# CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
## CHENNAI

REGIONAL BENCH – COURT No. III

## Customs Appeal No. 40385 of 2024

(Arising out of Order-in-Original No. 104790/2024 dated 27.01.2024 passed by Commissioner of Customs, No. 60, Custom House, Rajaji Salai, Chennai – 600 001)

**Mr. Subash Iyappan** **...Appellant**
No. 36A/19, 13th Street,
Iyer Layout, Singanallur,
Coimbatore – 641 005.

With

## Customs Appeal No. 40386 of 2024

(Arising out of Order-in-Original No. 104790/2024 dated 27.01.2024 passed by Commissioner of Customs, No. 60, Custom House, Rajaji Salai, Chennai – 600 001)

**Mr. Arun Kumar Kandhan** **...Appellant**
No. 22, Thiru Othavadai Street,
Walajapet – 632 513.

With

## Customs Appeal No. 40443 of 2024

(Arising out of Order-in-Original No. 104790/2024 dated 27.01.2024 passed by Commissioner of Customs, No. 60, Custom House, Rajaji Salai, Chennai – 600 001)

**M/s. Greaves Electric Mobility Pvt. Ltd.** **...Appellant**
Plot No. 72, SIPCOT Industrial Complex,
Ranipet SIPCOT,
Narasingapuram,
Ranipet – 632 403.

And

## Customs Appeal No. 40446 of 2024

(Arising out of Order-in-Original No. 104790/2024 dated 27.01.2024 passed by Commissioner of Customs, No. 60, Custom House, Rajaji Salai, Chennai – 600 001)

**M/s. Seven Seas Global Express Logistics Limited** **...Appellant**
1st Floor, "KRISHNORMI",
No. 3, Nowroji Street,
Chetpet,
Chennai – 600 031.

***Versus***

**Commissioner of Customs** **...Respondent**
Chennai II Commissionerate,
No. 60, Custom House,
Rajaji Salai,
Chennai – 600 001.

**APPEARANCE:**

For the Appellants : Mr. T. Viswanathan, Advocate
For the Respondent : Mr. Anoop Singh, Authorised Representative

**CORAM:**
**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)**
**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

## FINAL ORDER Nos. 40569-40572 / 2026

DATE OF HEARING : 04.11.2025
DATE OF DECISION : 04.05.2026

**Per Mr. VASA SESHAGIRI RAO**

These four appeals arise out of a common Order-in-Original No. 104790/2024 dated 27.01.2024 passed by the Commissioner of Customs, Chennai-II (Imports), and are therefore taken up together for disposal by this common order. The Appellant, M/s. Greaves Electric Mobility Pvt. Ltd., is engaged in the manufacture of electric two-wheelers (e-scooters) in India and imports various components required for such manufacture. The dispute in the present case pertains to the period from 20.03.2018 to 31.12.2021. The impugned order confirms a demand of ₹56,45,12,083/- under Section 28(4) of the Customs Act, 1962, out of which ₹49,48,07,057/- pertains to the extended period and ₹6,97,05,026/- pertains to the normal period. Further, redemption fine of ₹16,00,00,000/- has been imposed under Section 125 of the Act and penalty of ₹56,43,93,553/- has been imposed under Section 114A of the Act along with applicable interest.

2. The facts briefly stated are that intelligence was gathered by the Directorate of Revenue Intelligence (DRI), Mumbai Zonal Unit, that M/s Ampere Vehicles Pvt. Ltd. (AVPL), holder of IEC No. 0408011092, was importing e-scooters/e-bikes in completely knocked down (CKD) condition—with preassembled motors and controllers but not mounted on a body—while classifying them under as parts under Chapter Tariff Heading 8714. DRI believed the goods should instead fall under Heading 8711 (complete e-scooters/e-bikes) in terms of Rule 2(a) of the General Rules of Interpretation, thereby attracting higher rate of duty.

3. In August 2018, AVPL's promoters transferred ownership and management control to M/s Greaves Cotton, and the company was later renamed M/s Greaves Electric Mobility Pvt. Ltd. (GEMPL) on October 11, 2021, continuing to use the same IEC. Examination of GEMPL's Bills of Entry showed a consistent import pattern where electric scooter parts were brought in sets and multiples, effectively constituting complete CKD units. The company was importing all major components from China but declaring them as "parts" to pay lower import duties.

4. M/s. Greaves Electric Mobility Pvt. Ltd. (GEMPL), earlier AVPL, imported electric scooter components under multiple

chapters of the Customs Tariff Act, 1975 (including Chapters 39, 40, 48, 73, 83, 84, 85, 87, and 90). Under Rule 2(a) of the General Rules of Interpretation, any incomplete or unfinished article that has the essential character of a complete product, as well as goods presented unassembled or disassembled, must be treated as a complete article. Applying this rule, the imported goods appeared classifiable under Chapter Tariff Heading 8711 (motorcycles/e-scooters).

5. Further, as per Notification No. 50/2017 dated 30.06.2017, the applicable Basic Customs Duty (BCD) varies by form: 10% for CKD kits with engine, gearbox, and transmission not pre-assembled; 30% for CKD kits with these components pre-assembled but not mounted on the body; 60% for goods in any other form (excluding high-capacity motorcycles); and 75% for motorcycles with engine capacity of 800 cc or more.

6. The concept of a Completely Knocked Down (CKD) kit has largely remained consistent over time, though certain changes were introduced through notifications. Notification No. 21/2011 (01.03.2011) initially excluded units containing pre-assembled engine, gearbox, or transmission mechanisms, as well as body assemblies with such components installed. However, Notification No. 31/2011 (24.03.2011) removed

these exclusions and instead incorporated them into the CKD definition, prescribing duty rates of 10% for kits without pre-assembled components and 30% where such components are pre-assembled but not mounted on the body.

7. Subsequently, Notification No. 12/2012-Cus was replaced by Notification No. 50/2017-Cus dated 30.06.2017 in line with the introduction of GST from 01.07.2017, with largely unchanged wording. Under this notification (Sl. No. 531), the revised duty structure for new motorcycles (including mopeds and similar vehicles not previously registered) specifies: 10% duty for CKD kits with engine, gearbox, and transmission not pre-assembled; 30% where any of these are pre-assembled but not mounted on a body; 60% for imports in any other form (excluding high-capacity motorcycles); and 75% for motorcycles with engine capacity of 800 cc or more.

8. Notification No. 50/2017-Cus (Sr. No. 531) was amended by Notification No. 26/2018-Cus dated 12.02.2018, revising the duty rates for new motorcycles (including mopeds and similar vehicles not previously registered). The revised rates were: 15% for CKD kits where the engine, gearbox, and transmission are not pre-assembled; 20% where any of these components are in pre-assembled form but not mounted on a body; and 50% for imports in any other form.

