zone, Mundra,  
KACHCHH, 370421, GUJARAT

*VERSUS*

**Bright Petrochem India LLP**

**.....Respondent**

10th Floor, 1002, Nakshtara Heights,  
150 Feet Ring Road Rajkot-360005,

**APPEARANCE:**

Shri Aakash Singh, Superintendent (AR) for the Appellant

Shri Manish Jain, Advocate for the Respondent

**CORAM:**

**HON'BLE Dr. AJAYA KRISHNA VISHVESHA, MEMBER ( JUDICIAL)**

**HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER ( TECHNICAL )**

**Final Order No. 10335/2026**

DATE OF HEARING: 17.03.2026

DATE OF DECISION: 13.05.2026

**SATENDRA VIKRAM SINGH**

The Revenue has filed present appeal along with application for stay of the operation of Order-In-Appeal No. MUN-CUSTM-000-APP-625-25-26 dated 26.12.2025, passed by the learned Commissioner (Appeals) vide which he had set aside Order-In-Original dated 02.12.2025 passed by the Additional Commissioner, Mundra Customs on incorrect appreciation of facts, evidence and settled legal principles; That he has wrongly relied on Test Reports of CRCL, Vadodara despite same being incomplete, inconclusive and non-compliant with the mandatory parameters prescribed under IS 14314:1995 (RA 2017) and IS 1745:2018 (RA 2023); That for goods to qualify as "Thinner, General Purpose for Synthetic Paints and Varnishes", strict compliance with the description requirement under clause 4.1 of the said standard is indispensable which provides that the product shall be

predominately based on a mixture of Aliphatic and Aromatic Hydrocarbons; That CRCL Vadodara test reports failed to examine or record any finding regarding compliance with this Clause and did not specify presence or the percentage of Aromatic hydrocarbons in the Test samples.

1.1 The appeal further mentions that CRCL Vadodara Test Reports simultaneously recorded conformity with both the above IS specifications without addressing or resolving mutually exclusive nature of the description required under the two standards which makes the report inherently inconclusive. Such testing is contrary to the binding ratio laid down by Hon'ble Supreme Court in M/s Gastrade International Vs. Commissioner of Customs, Kandla, wherein it has been held that the goods must be tested strictly in accordance with all parameters prescribed under the relevant IS standards.

1.2 That vide letter dated 22.09.2025, CRCL Vadodara was asked to conduct testing strictly in accordance with prescribed parameters and to furnish clear and conclusive report. In response, they vide letter dated 23.09.2025, reported that the tested parameters matched the specifications of Petroleum Hydrocarbon Solvent 125/240 under IS 1745:2018 as well as those of Thinner, General Purpose for Synthetic Paints and Varnishes under IS 14314:1995. They also reported some additional parameters such as cetane index, kinematic viscosity, Ash content, Density at 15°C, sulphur content, and pour pointed and emphasised on conformity of the samples with Petroleum Hydrocarbon Solvent 125/240; That one more letter dated 26.09.2025 was sent to CRCL Vadodara to give categorical and unambiguous conclusion keeping in view the decision of Hon'ble Apex Court in M/s Gastrade International case; Vide letter dated 30.09.2025, CRCL Vadodara clarified that based on comprehensive analysis under IS 1745:2018, the product was identified as petroleum Hydrocarbon Solvent 125/240, which is

prohibited for import except through State Trading Enterprise(s) in terms of Condition (5) of Chapter 27 of the Customs Tariff, 1975.

1.3 In view of persistent failure of CRCL Vadodara to give conclusive report, revenue sent an email enquiring regarding testing capability of Customs Lab Visakhapatnam which vide email dated 25.09.2025 confirmed to be adequately equipped to differentiate between products classifiable under CTH 3814 and CTH 2710, to analyze non-hydrocarbon additives as declared by the importer and to provide technical parameters and expert opinion; That the said lab after examining all the parameters prescribed under both the IS specifications conclusively recorded that Aromatic Hydrocarbon content in the samples was less than 2% which was merely incidental and insufficient to fulfil either the compositional or functional requirement of a General Purpose Thinner for Synthetic Paints and Varnishes and that the samples conformed to the specifications of Petroleum Hydrocarbon Solvent under IS 1745:2018 (RA 2023), Grade 125/240.

