CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
AHMEDABAD
REGIONAL BENCH, COURT NO. 1

CUSTOMS APPEAL NO. 10569 OF 2026

[Arising out of impugned order no. CUS/SIIB/INT/611/2025-SIIB-O/o Commr-Cus-Kandla Dated 09.11.2025 passed by the Ld. Commissioner of Customs-Kandla]

M/S. Rumi Petro Chem(I) Private Limited
Plot No.21, Survey No.134, Opp. P.W.D. Office,
Chandola Lake, Danilimada, Ahmedabad,
Gujarat-380028 **...Appellant**

Vs.

COMMISSIONER OF CUSTOMS-KANDLA
Office of the Commissioner of Customs,
Custom House, Kandla,
New Customs Building, Near Balaji Temple,
Kandla, Kutch,
Gujarat-370210 **Respondent**

Appearance:
Present for the Appellant :Shri Hardik Modh, Advocates And Solicitors
Present for the Respondent: Shri R J Dave, Superintendent (AR)

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

Final order No. 10823/2026

Date of Hearing : 26/10/2026
Date of Decision: 12/11/2026

SOMESH ARORA

M/s Rumi Petrochem (India) Pvt. Ltd (importer) had filed two Bills of Entry Nos. 4393422 and 4393432, both dated 09.09.2025 for import of Distillate Marine Oil (HSN:27101961). CRCL, Visakhapatnam, vide their Test Report dated 26.09.2025 reported that the sample closely resembled or most akin to High Flash High Speed Diesel (IS: 16861), However, the Flash Point of the sample was reported as 52 C which is lower than the prescribed minimum limit of 66 C under IS: 16861 and the report indicated that the sample did not meet the parameter of IS 16731-distilate marine fuel in respect of cloud point which is above - 16 C (- 10 C) However, on the other hand, the importer had declared the imported goods, laden from Sohar. Oman and supplied by M/s

Petro Global FZE, UAE as "Distillate Marine Oil [only for industrial use)", classified under CTH 2710 19 61 whose import policy is free. However, HFHSD of IS 16861 is classified under CTH 2710 19 49 and its import is restricted and allowed through IOC subject to para 2.21 of Foreign Trade Policy.

1.1 Further, as per specific comments in the aforesaid Test Report, the lower Flash Point could be due to blending/mixing of petroleum fraction below 180 C and above 150 C.

1.2 Further, as per Additional Comments, the sample was also analysed on GC-MS and GC-MS Data revealing that the sample has carbon chain as similar to Diesel fraction (a straight run cut of crude distillation between the ling range of 150 °C-370 "C, blended with small amount of Residual hydrocarbon fraction Boiling like base oil etc.). The analysis also revealed that deliberate efforts were made to lower the flash point, so that the product does not match the flash point requirements of HFHSD (IS: 16861).

1.3 On the basis of the aforesaid Test Report, the cargo was seized on 29.09.2025 u/s 110 of the Customs Act, 1962 on the suspicion that imported goods closely resembled or were most akin to HFHSD IS 16861 but flash point of 52 °C which are below the minimum 66 °C under IS 16861 for HFHSD, that the sample also failed IS 16731 [Distillate Marine Fuel) in respect of cloud point which was above 16 °C in the said case. Further, HFHSD under Customs T1 2710 1949 was restricted for import by private importers.

1.4 Further, as per clarification sought, CRCL, New Delhi replied on the basis of parameters tested by CRCL Vishakhapatnam that the Vizag Test Reports were in order but do not conform to the declared product specifications. Deliberate mixing with lower hydrocarbon fractions could not be ruled out. The product may be classified as diesel fraction.