9. Subsequently, Notification No. 03/2019-Cus dated 29.01.2019 further amended Notification No. 50/2017-Cus by excluding electrically operated vehicles from Sr. No. 531 and introducing a new Sr. No. 531A specifically for electrically operated motorcycles (including mopeds). Under this new entry, the duty structure provides: 10% BCD for knocked-down kits with all necessary components (such as battery pack, motor, controller, charger, power control unit, energy monitor contactor, brake system, and electric compressor) in disassembled form and not mounted on the chassis; 15% BCD where these components are pre-assembled but not mounted on a chassis or body; and 50% BCD for imports in any other form.

10. Sr. No. 531A of Notification No. 50/2017-Cus was further amended by Notification No. 01/2020 dated 02.02.2020, revising the duty structure for electrically operated motorcycles (including mopeds and similar vehicles). Under the amended provision, imports as knocked-down kits containing all necessary components attract 15% BCD when key components (such as battery pack, motor, controller, charger, power control unit, energy monitor contactor, brake system, and electric compressor) are in disassembled form and not mounted on the chassis, and 25% BCD when these

components are pre-assembled but not mounted on a chassis or body assembly. Imports in any other form attract 50% BCD. This revised duty structure came into effect from 01.04.2020.

11. Under Notification No. 50/2017 dated 01.07.2017 (Entry No. 531), the residual category at sub-entry (2) covered imports "in any other form excluding motor cycles with engine capacity of 800 cc or more." Since e-bikes and e-scooters do not have an engine or gearbox, it was concluded that the applicable concessional duty rate of 60% would apply to such vehicles up to 11.02.2018.

12. Notification No. 26/2018-Cus dated 12.02.2018 retained the description of entry (1) unchanged but removed the earlier residual entry (3), thereby making entry (2) read as "in a form other than (1) above." Since this revised residual entry (2) covered motorcycles in any other form regardless of whether they had an engine, it was considered applicable to imports by M/s. GEMPL (earlier AVPL). Accordingly, it appeared that from 12.02.2018 onwards, e-bikes/e-scooters imported in CKD condition were liable to 50% duty under this entry.

13. Thereafter, with effect from 30.01.2019, Notification No. 03/2019-Cus dated 29.01.2019 introduced specific provisions for electrically operated vehicles by inserting a new Sr. No. 531A in Notification No. 50/2017-Cus. Under this entry, electrically operated motorcycles (including mopeds and cycles fitted with auxiliary motors, with or without side cars) attracted: 10% BCD when imported as CKD kits with key components such as battery pack, motor, controller, charger, power control unit, energy monitor contactor, brake system, and electric compressor in disassembled form not mounted on chassis; 15% BCD where these components were pre-assembled but not mounted on chassis or body; and 50% BCD for imports in any other form.

14. From 30.01.2019, where an e-bike/e-scooter was imported in CKD condition with pre-assembled key components such as motor, motor controller, charger, power control unit, energy monitor, brake system, and electric compressor not mounted on the chassis, it was considered liable to 15% BCD under the applicable entry. This rate was subsequently revised to 25% BCD with effect from 01.04.2020 vide Notification No. 01/2020 dated 02.02.2020.

15. Thereafter, significant changes were introduced through the Finance Bill 2022, implemented via Notification

No. 2/2022-Cus dated 01.02.2022, which substituted Entry 531A of Notification No. 50/2017-Cus. Under the revised entry for electrically operated vehicles, imports are classified as follows: (1) CKD kits (incomplete or unfinished) containing necessary components for assembling a complete vehicle, including battery pack, motor, motor controller, charger, power control unit, energy monitor, and brake system—(a) attract 15% BCD where none of the components are inter-connected and not mounted on a chassis; (b) attract 25% BCD where any of the components are inter-connected but not mounted on a chassis; and (2) attract 50% BCD where imported in any other form.

16. An explanatory clarification was also provided that the exemptions under items (1)(a) and (1)(b) would still be available even if one or more required components for assembling the complete vehicle are not imported in the kit, provided the kit as presented remains classifiable under Heading 8711 of the Customs Tariff Act, 1975 in accordance with the General Rules of Interpretation.

17. The D.O. Letter F.No. 334/01/2022-TRU dated 01.02.2022, issued to explain the Finance Bill, 2022, clarified that Entries 525, 526A, and 531A of Notification No. 50/2017-Cus (dated 30.06.2017), which prescribe BCD rates for

various forms of electric vehicles, were revised following representations from trade and field formations. These revisions were intended to remove interpretational doubts, and the amended entries were stated to be self-explanatory, with no change in the applicable BCD rates across different forms of electric vehicles, as reflected in Notification No. 02/2022-Customs dated 01.02.2022. Additionally, the amendment to Entry 531A deleted the terms "electric compressor" and "contactor," as these components are not used in two-wheeled electric vehicles.

18. Further, the Explanatory Memorandum to the Finance Bill, 2022 clarified that the amendments to Entries 525, 526A, and 531A were purely clarificatory in nature, aimed at providing clarity on the scope of exemptions for imports of CKD/SKD electric vehicles (including commercial, passenger, and two-wheeler EVs). It explained that for an EV kit to qualify for CKD concessional duty benefits, it is not necessary for each individual component to be in disassembled form. It was also clarified that even if certain components are missing from the kit, the concessional rate applicable to CKD/SKD imports would still be available, provided the kit as presented possesses the essential character of an electric vehicle.

19. The applicable Basic Customs Duty (BCD) rates over time for e-bikes/e-scooters imported in CKD condition with pre-assembled components (such as motor and controllers not mounted on the body), as done by M/s GEMPL (earlier AVPL), are summarized as follows: -

i. Under Notification No. 50/2017 dated 30.06.2017 (up to 11.02.2018), the rate was 60% under Sr. No. 531(2).

ii. Under Notification No. 26/2018 dated 12.02.2018 (up to 28.01.2019), the rate was 50% under Sr. No. 531(2).

iii. Under Notification No. 03/2019 dated 29.01.2019 (up to 31.03.2020), the rate was 15% under Sr. No. 531A(1)(b).

iv. Under Notification No. 01/2020 dated 02.02.2020 (effective 01.04.2020 to 31.01.2022), the rate was 25% under Sr. No. 531A(1)(b).

v. Under Notification No. 02/2022 dated 01.02.2022 (from 01.02.2022 onwards), the rate is 15% under Sr. No. 531A(1)(a).

20. It is further noted that the example provided in the HSN Explanatory Notes to Rule 2(a) of the General Rules of Interpretation—where a bicycle without an engine and tyres is still classified as a bicycle— **is relied upon by the Department to contend** that such goods may be classifiable

under Heading 8711; however, applicability of the said principle to the present facts is examined in the findings..

21. According to the HSN Explanatory Notes on the General Rules of Interpretation, Rule 2(a) expands the scope of any tariff heading referring to a specific article to include not only the complete or finished article but also an incomplete or unfinished one, provided that, in its presented condition, it possesses the essential character of the complete or finished article. Accordingly, an incomplete or unfinished vehicle is to be classified as the corresponding complete or finished vehicle if it retains such essential character. Illustrative examples include a motor vehicle without wheels or tyres and battery, a motor vehicle without an engine or interior fittings, and a bicycle without a saddle and tyres. However, these illustrations pertain to goods presented as a single consignment and their applicability to multiple consignments is disputed.