2. In their appeal, Revenue raised following grounds:-

- The Commissioner (Appeals) has ignored conclusive finding of CRCL Visakhapatnam and wrongly held that Revenue sought clarification from Customs House Laboratory, Visakhapatnam despite there being no inconsistency or anomaly in the test report of CRCL Vadodara.
- The importer never raised objections relating to Sulphur content, odour characteristics and allied issues either in reply to show cause notice or during personal hearing, and has raised for the first time at the Appellate stage.
- Reliance on the Order passed by the Additional Commissioner Customs (Preventive) Jamnagar, is misplaced without considering factual and evidentiary matrix.
- The impugned order for release of confiscated goods within 7 days of the receipt of order is beyond the powers vested on Commissioner (Appeals) under Section 128A(3) of the Customs Act, 1962, as this Section only

allows for confirming, modifying or annulling the order appealed against and does not vest with any authority to issue executive direction for implementing his order since such a directive limits the right of the aggrieved party to file appeal and obtain stay.

- It is prayed to grant stay against the impugned order dated 26.12.2025 as interim relief and finally set aside the same by upholding the order-in-original dated 02.12.2025, passed by the Additional Commissioner.

3. Learned Advocate filed early hearing application in the matter which was allowed vide order dated 27/2/2026 and hearing was fixed on 17.03.2026 considering that alive consignment was involved which was lying at the port since August 2025.

4. During hearing, learned Advocate pleaded that CRCL Vadodara which tested the samples, found them to be conforming with IS specifications of Thinner, which finding has neither been challenged by the department nor by the importer. The said analytical report having persuasive value may be accepted and the imported consignment which has been correctly declared by them as Thinner, be allowed to be released as per impugned order of the learned Commissioner (Appeals). He argued that the department does not have any case on merit also, as discussed in detail by the Learned Appellate authority but they did not implement the said decision. Learned Advocate produced the copy of IS specifications pertaining to Thinner as well as Hydrocarbon Solvent. With the help of parameters analysed by CRCL Vadodara, he submits that the tested parameters match with both the IS specifications which justifies classification declared by the importer in the B/Es. The same cannot be rejected by Revenue simply on the ground that other classification attracts higher rate of duty. Learned Advocate relied on the following case laws where it is held that "if the reports from the department's laboratory are not challenged, the same are to be accepted."

- a) Hira Steel Ltd. vs. Commissioner of Central Excise, Goa, 2016 (343) ELT 1058 (Tri.-Bom) {Also affirmed by the Supreme Court in 2020 (372) E.L.T. A102 (S.C.)}
- b) Quinn India Ltd. vs. Commissioner of Central Excise, Hyderabad, 2006 (198) ELT 326 (S.C.)

4.1 Learned Advocate also relied on two orders dated 30.07.2025 & 31.07.2025 of the Additional Commissioner, Customs (Preventive), Jamnagar passed in the matter of M/s Arihant Agro Distillation and Liquid Terminal Ltd and M/s Sainath Industrial Fuels Pvt Ltd respectively have also been accepted by the department. He also placed reliance on following decisions wherein it has been held that "the department is required to maintain uniformity and cannot adopt a contradictory position for the same goods, particularly when they have already accepted the assessee's classification for the identical product."

- a) Sael Ltd. vs. Commissioner, Customs (Preventive), Lucknow, 2025 (393) ELT 523 (Tri.-All) {Also affirmed by the Supreme Court in 2025 (393) E.L.T. 459 (S.C.)}
- b) Damodar J. Malpani vs. Collector of Central Excise, 2002 (146) ELT 483 (S.C.)
- c) C.C.E., Navi Mumbai vs. Amar Bitumen & Allied Products Pvt. Ltd., 2006 (202) ELT 213 (S.C.)

4.2 He pleaded that the order of learned Commissioner (Appeals) be implemented and stay application as well as appeal filed by Revenue against the said order be rejected.

