GOVERNMENT OF PAKISTAN
MODEL CUSTOMS COLLECTORATE OF APPRAISEMENT (EAST)
CUSTOM HOUSE, KARACHI

C. No. (55)/(KAPE)/PCT/2017 Dated: 20-06-2017

PUBLIC NOTICE No. 10 /2017(A)

Subject: **CLASSIFICATION OF HYDRO CARBON PETROLEUM DISTILLATE (IN BULK).**

FACTS:

Model Customs Collectorate, Preventive, Karachi, vide letter C. No. SI/Misc/IB-04/2017-Oil (P) dated 08.03.2017 forwarded a reference to Classification Centre for classification of the product with description as "Hydro Carbon Petroleum Distillate (In Bulk)", imported by M/s Reliance Importers & Exporters, Karachi vide GD No. KOIL-IB-1306 dated 03-01-2017, claiming classification under HS Code 2710.1919 (others). The Collectorate classified the goods under HS Code 2710.1250 (solvent oil non-composite). The matter was also forwarded by the Board vide letter dated 13-4-2017 with direction to furnish report in the matter within 15 days. Accordingly, the meeting of Classification Committee was held on 21-4-2017. Importer, along with his advisor, attended the meeting. After the conclusion of the meeting, on 05-05-2017, importer again submitted a representation enclosing another test report from Industrial Analytical Center, HEJ Lab, Karachi relating to their another consignment for the deliberation of the Committee without the knowledge / consent of the referring Collectorate or the Classification Committee. In view of this representation, another meeting of Committee was held on 15-5-2017, which was attended by the importer along with his consultant.

2. After the meeting, while the issuance of Public Notice was under process, importer also filed a complaint before the Honourable Federal Tax Ombudsmen (FTO) on 17-5-2017 against discriminatory treatment by MCC Preventive, Karachi, wherein; importer also held Chairman Classification as respondent in-person. In final hearing held on 07-06-2017, the Honorable Advisor to FTO heard, in detail, arguments of importer's representative regarding appropriate classification of goods and verbally directed the Committee to give a fresh hearing to the importers, consider their submissions put forth before the advisor to FTO regarding classification of goods and decide the case within seven (7) working days.

Accordingly, a meeting of Committee was fixed on 09-06-2017. However, the importer submitted adjournment and meeting was fixed for 13-6-2017 with the consent of importer under intimation to the Honorable Advisor to FTO, which was attended by the all stake holders. The importer also submitted written reply dated 12-06-2017, wherein; they reproduced various HEJ reports and reiterated their stance regarding classification in light of the HEJ reports. In addition to this, they also submitted ASTM standard for diesel / gas oils (ASTM D975) and fuel oil distillates (ASTM D396) to evaluate the results of HEJ Lab report as per ASTM D86 and reiterated that their product does not match with specifications given for kerosene, diesel / gas oils and fuel oil distillates, and since it contains 85% kerosene along with 15% higher weight hydrocarbon petroleum fraction, hence the product merits classification in HS Code 2710.1919 (other of kerosene).

ISSUE:

4. Whether the product declared as 'Hydro Carbon Petroleum Distillate' is classifiable under HS Code 2710.1919, as claimed by the importer, or HS Code 2710.1250, as proposed by the Collectorate or under any other relevant heading of the First Schedule to the Customs Act, 1969 (Pakistan Customs Tariff).

PRODUCT ANALYSIS:

5. Custom House lab vide report dated 07-01-2017 reported the product as under:

The sample on test gave the following results:-

"State, yellow clear liquid insoluble in water heat test, negative SP gravity...0.800g/cm3, distillation range.... 162-360 C°, analine point 62 C°. In view of the above test results the same may qualifies to the properties of mixture of mineral hydro carbons. Reports pertains only to the sample received and tested as per available facility in which may further be forwarded to any other equipped lab".

As a result, referring Collectorate forwarded the samples to the Industrial Analytical Center, HEJ Lab, Karachi. HEJ report dated 09-02-2017 forwarded by MCC (Preventive), Karachi is as under:

Measurements / Results:

"The given sample was analyzed by Gas Chromatographic (GC) and Gas Chromatographic – Mass Spectrometric (GC-MS) techniques and other physical methods.