22. The second part of Rule 2(a) provides that complete or finished articles presented in an unassembled or disassembled form are to be classified under the same heading as the assembled article, typically due to considerations of packing, handling, or transport convenience. This principle also extends to incomplete or unfinished articles presented in an unassembled or disassembled condition, provided they are

treated as complete or finished articles under the first part of Rule 2(a). However, whether the above principles are applicable to the facts of the present case, particularly in the context of multiple consignments and absence of certain components, is a matter that requires detailed examination and is examined in the findings, particularly in the context of multiple consignments and absence of critical components.

23. The investigation's core issue is whether M/s. GEMPL (earlier AVPL) evaded customs duty on CKD (Completely Knocked Down) kits of e-scooters/e-bikes by wrongly declaring them as mere "components/parts," and whether such imports are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962.

24. The Department alleges that M/s. GEMPL (Earlier known as AVPL) imported e-scooters/e-bikes in CKD sets containing preassembled components such as motors, converters, frames, controllers, wiring harnesses, plastic parts, fasteners, and seat assemblies, though these were not mounted on a body. The pattern indicated a deliberate scheme to import complete vehicles in CKD form across different models.

25. It appeared to the Department that the pattern of imports adopted by the Appellant, including import of various components through different consignments, required examination to determine whether the provisions of Rule 2(a) of the General Rules for Interpretation were attracted.

26. Evidence collected during the investigation further showed that purchase orders covered all parts required to assemble complete electric scooters, proforma invoices described supplies as CKD sets of electric scooters, and Bills of Lading referred to the goods as "Electric Bike CKD" classifiable under Heading 871160 (electric scooters/bikes), rather than Heading 8714 applicable to parts of such vehicles.

27. It was alleged that the Appellant did not undertake any research and development or design of e-bikes in India, as the models were procured as ready-made designs from Chinese suppliers. The assembly of e-scooters/e-bikes from CKD kits involved no manufacturing or complex process, with minimal use of local components and negligible value addition. The CKD kits were imported specifically for assembling complete e-scooters/e-bikes rather than for sale of parts in the domestic market.

28. It was further observed that imports filed under a single Import General Manifest (IGM) were split into multiple Bills of Entry to conceal from Customs authorities the fact that complete sets of e-scooter/e-bike parts were being imported. Although the company did not produce comprehensive supply agreements covering all imports, purchase invoices indicated procurement of almost all parts required for assembly. Proforma invoices showed that suppliers were providing complete sets of parts for specific models such as Elite, Magnus, Zeal, Reo, and V.48. For example, Proforma Invoice No. 2020PI1105 dated 05.11.2020 explicitly described supplies as "V.48 e-Scooter (Full CKD Kit)," while another invoice No. 2021PI0530 dated 31.05.2021 showed orders for parts of Magnus e-Scooters placed in multiples of 500 units, indicating procurement of 500 e-bikes in CKD form.

29. It appeared that M/s GEMPL (earlier AVPL) deliberately misdeclared imports as "parts of electric scooters" in invoices instead of correctly describing them as e-bikes/e-scooters in CKD condition. A comparison of the Bill of Materials for each model with the Bills of Entry showed that nearly all components required for assembly were imported, with only minor items such as mirrors being sourced locally. Proforma invoices from the foreign supplier clearly indicated that electric scooters were being supplied in CKD form.

30. It was observed by the Department that batteries were procured separately and, relying upon HSN explanatory notes, it was alleged that absence of certain components would not alter the essential character of the goods. The correctness of this proposition is examined in the findings portion.

31. It was further established that the company was fully aware that the imports were CKD units, as invoices showed procurement of all parts in sets or multiples corresponding to the number of vehicles to be assembled. Statements recorded under Section 108 of the Customs Act from key personnel, including Shri Arun Kumar K. (Assistant General Manager, Supply Chain Management), Shri GuruDutt (Plant Manager), Shri Arun Kumar (Manager R&D), and Shri Subashlyappan, confirmed that all necessary parts for assembling complete e-scooters were imported.

32. The imported components were supplied in complete sets, indicating that M/s GEMPL (earlier AVPL) was capable of assembling the exact number of complete vehicles corresponding to the quantities mentioned in the proforma invoices. Batteries and chargers, although not included in the proforma invoices for supplied kits, were separately imported

from foreign suppliers such as Phylion Battery Co. Ltd. and Xupai Power Co. Ltd.

33. The Department has alleged that the Appellant adopted this modus operandi to evade customs duty, despite being aware that it was only assembling CKD kits and not undertaking any manufacturing activity in its factory.

34. In CBIC Circular No. 179/11/2022-GST dated 03.08.2022, it is stated as under: -

> *"electrically operated vehicle including three wheeled electric vehicle means vehicle that runs solely on electrical energy derived from an external source or from electrical batteries. Therefore, the fitting of batteries cannot be considered as a concomitant factor for defining a vehicle as an electrically operated electric vehicle.*
> *2.4 It is also pertinent to state that the WCO's HSN Explanatory notes have also not considered batteries to be a component, whose absence changes the essential character of an incomplete, unfinished or unassembled vehicle.*
> *2.5 Also, the HSN explanatory notes for Chapter 87 have clearly stated that Motor Chassis fitted with cabs i.e. the cabs fitted with cabin body falls under 87.02 to 87.04 and no in heading 87.06.*
> *2.6 In view of the above, it is clarified that electrically operated vehicle is to be classified under HSN 8703 even if the battery is not fitted to such vehicle at the time of supply".*

35. The Bills of Lading described the imported goods as e-scooters/e-bikes in CKD condition under Chapter 871160, which corresponds to electric scooters. However, while filing the corresponding Bills of Entry, M/s GEMPL (earlier AVPL) declared the same goods as "parts and components of electric

scooters" and classified them under Chapter 8714, applicable to parts of electric scooters.

36. Multiple Bills of Lading consistently supported the CKD nature of the imports, describing the goods as electrical bikes/scooters in CKD form, including models such as Magnus and V48. Specific examples include documents dated 23.08.2018, 06.09.2018, 20.03.2019, 27.04.2019, 26.05.2019, 12.06.2019, and 24.07.2019, all of which repeatedly described the imports as "Electric Scooter/Electric Bike CKD" or "Electrical Bike CKD Magnus and V48," confirming that the consignments were imported as complete CKD units rather than individual parts.

37. Shri Sazeth Kumar, Senior Manager (Operations) at M/s Seven Seas Global Express Logistics Pvt. Ltd., the Customs House Agent and freight forwarder for M/s GEMPL (earlier AVPL), stated in his deposition dated 04.02.2022 that there was a discrepancy between the Bills of Lading and the Bills of Entry. While the Bills of Lading described the goods as "Electrical Bike in CKD Magnus and V48" or "Electrical Bike in CKD Magnus," the Bills of Entry and Import General Manifest (IGM) described them as "parts of electric scooters" or "parts and components of electric vehicles."