1.5 The Adjudicating Authority, keeping in view the Test Report and the clarifcations. agreed for provisional release of the goods with a reasonable

expectation that the importer shall use the provisionally released goods as intended for DMX Grade of IS 16731. The End Use condition would also address the department's concern by ruling out risk of diversion to automotive and other uses reserved for HFHSD under IS 16861. The importer was therefore directed vide Provisional Release Order dated 09.11.2025 to furnish an End-use Bond and undertaking to the effect that:

a) The goods shall not be used as Automotive Diesel (IS 1460) or HFHSD (IS 16861) or as a propulsion fuel on board vessels; use, if any on board, shall be limited to emergency generator/fire-pump engines etc. consistent with SOLAS and as intended for DMX grade of IS 16731;
b) In case the goods are sold to any other buyer, the responsibility to ensure that goods will be used in the same manner as specified in (a) above will be on importer and appropriate documents at the end of buyer will be maintained demonstrating end use;
c) The importer and buyer shall maintain batch-wise accounts of storage, processing and consumption of the provisionally released goods and shall produce the accounts on demand by the investigating officer.

The following additional conditions were also imposed:

i. Execution of bond by the importer for 100% of the assessable value of the seized goods securing production of the goods or their value;
ii. Bank Gaurantee for 10% of the assessable value to cover fine, penalty and any other differential duty that may arise upon adjudication in case mis-classification is proved. For now, the importer will be paying the duty applicable to the Distillate Marine Oil before taking the provisional release.

iii. Representative Sample already drawn shall be preserved and one more set of samples of sufficient quantity will be drawnand preserved before taking provisional release of the goods.

1.6 In view of the same, it is humbly prayed that the Provisional Release Order of the Adjudicating Authority being just and proper deserves to be upheld and the appeal may be dismissed.

2. The present appeal seeks modification of the onerous conditions imposed for provisional release of the imported goods, in line with the conditions prescribed by the Hon'ble High Court and the Tribunal in the cases of other similarly situated importers, including Prajakt Agro and Noya Infrastructure. The goods have already been provisionally released, and the present challenge is confined to modification of the onerous conditions, including discharge and return of the bank guarantee.

2.1 The Provisional Release Order dated 09.11.2025 imposed the following conditions for release of the goods:-

I. End-use bond and undertaking: The Appellant was required to furnish an undertaking regarding the industrial end-use of the imported goods and assume responsibility for their use by subsequent buyers.
II. Maintenance of records: Batch-wise records of sale, movement and end-use of the goods were required to be maintained.
III. Bond: Execution of a bond equivalent to 100% of the assessable value of the imported goods.
IV. Bank guarantee: Furnishing of a bank guarantee of Rs. 1,01,38,000/- being equivalent to 10% of the assessable value, renewable until conclusion of adjudication.
V. Samples: Preservation and drawal of representative samples of the imported

3. On 26.08.2025, the Bills of Lading for the cargo aboard MT Glory 1 were issued, as recorded in the Discharge Permission.

3.1 On 08.09.2025, Discharge Permission No. 1243 was issued for the discharge of 2,491.475 MT of Distillate Marine Oil, intended exclusively for industrial use, into Aegis Vopak Terminals, Tank No. 206.

3.2 On 09.09.2025, Warehouse Bills of Entry Nos. 4393422 covering 1,800 MT and 4393432 covering 691.475 MT were filed under CTI 27101961, aggregating to a total quantity of 2,491.475 MT.

3.3 On 26.09.2025, CRCL, Visakhapatnam, reported that the imported goods had a flash point of 52°C and a cloud point of −10°C, amongst other parameters. Despite the goods not conforming to HFHSD specifications, the laboratory opined that the goods were "most akin to HFHSD" and alleged possible deliberate blending, without any conclusive scientific basis to substantiate such an inference.

3.4 On 27.09.2025, the Appellant disputed the laboratory's inference by relying upon the 14°C shortfall from the prescribed minimum flash point of HFHSD and asserted that the goods were imported for industrial use, accordingly seeking clearance.

3.5 On 29.09.2025, the goods were seized under Section 110(1) of the Customs Act, 1962, relying upon the laboratory's opinion that the goods closely resembled or were most akin to HFHSD and were liable to confiscation under Section 111 of the Customs Act, 1962.