5. We have heard rival submissions. In the Bills of Entry, respondent has classified imported goods as "Thinner, General Purpose for Synthetic Paints and Varnishes" as per IS 14317:1995, whereas according to Revenue, these goods fall under the category of "Petroleum Hydrocarbon Solvent 125/240" as per IS 1745:2018. Revenue drew samples and got them tested by CRCL, Vadodara which vide various test report(s) intimated quantitative value against certain test parameters whereas against some, it just mentioned "passes the test". Copy of one such test report is reproduced below:-

<i>TM No./ Test Report No</i>	<i>Description Found</i>		
<i>RCL/SIIB Mundra/IMP/3221/ 04.09.2025 T.M No. 194/2025-26</i>	<i>The sample as received is in the form of clear colorless liquid, free from acidic &amp; pungent odour, having following constant:</i>		
	<i>Sr. No</i>	<i>Parameters</i>	<i>Results</i>
	<i>1</i>	<i>Color</i>	<i>Passes the test</i>
	<i>2</i>	<i>Spot Test</i>	<i>Passes the test</i>
	<i>3</i>	<i>Density at 27°C, gm/ml</i>	<i>0.7758</i>
	<i>4</i>	<i>Distillation range Initial Boiling Point (IBP), °C</i>	<i>165.0</i>
		<i>95% Distillation at Temp., °C</i>	<i>211.1</i>
		<i>Final Boiling Point (FBP), °C</i>	<i>226.5</i>
	<i>5</i>	<i>Flash Point (Abel), °C</i>	<i>50.5</i>
	<i>6</i>	<i>Water Content</i>	<i>Nil</i>
	<i>7</i>	<i>Hydrocarbon Content</i>	<i>More than 95%</i>
	<i>8</i>	<i>Copper Corrosion</i>	<i>Passes the test</i>
	<i>On the basis of above tested parameters sample u/r meets the requirements of Thinner, General Purpose for Synthetic Paints and Varnishes specification as per IS: 14314:1995 (RA 2017) and it also meets the requirement of Petroleum Hydrocarbon Solvent 125/240 as IS: 1745:2018 (RA 2023).</i>		

5.1 Revenue wrote a letter dated 22.09.2025 to CRCL Vadodara for clarification as certain parameters were either not very clear or not properly tested, to which CRCL replied vide letter dated 23<sup>rd</sup> September,2025,that they had tested samples as per parameters prescribed under the given IS and found value of the parameters matching with both the specifications i.e. IS 1745:2018 for Petroleum Hydrocarbon Solvent 125/240 as well as IS 14314:1995 for Thinner, General Purpose for Synthetic Paints and Varnishes. They also communicated test results of some additional parameters like *Cetane index, kinematic Viscosity (Cstat 40°C), Ash content, Density at 15°C, Sulphur content, and Pour point*. For example, in respect of above sample test report No. 194/2025-26, these parameters are as under:-

<i>Sr. No.</i>	<i>Parameter Name</i>	<i>Measured Value</i>
<i>1.</i>	<i>Centane Index</i>	<i>46.18</i>
<i>2.</i>	<i>Kinetic Viscosity Cst at 40°C</i>	<i>1.046</i>
<i>3.</i>	<i>Ash Content %</i>	<i>Nil</i>

4.	Density at 15°C (gm/cm <sup>3</sup> )	0.7849
5.	Sulphur Content (ppm)	44.684
6.	Pour Point	Below Zero °C

In respect of these additional parameters, CRCL Vadodara did not provide exact or most akin description /nature of goods and also did not provide all parameters mentioned under the specifications as per test memo(s). A further letter dated 26<sup>th</sup> September, 2025 was sent to them to know exact nature and description of the goods and also that if they do not have complete testing facility as per the said IS, they should not conduct further tests and send the remnant samples back for getting tested from some other recognised Government Lab. CRCL Vadodara vide letter dated 30<sup>th</sup> September,2025 identified the goods as Petroleum Hydrocarbon Solvent 125/240,responded to remaining points as under:-