38. He admitted that this change in description to "parts and components of electric vehicles" in the Bills of Entry was made on the instructions of M/s GEMPL (earlier AVPL). He further stated that although they normally follow the description in the invoice and packing list, they should have relied on the Bill of Lading description or sought an amendment, which was not done. He also acknowledged that under the Customs Act, 1962, the correct procedure would have been to adopt the IGM description or request its amendment.

39. He identified the persons from M/s GEMPL who gave such instructions as Shri Subash, Shri Ganesh, or more recently Shri Govind, and speculated that he may have been directed to treat and declare the goods as "parts," despite the Bills of Lading indicating CKD imports of complete electric scooters.

40. Regarding the Import General Manifest (IGM), the CHA admitted that they should have either followed the description in the IGM or sought its amendment, but instead relied on the invoice and packing list as per instructions from M/s GEMPL (earlier AVPL). This indicates that M/s GEMPL actively collaborated with the Customs House Agent and freight forwarder to ensure that Bills of Entry for CKD imports of e-

scooters were wrongly described as "parts and components of electric scooters" instead of their correct classification as complete CKD units.

41. It was further observed that M/s GEMPL did not carry out any research, development, or design of the e-bikes in India. The company sourced existing e-scooter models from Chinese manufacturers, obtained approvals from ARAI for Indian market suitability, and then imported all required components for assembly. Shri Arun Kumar Subramaniam, General Manager (R&D), in his statement dated 22.12.2021, confirmed that the designs were developed by Chinese manufacturers for their domestic market, and the company's activities in India were limited to validation, homologation, field issue resolution, and plant interface. He further stated that the company merely procures parts and assembles them in its factory, confirming that key components were imported from China in CKD form and assembled in India.

42. Shri Gurudatt Parmeshwara Shastry, General Manager (Operations) of M/s. Ampere Vehicles Pvt. Ltd., in his statement dated 23.12.2021, described the e-scooter assembly process in detail. He stated that production involves 8 sub-assembly lines feeding into the main assembly line. In the sub-assemblies, components such as the front wheel (rim,

tyre, air valve) are fitted, inflated, and balanced; the rear wheel assembly includes fitting the hub motor, tyre, and air valve followed by inflation and balancing; and frame preparation involves fitting parts like the racer cup, handle key, centre stand, side stand, swing arm, and shock absorbers.

43. On the main assembly line, the frame sub-assembly is first joined with the rear tyre sub-assembly, and the scooter is completed through 9 sequential stages, with the final stage being inspection. He further stated that one e-scooter takes about 5 minutes to assemble, with a daily production capacity of around 150–180 units. This indicates that the process involves minimal effort, basic "screwdriver technology," and is not a complex manufacturing operation, with no reworking of components required.

44. The submitted process flow chart showed that only simple tools such as screwdrivers, pneumatic guns, wire cutters, nut tighteners, and ring spanners are used. Overall, the Department relies on evidence to contend that there is no significant processing or modification of parts; instead, the imported components are merely assembled and joined together on frames to produce complete e-scooters.

45. Shri Arun Kumar, Assistant General Manager (Supply Chain Management), in his statement dated 09.02.2023, confirmed that the imported components are directly used for assembling e-scooters and are not subjected to any re-working.

46. The HSN Explanatory Notes to Rule 2(a) of the General Rules of Interpretation clarify that "articles presented unassembled or disassembled" include those assembled using simple fixing methods such as screws, nuts, bolts, riveting, or welding, provided only assembly operations are involved. The complexity of assembly is irrelevant, but the components must not undergo any further processing to reach the finished state. Accordingly, when such parts are merely assembled through a simple process, the Department contends that they acquire essential character of an e-bike/e-scooter.

47. Further, Rule 2(a) of the General Rules of Interpretation provides that any reference to an article includes incomplete or unfinished forms of that article, provided it possesses the essential character of the complete or finished product, and also includes complete or finished articles presented in unassembled or disassembled form. Thus, even unfinished or incomplete goods are classifiable under the relevant heading

if they retain the essential characteristics of the complete article.

48. The HSN Explanatory Notes for Chapter 87 reiterate that an unassembled or incomplete vehicle is to be classified as the corresponding complete or finished vehicle if it possesses the essential character of the latter under General Interpretative Rule 2(a). Illustrative examples include a motor vehicle without wheels, tyres, or battery; a motor vehicle without an engine or interior fittings; and a bicycle without a saddle and tyres.

49. The Department, based on analysis of the Bill of Materials and import data, formed a view that major components such as frame, motor, controller and converter were imported, while certain other items were sourced locally. Based on this, it was alleged that the imported goods, when taken together, could impart the essential character of an e-scooter/e-bike. The Appellant, however, disputes this conclusion, particularly on the ground that critical components were not imported together in the same consignments.

50. From the documentary evidence submitted by the importer, it appeared that M/s GEMPL (earlier AVPL) had been importing e-bikes/e-scooters in CKD (Completely Knocked

Down) condition up to December 2020. However, from January 2021 onwards, the company began procuring certain components such as frames, motors, and body panels locally for specific models like Reo and Zeal.

51. For the period 2018 to 2020, across models such as Reo Li, Reo LA, Magnus, V.48, V.60, Zeal, and Elite, the major imported components included the frame, brake system, motor, controller, wiring harness, converter, battery, body parts, lights, and other essential parts including nuts and fasteners. The locally procured items were mainly tyres, tubes, and mirrors, along with minor accessories such as first aid kits, owner's manuals, stickers, pillion footrests, toolkits, battery clamps, batteries in some cases, battery box and Battery for Magnus and Zeal Hi Speed Scooters.

52. For 2021 (models Reo LI, Reo LA, and Zeal), the major imported components were primarily the motor, controller, and battery. However, a wide range of parts were locally procured, including frames, motors, footrests, body panels, tyres, batteries, mirrors, bare assembly components, cables, converters, nuts, bolts, screws, reflectors, and other footrest-related parts, including batteries for Magnus and Zeal Hi Speed scooters.

53. Upon examination of the Bill of Materials (BOM), M/s GEMPL (earlier AVPL) also furnished details of locally procured parts for the period 2016–17 to 2021–22, which showed that initially only minor items were sourced locally, but from 2021 onwards there was a significant increase in local procurement for key components of models such as Reo, Zeal, and Magnus. This included frames, batteries, body parts, motors, rear-view mirrors, and footrests sourced from domestic vendors.

54. The identified local suppliers included Shushant Industries and Elkayem Auto Ancillary Pvt. Ltd. for frames; Ralson India Ltd and Metro Tyres for tubeless tyres; JMJ Industries for body parts such as side panels; Laxmi Balaji Automotive Products for pillion footrests and battery boxes; Fiem Industries Ltd for headlights; and Suprajit Industries Ltd for rear-view mirrors.

55. From January 2022 onwards, M/s GEMPL began procuring major components such as frames, motors, handlebars, and body parts from domestic suppliers. Since these constitute essential parts without which an e-scooter cannot achieve its essential character, imports made from 2022 onwards were excluded from the differential duty computation.