The results were found to be as follow:-

Tests		Results
Appearance		Light Yellow & Clear
Paraffinic Hydrocarbons (C9- C22)		71.521%
Cyclic Aliphatic Hydrocarbons (C7 –C17)		7.483%
Aromatic Hydrocarbons (C7- C14)		13.676%
Olefinic Hydrocarbons (C9 – C20)		6.400%
Others		0.920%
Distillation (ASTM-D-86)	IBP	154 C°
	10%	170 C°
	20%	185 C°
	30%	195 C°
	40%	208 C°
	50%	225 C°
	60%	243 C°
	70%	262 C°
	80%	283 C°
	90%	310 C°
	FBP	353 C°
	Recovery	98mL
	Resides	1mL
	Loss	1mL

The given sample of 'Mix Hydrocarbon Petroleum Distillate has been tested against PSQCA Specifications of High Speed Diesel (HSD) PS No.344/2009 2nd Revision, Kerosene Oil PS 442- 2010(R) Kerosene (2nd Revision) and Motor Spirit (Petrol) Specification No. PS 1430, 1999 1st Revision and found not conforming to aforesaid specifications. However, in the light of test carried out the given sample was found to be as complex mixture of aliphatic and aromatic Hydrocarbons".

Sample was also referred twice to the Industrial Analytical Center, HEJ Lab, Karachi; once by the importer himself at his own and secondly on direction of Honourable Advisor to the FTO. However, the Committee did not consider the HEJ test report dated 02.05.2017 submitted by the respondents / importer with their representation dated 05.05.2017, which was in respect of unauthorized sample which had neither been drawn by the Department/ MCC (Preventive), Karachi nor the Classification Committee. The test report dated 30-05-2017 conducted on direction of honorable FTO is reproduced below:

Measurement/Results:

"The given sample was analyzed by ASTM methods, the carbon chain distribution by (percentage of components were determined) Gas Chromatographic (GC) & Gas Chromatographic - - Mass Spectrometric (GC-MS) techniques. The results were found to be as follows:

TESTS		RESULTS
Appearance		Clear Liquid
Flash Point (PMCC)		40°C
Specific gravity at 15.6 C°		0.82
Percentage Recovery at 210 C° by ASTM D-86 method		41%
Distillation (ASTM-D-86)	IBP	154° C
	10%	170° C
	20%	185° C
	30%	195° C
	40%	208° C
	50%	225° C
	60%	243° C
	70%	264° C
	80%	283° C
	90%	310° C
	FBP	353° C
	Recovery	98 mL
	Residue	1 mL
	Loss	1 mL
Octanes (C8)		2.224%
Nonanes (C9)		5.685%
Decanes (C10)		10.259%
Undecanes (C11)		7.550%
Dodccanes (C12)		9.839%
Tridecanes (C13)		10.675%
Tetradecanes (C14)		9.278%
Pentadecanes (C15)		6.525%
Hexadecanes (C16)		4.253%
Heptadecanes (C17)		3.542%
Octadecanes (C18)		2.313%
Nonadecanes (C19)		2.314%
Eicosanes (C20)		1.310%
Heneicosanes (C21)		0.979%
Docosanes (C22)		0.905%
Nephthene		7.482%
C7 – Toluene		0.174%
C8 Aromatic (Ethyl Benzene)		0.168%
C8 Aromatic (p-xylene)		0.431%
C8 Aromatic (O-xylene)		0.358%
C9 Aromatic Hydrocarbons		4.141%
C10 Aromatic Hydrocarbons		3.847%
C 11 Aromatic Hydrocarbons		3.125%
C 12 Aromatic Hydrocarbons		0.785%
C 14 Aromatic Hydrocarbons		0.645%
Others		0.92%

Remarks:

Regarding the queries of given sample whether it is kerosene oil or Kerosene type jet fuel or others, our following observation are as under:

> "In the light of above the given sample tested / evaluated against Kerosene oil standards ASTM D3699-13b, PSQCA PS: 1430-1999 1st Revision and also compared with PSQCA standard specification for aviation turbine fuel PS: 4078/1998 ICS: 75.160.30 for the grade JP-4, JP-5, JP-5/JP-8 and found not confirming to the aforesaid specifications. However, the boiling range and carbon chain distribution showed that the given sample is blend of 85% Kerosene oil along with 15% higher weight hydrocarbon petroleum fraction".