*"They have identified the product as Petroleum Hydrocarbon Solvent 125/240 by the analysis of testing parameters given under IS 1745:2018 as per the mandate/requirements of testing petroleum Hydrocarbon Solvent under CTH 2710 1920.As per standard testing protocol, these samples were initially being tested to identify the description of sample given on the test memo i.e. Thinner, General Purpose for Synthetic Paints and Varnishes. Analysis was carried out for the parameters given under the said IS which were found matching. Hence, they issued test reports stating that tested parameters also matched with specification of Thinner."*

5.2 As per facts of the case, Customs Lab Visakhapatnam was enquired if they had testing facility for examining the goods as per all IS mentioned in previous test memos which was replied to in affirmative. Accordingly, representative sealed samples were sent to Customs Laboratory Visakhapatnam vide test memo No. 245/2025-26 to 2062/2025-26 which after testing, sent the test reports vide email dated 8<sup>th</sup> October,2025. Copy of one such test report is reproduced below:-

TM No./ Test Report No	Description Found																																				
26-SIIB/ 06.10.2025 T.M No.252/2025-26	<p>The sample is in form of clear, colourless, odourless, free flowing liquid. It is composed of Petroleum Hydrocarbons, having following Characteristics:</p> <table border="1" data-bbox="570 400 1382 932"> <thead> <tr> <th data-bbox="570 400 678 467">Sr. No</th> <th data-bbox="678 400 1166 467">Parameters</th> <th data-bbox="1166 400 1382 467">Results</th> </tr> </thead> <tbody> <tr> <td data-bbox="570 467 678 508">1</td> <td data-bbox="678 467 1166 508">Flash Point (PMCC), °C</td> <td data-bbox="1166 467 1382 508">49.8 °C</td> </tr> <tr> <td data-bbox="570 508 678 548">2</td> <td data-bbox="678 508 1166 548">Density at 15°C</td> <td data-bbox="1166 508 1382 548">0.787 g/ml</td> </tr> <tr> <td data-bbox="570 548 678 588">3</td> <td data-bbox="678 548 1166 588">Distillation: IBP, °C</td> <td data-bbox="1166 548 1382 588">162 °C</td> </tr> <tr> <td data-bbox="570 588 678 628"></td> <td data-bbox="678 588 1166 628">% Recovery at 200°C</td> <td data-bbox="1166 588 1382 628">80% by vol.</td> </tr> <tr> <td data-bbox="570 628 678 669"></td> <td data-bbox="678 628 1166 669">FBP, °C</td> <td data-bbox="1166 628 1382 669">226 °C</td> </tr> <tr> <td data-bbox="570 669 678 709">4</td> <td data-bbox="678 669 1166 709">Hydrocarbon Content</td> <td data-bbox="1166 669 1382 709">More Than 95%</td> </tr> <tr> <td data-bbox="570 709 678 749">5</td> <td data-bbox="678 709 1166 749">Non-Hydrocarbon Content</td> <td data-bbox="1166 709 1382 749">Below 0.1%</td> </tr> <tr> <td data-bbox="570 749 678 790">6</td> <td data-bbox="678 749 1166 790">Aromatic Content (by GCMS)</td> <td data-bbox="1166 749 1382 790">Less than 2.0%</td> </tr> <tr> <td data-bbox="570 790 678 830">7</td> <td data-bbox="678 790 1166 830">Residue on evaporation</td> <td data-bbox="1166 790 1382 830">Nil</td> </tr> <tr> <td data-bbox="570 830 678 870">8</td> <td data-bbox="678 830 1166 870">Sulphur Content</td> <td data-bbox="1166 830 1382 870">8.1 ppm</td> </tr> <tr> <td data-bbox="570 870 678 932">9</td> <td data-bbox="678 870 1166 932">Kinematic Viscosity at 40°C</td> <td data-bbox="1166 870 1382 932">1.12 cSt</td> </tr> </tbody> </table> <p>The sample is tested to ascertain parameters/characteristics of following products.</p> <ol style="list-style-type: none"> <li>1. General Purpose Thinner (IS 14314:2022) CTH 38140019.</li> <li>2. Thinner/Solvents of 3814.</li> <li>3. Petroleum Hydrocarbon Solvent (As per IS: 1745: 2018).</li> </ol> <p>On the basis of above parameters,</p> <p>A. The sample is other than general purpose thinner confirming to IS: 14314:2022, as the sample contains small amount of aromatic hydrocarbons. This does not comply with the description requirements of thinners (General Purpose) IS: 14314, as in absence of sufficient amount of aromatic content, it will not fulfil the purpose of Thinner.</p> <p>B. The sample does not meet the requirements of Thinner/Solvents of section VI of CT (3814) as the sample does not contain any non hydrocarbon additives like Alcohols, Acetates, and Chlorinated Solvents which makes them composite Solvent/Thinners.</p> <p>C. The sample meets the specification of Petroleum Hydrocarbon Solvents IS: 1745 (125/240) of Section V of CT.</p> <p>The sample is other than the products mentioned in query No. 20 of Test Memo except Solvent 125/240 of IS 1745: 2018 (Reaffirmed 2023). Moreover, as the sample does not contain carbon distribution/boiling range above 230°C, the possibility of diesel/fuel of all categories is ruled out.</p> <p><b>Conclusion:</b> The sample meets the specification of Petroleum Hydrocarbon Solvents IS: 1745:2018 (Reaffirmed 2023) of Grade 125/240.</p> <p>The sample is other than Thinner/Composite solvent of Section VI of CT (3814).</p>	Sr. No	Parameters	Results	1	Flash Point (PMCC), °C	49.8 °C	2	Density at 15°C	0.787 g/ml	3	Distillation: IBP, °C	162 °C		% Recovery at 200°C	80% by vol.		FBP, °C	226 °C	4	Hydrocarbon Content	More Than 95%	5	Non-Hydrocarbon Content	Below 0.1%	6	Aromatic Content (by GCMS)	Less than 2.0%	7	Residue on evaporation	Nil	8	Sulphur Content	8.1 ppm	9	Kinematic Viscosity at 40°C	1.12 cSt
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5.3 We find that the Adjudicating Authority relied on above test reports of Customs House Lab Visakhapatnam to reject the declared description of goods as Thinner, General Purpose for Synthetic Paints and Varnishes and redetermined classification of the imported goods as Petroleum Hydrocarbon Solvent 125/240 under CTH 27101920. He also upheld the proposal of confiscation of imported goods, demand of duty along with interest and imposition of penalty, etc. on the basis of these test report(s).