56. However, for the period 2018 to 2021, it appeared that the company imported almost all major components while locally sourcing only minor items such as tyres, screws, nuts, and bolts. Critical components including the motor, controller, converter, body parts, and frame were imported. It was further observed that even if minor components like batteries, tyres, or wheels were locally procured, the Department has taken a view that such imports collectively constituted a complete vehicle for classification purposes, as they impart the essential character of an e-scooter/e-bike in terms of the Explanatory Notes to Chapter 8711 of the Customs Tariff.

57. Statements from key personnel established that prior to the introduction of the FAME subsidy, M/s GEMPL (earlier AVPL) imported all major components from China. Shri Arun Kumar Subramaniam (GM–R&D), in his statement dated 22.12.2021, confirmed that earlier all essential parts—such as motor, controller, battery, converter, frames, suspension, and brakes—were imported. After the FAME subsidy, localization increased, particularly for high-speed models. He further explained that lead-acid chargers were localized, while lithium-ion chargers for low-speed models were imported from M/s Phylion (China) and for high-speed models procured domestically. Similarly, lead-acid batteries for low-speed models were sourced locally (and occasionally from China

during shortages), while lithium-ion batteries were generally imported from Phylion for low-speed models.

58. Shri Subash Iyappan (former Manager, SCM), in his statement dated 04.02.2022, stated that prior to 2019 most components were imported from China due to low sales volumes, which discouraged domestic suppliers. This position was corroborated by Shri Arun Kumar Kandhan (AGM, SCM) in his statement dated 24.12.2021.

59. The investigation also revealed that consignments arriving under the same Import General Manifest (IGM) were deliberately split into multiple Bills of Entry despite arriving on the same vessel. This practice the Department alleges that such splitting was done with intent to avoid proper classification to fragment consignments and conceal the fact that all essential parts of e-scooters were being imported together, thereby misleading Customs authorities during assessment.

60. In terms of volume, out of 405 Bills of Entry filed between 2018 and 2021, 190 were linked to common IGMs. The pattern included instances of 9 Bills of Entry under one IGM (1 case), 7 under one IGM (1 case), 6 under one IGM (1 case), 5 under one IGM (2 cases), 4 under one IGM (4 cases),

3 under one IGM (22 cases), and 2 under one IGM (38 cases), reinforcing the systematic nature of such splitting.

61. The Department has alleged that M/s GEMPL misdeclared imports as "parts of e-bikes" instead of "e-bikes in CKD condition" for multiple reasons. First, under the FAME (Faster Adoption and Manufacturing of (Hybrid &) Electric Vehicles) scheme, subsidies were available only to manufacturers; declaring imports as complete CKD e-bikes would have placed them outside the definition of a manufacturer, making them ineligible for such benefits. Second, CKD e-bikes attracted a higher customs duty compared to parts. Third, declaring goods as complete e-bikes would have resulted in loss of Basic Customs Duty (BCD) exemptions available on specific components like DC motors, controllers, and chargers.

62. The Department relies on import data to support the above allegations that the company imported nearly all components required to assemble complete e-bikes. It was only from 2021 onwards that the company began sourcing some critical components locally for certain e-scooter models.

63. The Department has also placed reliance on Board Circular dated 05.12.1997 to contend that Rule 2(a) would

apply where essential components are imported. The applicability and relevance of the said circular to the present case is examined in the findings portion.

64. Additionally, vehicle manufacturers were instructed to designate a single Customs House as their nodal authority for importing parts, components, or sub-assemblies and to register under the Project Import Regulations, 1986 and declare the parts they will import, the specific ports/airports for import, the locally sourced/manufactured parts, and the assembly location.

65. As per the Licensing Notes to Chapter 87 of the ITC (HS) under the Foreign Trade Policy 2015–2020, import of new vehicles requires submission of specified certificates under the Motor Vehicles Act, 1988, and is restricted to designated ports such as Nhava Sheva, Kolkata, Chennai (sea port and airport), Cochin, ICD Tughlakabad, Delhi Air Cargo, Mumbai Port, Mumbai Air Cargo Complex, and ICD Talegaon (Pune).

66. It was observed that M/s GEMPL (earlier AVPL) violated these requirements by failing to produce the mandated certificates under the Motor Vehicles Act, 1988, and by importing consignments of such kits through non-permitted

locations, including Kattupalli Sea Port, Air Cargo Bangalore, and Air Cargo Coimbatore, contrary to the FTP 2015–2020 licensing provisions. The Appellant disputes the applicability of these provisions, and the same are not determinative of classification under the Customs Tariff.

67. The Department alleged that the Appellant had declared the goods as parts instead of CKD units and that such declaration resulted in lower duty liability. The Appellant has contested these allegations.

68. It was further alleged that certain documents were not produced during investigation. The Appellant has provided explanations in this regard, which are considered in the findings.

69. The Department has summarized its allegations as under: -

a. the features of an e-scooter/e-bike that make it a preferred vehicle, such as low maintenance, environment friendliness, cost-friendliness, and better mileage.
b. The components that impart these **essential characteristics** are:
    i. The **motor** (the key part and prime mover mechanism that requires low maintenance).

ii. The **controller** (the mechanism that utilizes motor movement for motion).

iii. The **converter** (which converts and enhances the power received from the battery).

iv. The **body or the frame** (the exo-skeleton onto which all other parts are affixed).

c. If Completely Knocked Down (CKD) kits are imported consisting of the body/frame (steel and plastic parts), motor, controller, and converter, the kits are deemed to have the **essential characteristics of an e-scooter/e-bike**.

d. From statements recorded under Section 108 of the Customs Act, 1962, proforma invoices, and Bills of Lading, it appeared that M/s. GEMPL had been importing **CKD kits** that included a pre-assembled motor, controller, battery (in some cases), and frame assembly.

e. **Step-by-step details of the modus-operandi adopted by M/s. GEMPL** in the importation and assembly of the CKD (Completely Knocked Down) kits for all models of e-scooters/e-bikes is as follows:

1. The goods were purchased based on Purchase Orders specifying the supply of **all parts of electric scooters in CKD condition**.
2. The goods were supplied in CKD condition, as evident from the **Proforma Invoices and the Bills of Lading**.