6. On observation of the Honourable Advisor to the FTO that the two reports of HEJ are contradictory/ contain anomaly, the Director HEJ vide letter dated 03-06-2017 clarified as under that:

i) "There is no anomaly in the two reports sent earlier. Kindly note that the distillation range between 150 C° to 350 C° always contain some quantities of Kerosene oil. however, they cannot be classified as Kerosene oil or aviation turbine fuel unless they are > 98% as per standard specification mentioned below:

(Ref. standards ASTM L3699-13b, PSQC PS 1430-1999 1st. (Revision) and PSQCA standards specification for aviation turbine fuel PS: 4078 1998 ICS: 75.160.30 for the grade JP-4, JP-5, JP-5/JP-8 ST)

ii) Following are the findings of analysis.

(a) The given samples of Mix Hydrocarbon Petroleum Distillate cannot be classified as Kerosene oil or Kerosene type jet fuels. Hence, it is concluded that the given samples are complex mixture of aliphatic and aromatic hydrocarbons.

(b) As mentioned earlier there are no variations in the two reports."

It may also be pertinent to mention here that MCC (Preventive), Karachi vide letter dated 27-05-2017 informed that when on direction of Honourable Advisor to the FTO, the referring Collectorate approached Hydrocarbon Development Institute of Pakistan (HDIP); they showed their inability to test the impugned goods.

LAW AND ANALYSIS:

7. During the meetings the respondents provided 'European standards / parameters' for classification of medium oils which were excerpts from various tariffs around the world, such as, Mali, Ghana, United Kingdom etc. which bear no semblance or relevance for classification in

stan as per Pakistan Customs Tariff and hence same were not accepted for consideration by lassification Committee.

8. The Classification Committee first considered HS Code 2710.1250 as determined by the referring Collectorate. Subheading Note 4 of Chapter 27 provides that only those "light oils and preparations" of which 90% or more by volume (including losses) distil at 210°C (ASTM D 86 method) are classifiable under HS Code 2710.12. Test report of the impugned goods mentions that only 41% of the product distills at 210°C; therefore, the product does not qualify classification under HS Code 2710.1250, in terms of subheading Note 4 of Chapter 27.

9. The HEJ Lab tested the goods vide ASTM D 86 method, as provided for in Chapter Notes to Chapter 27 of the Pakistan Customs Tariff. Significant parameters of HEJ Lab report are reproduced as under:

(a)	Flash Point	40°C
(b)	Initial Boiling Point	154°C
(c)	Recovery of 10% volume	170°C
(c)	Recovery of 90% volume	310°C
(d)	Specific gravity	0.82 @ 15.6°C

The Committee considered a number of different standard specifications e.g. for kerosene (ASTM D3699), diesel / gas oils (ASTM D975) and fuel oil distillates (ASTM D396) (also submitted by the importer with his reply dated 12-06-2017) to evaluate the results of HEJ Lab report as per ASTM D86 for classification and the findings are discussed as under:-

10. The Committee first considered the standard specifications for kerosene (ASTM D3699) as the importer renders the sample under consideration for classification as a kerosene type or mix thereof, classifiable under HS Code 2710.1919 (other) due to paraffinic content to the extent of more than 70% reported in the HEJ report. The Committee observed that the importer's claimed PCT is a four dash heading under the HS Code 2710.1910. The tariff structure for HS Code 2710.1910 is as under:

	--- Kerosene, including kerosene type jet fuel:
2710.1911	----Kerosene
2710.1912	----J.P.1
2710.1913	----J.P.4
2710.1919	----Other

The above scheme of tariff structure provides that HS Code 2710.1919 (other) includes kerosene type jet fuel which is neither kerosene, J.P.1 nor J.P.4.

committee considered the specifications for kerosene (ASTM D3699) which are given below:

TABLE 1 Detailed Requirements for Kerosine

Property	ASTM Test Method	Limit[A]
Flash Point °C, min	D 56	38
Distillation (one of the following requirements shall be met):		
1. Physical Distillation	D 86	
Distillation temperature, °C		
10 % volume recovered, max		205
Final boiling point, max		300

11. The Committee then examined the lab report of the impugned goods in light of ASTM D 3699 i.e. standard specification for kerosene. Evaluation of HEJ Lab report against Table 1 above specified in ASTM D3699 reveals that the report did not conform to the standard of 10% volume recovery and final boiling point for kerosene, as at a temperature of 205°C maximum volume recovery specified in ASTM D 3699 is 10%, while in this case around 40% volume has been recovered at 208° C as per HEJ lab report (para 5). Moreover, final boiling point (FBP) for kerosene specified under ASTM D 3699 is 300°C, while sample under consideration has a final boiling point of 353°C. Hence, impugned goods do not meet the criteria / specification of ASTM D3699 in light of sub-section 4.1 of section 4 of the 'Detailed Requirements' ibid, which provides that kerosene should confirm to detailed requirements prescribed under Table 1. This observation is also supported by HEJ report dated 09-02-2017 which concludes that "the impugned goods were tested at HEJ Lab for Kerosene Oil PS 442-2010 (R) Kerosene (2nd Revision) and found not conforming to the PSQCA Specifications" and further confirmed through HEJ's letter dated 03-06-2017 that "The given samples of Mix Hydrocarbon Petroleum Distillate cannot be classified as Kerosene oil or Kerosene type jet fuels." In view of above, Classification Committee concluded that impugned goods are not kerosene or kerosene type jet fuel and therefore, not covered under any subheads of 2710.19