5.4 We find that the respondent has claimed that test values of various parameters as tested by CRCL Vadodara, match with both the IS specifications - one pertaining to Thinner, General Purpose for Synthetic Paints and Varnishes and the other pertaining to Petroleum Hydrocarbon Solvent. He claims that the Rules of Interpretation of Customs Tariff Act also support the classification adopted by the importer since as per these Rules, if a product can be classified under two different headings, then the heading which comes last in numerical order is to be preferred. Also, similar commodity imported in the jurisdiction of Customs preventive Commissionerate, Jamnagar has been held classifiable under CTH 38140019, which orders have been accepted by the department and thus, equity demands that their product should also be classified under CTH 38140019.

5.5 We find that IS specification under IS 14314:1995 (RA 2017) for **“Thinner, General Purpose for Synthetic Paints and Varnishes”** provide the following parameters to be tested:-

**Table 1 Requirements for Thinner, General Purpose**

<i>Sl No.</i>	<i>Characteristic</i>	<i>Requirement</i>	<i>Method of Test. Ref to.</i>	
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>IS 82:1973</i>	<i>Annex</i>
<i>i)</i>	<i>Colour</i>	<i>Not darker than a freshly prepared solution of 0.003 0 g of potassium dichromate in one litre of distilled water</i>	<i>5</i>	<i>-</i>
<i>ii)</i>	<i>odour</i>	<i>The material shall be free from</i>	<i>-</i>	<i>-</i>