3. Vehicles available in China were chosen and imported, and **no designing or R&D was conducted in India**.
4. The post-importation process to get the final e-scooter/e-bike was **just assembly** of the imported goods from China. It involved adding only **insignificant minor items** procured locally, such as fasteners, tyres, and mirrors. **No complicated manufacturing or re-working** of the imported parts was involved.
5. All parts were taken to their factory at Coimbatore for assembling.
6. The CKD kits were imported for **assembling** the e-scooter/e-bike, which is apparent from the quantities of various items in the kits.
7. M/s. GEMPL failed to provide details or evidence of spare parts imported during March 2018 to December 2021, despite being asked.

f. **Rule 2(a) of the General Rules for Interpretation of the Import Tariff** includes the word "incomplete". The rule should not be interpreted to apply only when *all* parts are imported, but rather if the imported items impart the **"essential characteristics"** of the e-scooter/e-bike. The importer, viz. M/s. GEMPL, was required to consider the goods as an e-bike/e-scooter if they possessed this essential character, according to Rule 2(a) of **the General Rules for Interpretation of the Import Tariff**.

g. The import data shows that M/s. GEMPL was importing **almost all parts of e-bike"**. The **Proforma Invoice** clearly mentions that a **full CKD Kit is being supplied**.

h. M/s. GEMPL was **"fully aware"** that what they were importing was e-scooters in CKD condition. The duty on these e-scooters was **"on a higher side"** compared to the duty on parts of electric scooters/e-bikes. Therefore, M/s. GEMPL (Earlier known as AVPL) **knowingly mis-declared the 'e-scooters/e-bikes in CKD condition' as 'parts of electric scooter/e-bike'"** with a clear intention to evade customs duty.

i. **Rule 2(a) of the General Rules for the Interpretation (GIR) of the Import Tariff**. GIR 2(a) stipulates that if parts are imported in CKD condition and they possess the **"essential character of the complete article,"** they must be assessed as the complete article. This rule is **"squarely applicable in this case"**. Even if some minor and easily replaceable items are not imported, the CKD pack is considered to still have the essential character of the complete item. The example given in the HSN Explanatory Notes for Rule 2(a) shows that a bike imported without a tyre, wheels, or battery would **still be classified as a bike in CKD condition** under Chapter heading 8711.In the iinstant case, all the **"essential parts were imported"**, as evidenced by Proforma Invoices, Commercial Invoices, Packing Lists, and statements of various M/s. GEMPL employees.

j. M/s. GEMPL **committed a fraud intentionally after proper planning** and devised a modus operandi deliberately. They sought to cleverly take shield of the clause 'as presented' in Rule 2(a) of General Rules for Interpretation of the Import Tariff" by:

    1. Importing the e-scooter/e-bike in CKD (Completely Knocked Down) kit in **different consignments**; and
    2. **Mis-classifying** the goods under various Customs Tariff Items (CTI) as 'parts' to evade Customs duties.

k. M/s. GEMPL deliberately mis-stated facts in declarations to evade Customs duty leviable under **Chapter heading 8711** (for vehicles) and instead mis-classified the imported goods under **Chapter heading 8714** (as parts of electric scooters). The locally-procured parts (e.g., tyres, fasteners, mirrors, footrest, manuals, tool kits) are minor parts, easily replaceable, and **do not impact or alter the essential character of the imported CKD kits as e-scooter**.

l. M/s. GEMPL **deceived Customs authorities** by wilful mis-statement of facts in the Bills of Entry. Furthermore, they **suppressed the fact** that they were importing the rest of the CKD kit items through **different ports** (Chennai Sea Port, Chennai Air Port, Bangalore Air Port, and Coimbatore Air Port). Fraud vitiates everything. Therefore, the **evaded duty is recoverable** from M/s. GEMPL, and they are **liable for penal action**.

m. M/s. GEMPL failed to follow the prescribed procedure for importing goods. They **artificially split consignments** brought through the same ship/IGM to deceive assessing authorities into believing they were importing only stray parts instead of vehicles in CKD condition. Thereby, they **suppressed the actual description** of the goods from Customs authorities.

n. The investigation found that M/s. GEMPL knew the imported goods were **e-scooters/e-bikes in CKD (Completely Knocked Down) condition**, which are classifiable under **CTI 87116020** (carrying a higher Customs duty rate). This fact is corroborated by the statement of various company employees and documentary evidence like Purchase Orders, Proforma Invoices, and Bills of Lading. The Bills of Lading mentioned the description as e-scooters/e-bikes in CKD condition and the classification as Ch.8711.

o. Despite knowing the correct classification, M/s. GEMPL **deliberately and fraudulently** mentioned the description as "parts of electric scooters" in their Bills of Entry and classified them under **Ch.8714** (Parts of electric scooters).

p. M/s. GEMPL contravened the provisions of **Section 46 of the Customs Act, 1962**.

**Section 28(4) of the Customs Act, 1962, is invokable** for the recovery of duty evaded along with interest, due to **willful mis-statement and suppression of facts**.

q. M/s. GEMPL is liable for a **penalty under Section 114A** of the Customs Act, 1962.

r. The imported goods are considered liable for **confiscation** under Section 111(d) and Section 111(m) of the Customs Act, 1962, on the grounds that the Bills of Entry were not filed in compliance with Section 46 of the Customs Act.

s. Due to their acts of omission and commission,the following entities and individuals are considered liable for penal action under **Section 112(a), Section 112(b), and Section 114AA** of the Customs Act, 1962:

1. M/s. Ampere Electric Vehicles Pvt. Ltd. (Now M/s. GEMPL).

2. Shri. Subash Iyappan (Former Manager, Supply Chain Management of M/s. GEMPL).

3. Shri. Arun Kumar Kandhan (Assistant General Manager, Supply Chain Management, M/s. GEMPL).

4. M/s. Seven Seas Global Express Logistics Pvt. Ltd.

t. The correct Basic Customs Duty (BCD) chargeable on the imported e-bikes/e-scooters (in the condition they were imported) is as follows:

i. **50%** from 12.02.2018 to 28.01.2019.

ii. **15%** from 29.01.2019 to 31.03.2020.

iii. **25%** from 01.04.2020 to 31.12.2022.

The above allegations have been contested by the Appellant and are examined in detail in the findings below.

70. Based on the above investigation, Show Cause Notice dated 17.03.2023 was issued to M/s. Graves Electric Mobility Pvt. Ltd. (Earlier known as M/s. Ampere Vehicles Pvt. Ltd.)

with the proposals to (i) re-classify the impugned imported goods under CTI 87116020 instead of instead of classifying the imported goods in the respective CTIs of each part of an e-bike/e-scooter and or parts of electric scooters under CTH 8714; (ii) confiscate the impugned imported goods having total assessable value of Rs. 166,01,86,795/- under Section 111(d) and Section 111(m) of Customs Act, 1962; (iii) demand and recover the differential duty of Rs. 56,43,93,553/- under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA of the Customs Act, 1962; (iv) deny the benefit of concessional rate of duty availed by M/s. GEMPL (Earlier known as AVPL) by virtue of various Notifications by declaring the goods as parts of e-bike; (v) imposition of penalties upon them under the provisions of Sections 112(a) and 114A of the Customs Act, 1962. Penalties were also proposed to be imposed under Sections 112(a)/112(b) and 114AA of the Customs Act, 1962 on Shri. Arun Kumar Kandhan, Assistant General Manager, Supply Chain Management of M/s. GEMPL (Earlier known as AVPL), Shri Subash Iyappan, Former Manager, Supply Chain Management of M/s. GEMPL (Earlier known as AVPL) and M/s. Seven Seas Global Express Logistics Pvt. Ltd., Chennai.