3.6 On 08.10.2025, CRCL, New Delhi, clarified that the goods fell within the broad category of diesel fractions, which included both HFHSD and Distillate Marine Fuel, and further observed that deliberate blending could not be

scientifically established. It also recommended verification of the end-use of the imported goods.

3.7 On 13.10.2025, the Appellant filed a detailed representation reiterating the declared classification of the goods, the discrepancy in the flash-point parameters, the prior clearances granted in respect of similar goods and its objections to the laboratory's inference of deliberate blending.

3.8 On 17.10.2025, Customs, Kandla, sought further clarification from CRCL, New Delhi, regarding the Appellant's objections to the classification of the imported goods as HFHSD, particularly flash-point and cloud-point parameters.

3.9 On 28.10.2025, CRCL, New Delhi, clarified that the imported goods did not meet HFHSD specifications owing to their flash point and further observed that cloud point was not a significant parameter for uses other than marine applications in colder conditions. Verification of the end-use of the goods was accordingly recommended.

3.10 On 30.10.2025, in the similar case of Prajakt Agro Pvt. Ltd., Customs, Kandla, sought clarification from CRCL, New Delhi, regarding the applicability of the "most akin" test in light of the Supreme Court's decision in Gastrade international.

3.11 On 04.11.2025, CRCL, New Delhi, clarified that determining whether the goods were "most akin" to HFHSD or Distillate Marine Fuel was inconsequential, as both fall within the broader category of diesel fractions. It further confirmed that the samples did not fully satisfy the specifications of any one Indian Standard.

3.12 On 05.11.2025, the Appellant sought urgent clearance of the imported goods, stating that it had incurred accumulated tank charges amounting to

Rs. 21,21,050/- and approximate interest of Rs. 20,000/- per day, which constituted additional costs for which no compensation had been provided.

3.13 On 09.11.2025, the Commissioner of Customs, Kandla, passed the impugned provisional-release order under Section 110A of the Customs Act, 1962. The Commissioner held that the goods did not conform to HFHSD specifications, that CRCL had not tested all mandatory parameters, and that the tested parameters were more consistent with DMX-type Distillate Marine Fuel rather than HFHSD. Accordingly, the Commissioner held that the goods could not be treated as restricted HFHSD at that stage and that the balance of convenience favoured the importer. However, despite these findings, provisional release was made subject to onerous conditions, including an end-use bond and undertaking, buyer-end responsibility, maintenance of batch-wise records and a bond equivalent to 100% of the assessable value, a bank guarantee for 10% of the assessable value (renewable until adjudication), and preservation/drawal of smaples.

3.14 On 08.09.2025 to 07.12.2025: Owing to the continued detention of the imported goods, the Appellant had already incurred terminal charges of ₹21,21,052/- for the periods 08.09.2025 to 07.10.2025 and 08.10.2025 to 07.11.2025, with further charges continuing to accrue. The Appellant was subsequently charged another ₹10,60,526/- for the period 08.11.2025 to 07.12.2025, taking the aggregate to ₹31,81,578/-. Faced with mounting terminal charges and financial hardship, the Appellant as per stated positon was constrained to comply with the onerous conditions of provisional release.

3.15 15.11.2025: In view of the mounting terminal charges and consequent financial hardship, the Appellant was constrained to comply with the onerous conditions of the impugned order, without prejudice to its rights and contentions, by furnishing the requisite undertaking and ICICI Bank Guarantee dated 11.11.2025 for ₹1,01,38,000/- (Page 93). Consequently, the

goods were provisionally released under ex-bond Bills of Entry Nos. 5713734 and 5714292, both dated 15.11.2025.