<i>acid/pungent odour</i>				
<i>iii)</i>	<i>Spot test</i>	<i>The material shall show complete evaporation from white filter paper without leaving any stain or oily spot when tested at ambient temperature</i>	-	-
<i>iv)</i>	<i>Relative density at 27°C</i>	<i>0.76 to 0.81</i>	6	-
<i>v)</i>	<i>Distillation range with a minimum 95 percent recovery by volume</i>	<i>120°C to 240°C</i>	7	-
<i>vi)</i>	<i>Flash Point ( Abel ), Min</i>	<i>30°C</i>	IS 101 ( Part I/ Sec 6) : 1986	-
<i>vii)</i>	<i>Residue on evaporation, mg/100 ml, Max</i>	<i>25</i>	8	-
<i>viii)</i>	<i>Hydrocarbon content, Min</i>	<i>95</i>	-	B
<i>ix)</i>	<i>Water content, Max</i>	<i>0.5</i>	IS 101 (Part 2/ Set 1 ) : 1988	-
<i>x)</i>	<i>Copper corrosion</i>	<i>The material shall not blacken or corrode clean metallic copper</i>	11	-

Likewise, IS specification under IS 1745:2018 (RA 2023) for "**Hydrocarbon Solvent 125/240**" are reproduced as below:-

<b>SL. No.</b>	<b>Characteristic</b>	<b>Solvent 125/240</b>	<b>Method of Test</b>
<i>i</i>	<i>Colour (Saybolt), Min</i>	<i>+21</i>	<i>P:14</i>
<i>ii</i>	<i>Colour (ASTM), Max</i>	<i>-</i>	<i>P:12</i>
<i>iii</i>	<i>Density at 15°C</i>	<i>Not limited but to be reported</i>	<i>P:16/ ISO 12185</i>
<i>iv</i>	<i>Flash point (Abel), Min</i>	<i>30°C</i>	<i>P:20</i>
<i>v</i>	<i>Distillation range</i>		<i>P:18</i>
	<i>a) Initial boiling point, Min</i>	<i>125°C</i>	<i>-</i>
	<i>b) 50 Percent by volume recovered at, in °C</i>	<i>Not limited but to be reported</i>	<i>-</i>
	<i>c) 95 percent by volume</i>	<i>Not limited but to be</i>	<i>-</i>

	<i>recovered at, in °C</i>	<i>reported</i>	
	<i>d) Final boiling point, Max</i>	<i>240°C</i>	-
	<i>e) Dry point, Max</i>	-	-
<b>vi</b>	<i>Aromatic content %</i>	<i>40 Max</i>	<i>P:23</i>
<b>vii</b>	<i>Sulphur, total, percent by mass, Max</i>	-	<i>P:34 */ ISO 8754/ ISO 20846</i>
<b>viii</b>	<i>Copper strip corrosion for 3 h at 50°C</i>	<i>Not worse than No. 1</i>	<i>P:15</i>
<b>ix</b>	<i>Residue on evaporation, mg/100 ml, Max.</i>	<i>5</i>	<i>P:29(AirJet)</i>

*\* In case of dispute, Method P 34 shall be used a reference method.*

5.6 From the above specifications, we find that certain parameters have same value range which fits in both the products. However, certain parameters differ in both the IS specification which need to be tested as correct classification of goods cannot be determined in absence of all the relevant parameters.

5.7 As regards stay on the order of learned Commissioner (Appeals), we find that Revenue has challenged the test reports of CRCL Vadodara which did not test all the parameters as specified under IS specifications. We agree that such reports cannot be relied upon to hold classification of imported goods either under CTH 38140019 or CTH 27101920. We also agree with revenue that the orders passed by Additional Commissioner, Customs (Prev.) Jamnagar in case of other importers, cannot be squarely applied to this case as incomplete test report(s) do not reveal the exact nature of goods. We further find that test report(s) of Customs House Laboratory, Visakhapatnam do not provide test value for all the parameters and therefore, these can also not be used for upholding classification of impugned goods under CTH 27101920. We rely on the decision of Hon'ble Supreme Court in the Case of Gastrade International reported at 2025 (392) ELT 529 (SC), wherein it has been held that non-examination of any product/article/goods on all parameters laid down by Customs authority will always lead to uncertainty

and doubt, which are required to be removed when dealing with confiscatory proceedings. The relevant paras are reproduced as under: -