71. Upon adjudicating after duly following the principles of natural justice, the Commissioner of Customs confirmed all

the proposals in the SCN and also imposed penalties of (i) Rs. 12,00,000/- and Rs. 20,00,000/- under Sections 112(a) and 114AA of the Customs Act, 1962 respectively on Shri. Arun Kumar Kandhan, Assistant General Manager, Supply Chain Management of M/s. GEMPL (Earlier known as AVPL), (ii) Rs. 6,00,000/- and Rs. 10,00,000/- under Sections 112(a) and 114AA of the Customs Act, 1962 respectively on Shri Subash Iyappan, Former Manager, Supply Chain Management of M/s. GEMPL (Earlier known as AVPL) and Rs. 12,00,000/- and Rs. 20,00,000/- under Sections 112(a) and 114AA of the Customs Act, 1962 respectively on M/s. Seven Seas Global Express Logistics Pvt. Ltd., Chennai.

72. The present appeal has been filed against the impugned order-in-original dated 27.01.2024 passed by LAA.

73. The Ld. Authorized Representative Mr. Anoop Singh, for the department supported the impugned order-in-original by reiterating the allegations made in the show cause notice summarized in para 69 *supra*, which has been upheld in the impugned order-in-original.

74. The Advocates Shri T. Viswanathan, Shri Rohan Muralidharan and Ms. Shobhana Krishnan appeared and

argued for the Appellant. Their arguments are summarized hereunder: -

75. The Ld. Advocates submitted that Battery is an essential component of the electric vehicle which is never imported in the same consignment with other parts and components. Therefore, in terms of the decision, *Commissioner of Customs (Port) Kolkata vs. M/s. Twinkle Tradecom Private Limited, [2024 (5) TMI 472 – CESTAT KOLKATA],* the impugned order is unsustainable.

76. The Ld. Advocates further submitted that the impugned Order has noted that *vide* Circular No. 179/11/2022-GST dated 03.08.2022, it can be understood that an electric vehicle retains its classification even in the absence of a battery. In this regard, Appellant submitted that circulars are not binding on courts as administrative circulars and government clarifications cannot override judicial decisions.

77. Referring to the decision in *Commissioner of Customs, New Delhi vs. Sony India Ltd., [2008 (231) ELT 385 (S.C.)],* the Ld. Advocates argued that the sine qua non for the application of GRI 2(a) is that any imported article "as presented", must have the essential character of the complete

or finished article. Admittedly, in the present case, batteries are never imported along with the other components. Therefore, as presented, the goods do not have essential character of an electric scooter and the reclassification under CTH 8711 is incorrect.

78. Referring to *M/s. Battre Electric Mobility Pvt. Ltd. vs. Principal Commissioner of Customs, New Delhi, [2025 (2) TMI 639 - CESTAT NEW DELHI],* Learned Advocates contended that two or more Bills of Entry cannot be taken together and assessed and that there is no provision in the Customs Act to combine the goods imported under more than one Bill of Entry to decide the classification and assess duty.

79. The Appellant challenged the invocation of extended period. They placed reliance on the decision of the Hon'ble Apex Court in *Nizam Sugar Factory, [2006 (197) E.L.T. 465 (S.C.)]* to argue that extended period cannot be invoked in view of previously issued notices by the department.

80. The reliance was placed by the Learned Appellants on *Singh Brothers vs. Commissioner of Customs & Central Excise, Indore, [2009 (14) STR 552 (Tri. -Del.)]* to argue that the issue relates to interpretation of complex entries of notifications and is purely legal in nature and therefore, the

extended period of limitation cannot be invoked. Further, learned advocates relied upon Hon'ble Apex Court's decision in *Densons Pultretaknik v. CCE, [2003 (155) E.L.T. 211 (S.C.)]* to argue that claiming an incorrect classification cannot be held to be a wilful misstatement or misdeclaration sufficient to invoke the extended period of limitation. Relying upon *Northern Plastic Ltd. vs. Collector of Customs & Central Excise, [1998 (101) E.L.T. 549 (S.C.),* Learned Advocates contended that the goods are not liable for confiscation under Section 111(m) as there was no mis-declaration either in respect of value or in any other particular with the entry made under the Customs Act.

81. We have carefully considered the rival submissions advanced by the Learned Authorized Representative for the Revenue and the Learned Counsel appearing for the Appellants, along with the records of the case and the case laws cited by both sides. The principal controversy revolves around whether the goods imported by the Appellant are to be classified as complete e-scooters/e-bikes in CKD condition under CTH 8711 by invoking Rule 2(a) of the General Rules for Interpretation, as contended by the Department, or whether they merit classification as parts/components under their respective tariff headings, as declared by the Appellant.

82. The issues for consideration in this appeal are: -

i. Whether impugned goods imported by Appellant should be considered as individual parts/components classifiable under Chapters 73, 84, 85, 87, 90 as declared by importer, or as complete e-bikes in CKD condition classifiable under CTI 8711.6020, as held by LAA.

ii. In case the goods are classifiable under CTI 8711.6020, whether the demand of duty should be limited to the normal period or the demand of duty should cover extended period also, as done by the LAA.

iii. whether the order of confiscation of impugned goods is correct or not.

iv. whether the order of imposition of penalties on Appellant and Co-appellants is correct or not.

83. Before proceeding to examine the issues framed above, it is necessary to note that the narration in the preceding paragraphs primarily reflects the allegations in the show cause notice and the findings in the impugned order. The same are required to be independently evaluated on the basis of statutory provisions, judicial precedents and facts on record,

without being influenced by the conclusions drawn by the adjudicating authority."

84. On a careful examination of the records, we find a fundamental factual inconsistency in the case set up by the Department. The entire allegation of import of e-scooters in CKD condition proceeds on the premise that all essential components constituting a complete vehicle were imported by the Appellant. However, the documents relied upon by the Department do not establish this proposition. We find considerable force in the submissions of the Appellant that even consignments covered under the same Import General Manifest do not contain all essential components of an electric vehicle. **The Bills of Entry analysis placed on record** demonstrates that various components such as frames, motors, controllers and assemblies were imported in a fragmented manner, without any co-relation on a consignment-wise basis so as to constitute a complete kit. Further, it is evident that battery packs, which are critical for propulsion, were not imported along with such consignments and were procured separately. Despite this, the show cause notice proceeds on a generalized assumption of "complete kits" without identifying the imports in contemporaneous time wherein all critical components were imported together. It is not disputed the crucial part 'Battery' has never been imported

with these kits. The Department has thus failed to establish any co-relation of components so as to form a complete article and instead seeks to build its case on artificial aggregation of disparate imports over a period of time. Such an approach is contrary to the requirement of assessment based on goods "as presented" and renders the very foundation of the allegation unsustainable. Consequently, the goods as imported cannot be said to possess the essential character of a complete electric vehicle.

85. We note that the Appellant has placed on record sample invoices evidencing local procurement of battery packs during the disputed period (Appeal Paper Book, pages 297–298), which clearly establishes that batteries were not part of the imported consignments. Further, it is observed that the Department has not carried out any quantification exercise to demonstrate the number of complete kits allegedly imported or to correlate the availability of essential components, including batteries, on a consignment-wise or period-wise basis. There is no analysis showing the number of vehicles that could be assembled vis-à-vis the number of batteries available. In the absence of such correlation or quantification, the allegation that the imported goods constituted complete kits is wholly unsubstantiated and rests merely on assumptions. This fundamental evidentiary gap strikes at the

root of the Department's case.