12. The Committee then considered the standard specifications for diesel / gas oils (ASTM D975), which are reproduced below:

TABLE 1 Detailed Requirements for Diesel Fuel Oils[A]

Property	ASTM Test Method[B]	Grade						
		No. 1-D S15	No. 1-D S500[C]	No. 1-D S5000[D]	No. 2-D S15	No. 2-D S500[C,E]	No. 2-D S5000[D,E]	No. 4-D[D]
Flash Point, °C, min.	D 93	38	38	38	52[E]	52[E]	52[E]	55
Water and Sediment, % vol, max	D 2709	0.05	0.05	0.05	0.05	0.05	0.05	...
Distillation: one of the following requirements shall be met:	D 1796	...	...	...	...	...	...	0.50
1. Physical Distillation	D 86							
Distillation Temperature, °C 90 % , % vol recovered								
min		...	...	...	282[E]	282[E]	282[E]	...
max		288	288	288	338	338	338	...

The Committee observed that the diesel / gas oil is divided into various grades 1-D, 2-D and 4-D. Evaluation of HEJ Lab report against Grade No. 1-D specified in ASTM D975 reveals that the criteria for flashpoint is satisfied since reported flashpoint is 40°C, while minimum required flashpoint for Grade No. 1-D is 38°C, but the report did not conform to the standard of 90% volume recovery which should be at 288°C for 1-D type diesel / gas oils, while HEJ Lab report states the same as 310°C. Similarly, report also did not conform to the standard of flashpoint specified by ASTM D975 for 2-D and 4-D type diesel fuel oils, which is 52°C and 55°C respectively, whereas the flash point of instant goods is 40°C. Therefore, Committee held that sample cannot be considered as diesel / gas oils. The importer vide its representation dated 12-06-2017 confirmed that their product does not conform to the specifications of diesel / gas oil given in ASTM D975.

13. Finally, the Committee considered standard ASTM D396, which relates to standard specification for all types of fuel oils, which are reproduced below:

TABLE 1 Detailed Requirements for Fuel Oils[A,O]

Property	ASTM Test Method[F]	No. 1 S15[V]	No. 1 S500[C]	No. 1 S5000[C]	No. 2 S15[C]	No. 2 S500[C]	No. 2 S5000[C]	B6–B20 S15[C]	B6–B20 S500[C]	B6–B20 S5000[C]	No. 4 (Light)[C]	No. 4	No. 5 (Light)	No. 5 (Heavy)	No. 6
Flash Point, °C, min	D93 – Proc. A D93 – Proc. B	38	38	38	38	38	38	38	38	38	38	...	...	...	...
Water and sediment, percent by volume, max	D2709	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	...	55	55	55	50
Distillation Temperature, °C	D86	...	...	...	...	...	...	...	...	...	...	...	...	...	...
10 % volume recovered, max		...	...	...	...	...	...	...	...	...	(0.50)[D]	(0.50)[D]	(1.00)[D]	(1.00)[D]	(2.00)[D]
90 % volume recovered, min		215	215	215	...	...	...	...	...	...					
90 % volume recovered, max		...	...	...	282	282	282	282	282	282					
Kinematic viscosity at 40 °C, mm²/s	D445	288	288	288	338	338	338	343	343	343					
min		1.3	1.3	1.3	1.9	1.9	1.9	1.3	1.3	1.3	1.9	>5.5	...	...	...
max		2.4	2.4	2.4	4.1	4.1	4.1	4.1	4.1	4.1	5.5	24.0[P]			
Kinematic viscosity at 100 °C, mm²/s	D445														
min		...	...	...	...	...	...	...	...	...	...	...	5.0	9.0	15.0
max		...	...	...	...	...	...	...	...	...	...	...	8.9[E]	14.9[E]	50.0[K]
Ramsbottom carbon residue on 10 % distillation residue percent by mass, max	D524	0.15	0.15	0.15	0.35	0.35	0.35	0.35	0.35	0.35	...	...	...	...	...
Ash, percent by mass, max	D482	...	...	...	...	...	...	...	...	...	0.05	0.10	0.15	0.15	...
Sulfur, percent by mass max[F]	D2622	...	0.05	0.5	...	0.05	0.5	...	0.05	0.5					
	D5453	0.0015	...	...	0.0015	...	...	0.0015	...	...					
Lubricity, HFRR @ 60 °C, micron, max	D6079/D7688	520	520	520	520	520	520	520[K]	520[K]	520[K]					
Copper strip corrosion rating, max, 3 h at a minimum control temperature of 50 °C	D130	No. 3	No. 3	No. 3	No. 3	No. 3	No. 3	No.3	No. 3	No. 3	...	...	...	...	...
Density at 15 °C, kg/m³	D1298														
min		...	...	...	...	...	...	...	...	...	>876[Q]	...	...	...	...
max		850	850	850	876	876	876	876	876	876	...	...	...	...	...
Pour Point °C, max[H]	D97	–18	–18	–18	–6	–6	–6	–6	–6	–6	–6	–6	...	...	...
Oxidation Stability, hours, min	EN 15751	...	...	...	...	...	...	6	6	6					
Acid Number, mg KOH/g, max	D664	...	...	...	...	...	...	0.3	0.3	0.3					
Biodiesel Content, percent (V/V)[Y]	D7371	...	...	...	...	...	...	6 – 20.	6 – 20.	6 – 20.	...				