**"86.** *For the reasons discussed above, as the results of the test are inconclusive, so being the opinion of the expert, we are unable to agree with the conclusion of the High Court. Under the circumstances, the option before this Court is, either to send the imported product again for further tests and obtain the expert opinion atleast to the effect that the imported product is 'most akin' to HSD even if it does not fulfil all the parameters under IS 1460:2005 or give a benefit of doubt to the appellants and close the proceedings against the appellants by quashing the impugned orders, since the Revenue/Customs Authority cannot take action against the appellants based on inconclusive evidence.*

**87.** *As far as the first option is concerned, as noted above, though the questioned product was sent for laboratory test in three premier laboratories, these laboratories did not give conclusive finding that the product is indeed HSD and the expert also could not give a definitive opinion. Further after such a long passage of time we are doubtful whether the oil in question would still retain many of the characteristics and properties which were present at the time of import for an effective testing as aforesaid. Hence, we do not consider it appropriate to direct further testing of the imported product/oil at this point of time and such a retest may be rendered a futile exercise. In our opinion, in the facts and circumstances, it would be more appropriate to give the benefit of doubt to the appellants because of the inconclusive evidence, rather than directing for a fresh testing and seeking fresh expert opinion, as a one-time measure.*

**88.** *Before parting with these appeals, we deem it necessary to issue certain ancillary directions.*

*We are of the view that non-examination of any product/article/goods on all the parameters laid down by the customs authority will always lead to uncertainty and doubt, which are required to be removed when dealing with confiscatory proceedings.*

*The genesis of the prolonged litigation lies in the non-availability of adequate facilities for testing all the parameters provided under Bureau of Indian Standard Specifications. Such a dispute could have been avoided had the testing facilities for all the parameters been available. Since the Authorities themselves had laid down the specific parameters for classification of goods, as in the present case by referring to classification under IS 1460:2005, it is incumbent upon the Authorities to ensure that necessary facilities are made available for testing of any disputed article on all these parameters as otherwise, laying down such parameters would be meaningless.*

*Hence, to avoid these difficulties, doubts and uncertainties in future, the respondents are directed to ensure that proper facilities are made available in the appropriate laboratories for undertaking tests for all these parameters or at least for those parameters which the Authorities consider are of essential character to satisfy the "most akin" test without which the article in issue cannot be properly classified. Accordingly, we direct the respondents to take necessary steps in this regard within a period of six months for proper testing in all the parameters in future."*

5.8 As samples/ goods are available for testing, we are of the view that these may be retested by appropriate Government laboratory for all the parameters in respect of above two IS specifications to determine exact

nature of goods for correct classification. For this purpose, we remand the matter to the Adjudicating Authority for retesting of all the parameters as provided under both the IS specifications and then, arrive at correct classification of the product. We are equally concerned with the fact that goods which were imported by the respondent in August, 2025, are still lying in Customs area, thus, putting the importer to huge loss besides blocking his capital. Therefore, importer's case also needs sympathetic consideration. We therefore, allow these goods to be provisionally cleared by the Customs on execution of bond for full value of goods duly supported with a bank guarantee of Rs. 30 lakhs to take care of differential duty, redemption fine and the penalties, if any. Needless to specify, goods will be provisionally cleared as per the classification declared by the importer since neither of the test report(s) conclusively determined the exact nature of the goods.

6. With these observations, matter is remanded to the Adjudicating authority for taking quick action within a period of 12 weeks from the date of receipt of this order. The goods to be provisionally cleared within 2 weeks from the date of execution of bond for the full value along with bank guarantee of Rs. 30 lakhs having auto renewal clause.

7. Both the Appeal and the Stay application stand disposed of in the above terms.

*(pronounced in the open court on 13.05.2026)*

**(Dr. AJAYA KRISHNA VISHVESHA)  
MEMBER ( JUDICIAL )**

**(SATENDRA VIKRAM SINGH)  
MEMBER ( TECHNICAL )**