GROUNDS TAKEN BY THE PARTY

3.16 09.12.2025: The Hon'ble Gujarat High Court, in Aparajita Energy Pvt. Ltd. v. Union of India (SCA No. 12944/2025) and Noya Infrastructure LLP v. Union of India (SCA No. 12943/2025 and connected matters), held that cloud-point deviation alone could not justify seizure, particularly when its relevance depended upon the intended use of the goods and there was no definitive laboratory finding establishing the goods as restricted HFHSD. The Court also disapproved discriminatory treatment of similarly situated importers and directed release of the goods subject to furnishing an end-use certificate and cooperation with the investigation.

3.17 19.01.2026: This Hon'ble Tribunal, in the case of Prajakt Agro Industries Pvt. Ltd. v. Commissioner of Customs, Kandla (Final Order No. 10024/2026 passed in Appeal No. C/11585/2025), set aside the onerous conditions imposed for provisional release of identical goods, following the decisions of the Hon'ble Gujarat High Court in Aparajita Energy and Noya Infrastructure. The Tribunal also took note of the statement made by the Respondent that the decision of the Hon'ble Gujarat High Court was being followed and provisional release was being permitted to other importers without requiring any bank guarantee or imposing any harsh conditions for provisional release of goods.

4. The Learned A.R for the department justified the impugned order by reiterating the findings recorded therein fact with the cited case law.

FINDINGS

5. The Court has considered the rival submissions. It finds that recently, in the matter of M/s. Quantum Petro Chem India Vs. Commissioner of Customs,

Kandla, this court of the Tribunal has given findings in relation to a similar product. The findings are contained in paragraphs 17 to 18, reproduced below;

"17. The Learned AR confronted with the position of Hon'ble Gujarat High Court in the matter of Aparajita Energy Private Limited Vs. UOI, reported in 2025 (12) TMI 1025-Gujarat High Court, as well as the decision of Division Bench in the case of Prajakt Agro Industries Pvt Ltd. Vs. Commissioner of Customs, Kandla, delivered vide Final Order No. 10024/2024 dated 19.01.2026 in which under similar circumstances, test reports relied upon by the Department and same having been clarified by CRCL, New Delhi, were considered at the stage of provisional release. As also the decision of Hon'ble Gujarat High Court in Noya Infrastructure LLP vs. UOI, reported in 2025 (12) TMI 2026 - Gujarat High Court, in which the Hon'ble High Court, after considering the same class of goods, namely, distillate oil, and also that the test reports were not definitive as to whether the distillate oil was, in fact, diesel or HFHSD, the Hon'ble Gujarat High Court recognized the CRCL clarification that diesel fraction is a broad category including HFHSD and other distillate oils that cloud point cannot be used as sole basis to seize of the cargo and directed the vacation of seizure and release of the goods, subject to filing of end-use certificate. Which decision was also followed by this CESTAT in Prajakt Agro industries Pvt. Ltd. cited (Supra) to do away with bank guarantee condition. This court finds that the decision to seek bank guarantee in the instant case is also against the directives of Hon'ble Gujarat High Court in Noya Infrastructure LLP vs UOI, reported in 2025 (12) TMI 2026, as well as the decision in Prajakt Agro Industries Pvt. Ltd. cited (supra). The condition of furnishing a bank guarantee, therefore, in the special circumstances of this matter, is liable to be set aside.

17.1 The learned AR has sought that as was directed by the Hon'ble Gujarat High Court party, should produce an end-use certificate.

17.2 From the records, this court finds that same has already been produced on record as Exhibit-J at page No. 86 to 99. However, if any, end-use certificate still remains party shall produce, the same before the authorities along with the certificates already on record. On same having been produced, in totality and a bond having been given the bank guarantee shall be liable to be returned.

18. The appeal is allowed subject to the above condition."

6. In view of the foregoing, the discharge of the Bank Guarantee shall be considered subject to the production of an end-use certificate and execution of a bond.

7. The appeal is allowed subject to the above condition.

(Order pronounced in the open court on 12.11.2026)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Sahil