Evaluation of HEJ Lab report against standard specification for all types of fuel oils reveals that the impugned goods conform only to the standard of Grade No. 2 of Table 1, specified in ASTM D396 for flash point, 90% volume recovery range and density specified therein. The given standards and the Lab report are reproduced below in tabulated form:

Standard	ASTM Specifications D396 Grade No. 2	HEJ Lab Report
Flashpoint	38°C minimum	40°C
90% volume recovery range	282°C to 338°C	310°C

Density	0.876 maximum	0.82

During final meeting, it was observed that specifications for fuel oil of Grade No. 2 of Table 1 conform as per ASTM D396, submitted by the respondent. Consequently, the respondent could not produce any other argument / document contrary to this fact that the specifications of the impugned goods conform to the specifications for fuel oil of Grade No 2 of Table 1 of ASTM D396.

HOLDING:

14. In the light of above, the Classification Committee concluded that the impugned good i.e. "Hydro Carbon Petroleum Distillate" having specifications mentioned at para 5 above, is appropriately classifiable under HS Code 2710.1940, as the goods are mixture of distillates and not Furnace Oil and Petroleum Top Naphtha, hence, appropriately classifiable under PCT heading 2710.1949 for other fuel oils through application of GIR1.

15. The above Ruling is based upon the documents/ literature and samples provided by the applicant / Collectorate and shall be treated as annulled, if it is found, at any subsequent stage, that the same was obtained by providing incorrect, false, misleading or incomplete information by the applicant / Collectorate.

(Muhammad Haris Ansari)
Additional Collector -I
Chairman Classification Committee

Distribution:

1. PS to Member (Customs), Federal Board of Revenue, Islamabad.
2. Chief Collector of Customs (Appraisement-South), Custom House, Karachi.
3. Chief Collector of Customs (Enforcement-South), Custom House, Karachi.
4. Chief Collector of Customs (Central/North) Custom House, Lahore / Islamabad.
5. Director General, Intelligence & Investigation-FBR, Mauve Area-1, G-10/4, Islamabad.
6. Chief (Tariff), Customs Wing, Federal Board of Revenue, Islamabad.
7. Collector, MCC Appraisement (East) / (West) / (Preventive), Custom House, Karachi.
8. Collector of Customs MCC, Port Mohammad Bin Qasim, Karachi.
9. Collector of Customs, MCC (Appraisement/Preventive) Lahore.
10. Collector, MCC Hyderabad / Gawadar / Quetta/ Multan / Sambrial / Faisalabad / Islamabad / Peshawar / Gilgit-Baltistan.
11. Director, Directorate of Customs Post Clearance Audit, 3rd Floor, Custom House, 24 Mauve Area, G-9/1, Islamabad.
12. Director, Directorate of Intelligence & Investigation (Customs), Karachi / Lahore / Faisalabad / Rawalpindi / Quetta / Peshawar.