86. The Learned Counsel for the Appellant has strongly contended that the very foundation of the Department's case is flawed, inasmuch as Rule 2(a) can be invoked only when the goods, **"as presented"** in a particular consignment, possess the essential character of a complete article. In support of this proposition, reliance has been placed on the judgment of the Hon'ble Supreme Court in *Commissioner of Customs vs. Sony India Ltd.*, reported in ***2008 (231) E.L.T. 385 (S.C.)***, wherein it has been categorically held that classification must be determined on the basis of the goods as presented at the time of import and not on the basis of any intended assembly or post-importation activity. The Learned Counsel further submitted that in the present case, the imports were admittedly made through multiple Bills of Entry at different points of time and, therefore, the Department's attempt to aggregate such imports and treat them as complete CKD kits is contrary to the Customs law.

87. It is well settled that for invoking Rule 2(a), two conditions must be cumulatively satisfied, namely, that the imported goods must possess the essential character of the complete article and that the components must be capable of being assembled by mere assembly operations without

undertaking further working operations. This position is also reflected in adjudication orders dealing with similar classification disputes. In the present case, at least one of the conditions of 'essential character' test is not clearly satisfied.

88. It is well settled that the applicability of Rule 2(a) is fact-dependent and cannot be applied mechanically. The Hon'ble Supreme Court in *Bharat Heavy Electricals Ltd. vs. Commissioner of Customs*, ***1998 (99) E.L.T. 33 (S.C.)***, has held that classification under Rule 2(a) must be determined having regard to the facts of each case and the nature of the goods as presented. Therefore, reliance on decisions rendered in different factual contexts without establishing parity of facts is not legally sustainable.

89. We note that the contention of the Department that the imported goods possess the "essential character" of a complete electric vehicle is found to be wholly untenable when tested against the actual Bills of Entry data placed on record by the Appellant. A detailed analysis of the Bills of Entry vis - a-vis Import General Manifest, filed during the course of hearing before this Tribunal, demonstrates that the imports are highly fragmented and do not, even cumulatively, reflect the presence of all critical components as the battery was found missing. The tabulated data for the years 2018 to 2021

placed before us clearly shows that in a substantial number of consignments, core components such as battery packs, motors, motor controllers, chargers and power control units are observed to be absent. For instance, the Bills of Entry analysis for 2019 and 2020 specifically reveals that several consignments contain only isolated components, while many others contain none of the essential components at all. Further, the Import General Manifest-wise mapping demonstrates that a single IGM is split into multiple Bills of Entry, none of which individually or collectively contain a complete set of essential components. This factual matrix decisively establishes that even at the level of the same vessel or IGM, the imports do not constitute a complete kit.

The concept of "essential character" under Rule 2(a) presupposes that the goods, as presented, must have the identity of the complete article, even if incomplete. However, the data on record demonstrates the exact opposite—what is imported are disparate, unconnected parts spread across multiple consignments, with critical components such as the battery (which is the sole source of propulsion in an electric vehicle) frequently absent. The absence of such indispensable components renders it impossible to attribute the identity of a complete electric vehicle to the imported goods. The Department's approach of selectively aggregating components across time and consignments to artificially reconstruct a

complete product is contrary to the settled principle that classification must be based on goods as presented. Therefore, the essential character test is not satisfied either factually or legally, and the very foundation of invoking Rule 2(a) stands vitiated.

90. The Learned Authorized Representative for the Revenue, on the other hand, has argued that the pattern of imports, supported by documentary evidence such as Bills of Lading and purchase orders, clearly establishes that the Appellant had imported all essential components of e-scooters in a coordinated manner, albeit through multiple consignments, with the intention of assembling complete vehicles. It was contended that such splitting of consignments is a deliberate device adopted to circumvent Rule 2(a), and therefore, the imports must be viewed holistically rather than in isolation. In support of this contention, reliance has been placed on the decision of the Tribunal in *Samay Electronics (P) Ltd. vs. Commissioner of Customs*, reported in ***2015 (328) E.L.T. 238 (Tri.-Mumbai)***, wherein the Tribunal upheld classification of goods as complete articles by considering the cumulative effect of split consignments. However, we find that the reliance placed by the Department on the decision in Samay Electronics is misplaced and distinguishable on facts. In the said case, the Tribunal proceeded on the basis that the

components were imported in correlated quantities and were capable of constituting complete kits, thereby justifying invocation of Rule 2(a). However, in the present case, the factual position is entirely different. The Bills of Entry analysis placed on record clearly demonstrates that the imports are fragmented, lacking any consignment-wise co-relation, and do not contain all essential components required to constitute a complete electric vehicle. Significantly, critical components such as battery packs are admittedly not imported along with the consignments. Even consignments covered under the same Import General Manifest do not contain a complete set of components. In the absence of any evidence of kit-wise import or correlation, the ratio of *Samay Electronics* has no application to the facts of the present case. In any event, the said decision, being a Tribunal ruling, cannot override the binding judgment of the Hon'ble Supreme Court in *Sony India Ltd.*, which mandates that classification must be determined on the basis of goods as presented and not by artificial aggregation of multiple consignments.

91. It is also well settled that decisions on classification under Rule 2(a) turn on their own facts, and no universal principle can be applied across different cases. Therefore, reliance on precedents without demonstrating similarity of facts cannot be a valid basis for classification.

92. We find that the reliance placed by the Department on the CBIC Circular dated 27.02.1997 and subsequent clarifications is misplaced and legally untenable in the facts of the present case. The Circular proceeds on a generalized assumption that where essential components of a vehicle are imported, the same may be treated as a complete article under Rule 2(a), even if certain parts are missing. However, as already discussed, the factual matrix in the present case, as evidenced from the Bills of Entry analysis, clearly demonstrates that even the so-called "essential components" are not imported together, either in the same consignment or even within the same Import General Manifest or in a period of time which is reasonable. Most essential part i.e., Battery packs were not imported along with these so-called CKD kits. Thus, the foundational requirement for invoking the Circular itself is not satisfied.

93. It is well settled that Circulars issued by the Board are binding on the Department but cannot override the statutory provisions or the settled principles of classification under the Customs Tariff. The Hon'ble Supreme Court in *Commissioner of Central Excise vs. Ratan Melting & Wire Industries*, *2008 (231) E.L.T. 22 (S.C.),* has categorically held that Circulars contrary to statutory provisions or judicial pronouncements

have no binding force. Further, the Hon'ble Supreme Court in *Sony India Ltd.* has laid down that classification under Rule 2(a) must be based on goods as 'presented' and that imports across multiple consignments cannot be aggregated to treat them as a complete article. Therefore, to the extent the Circular seeks to justify classification by artificial aggregation or by presuming completeness despite absence of critical components, it cannot be relied upon.

In the present case, the Department has attempted to apply the Circular in a mechanical manner, without establishing that the goods imported satisfy the essential character test. Such an approach not only travels beyond the scope of the Circular but is also contrary to binding judicial precedents. Accordingly, the reliance placed on the Cited Circulars is not acceptable.

94. The Learned Counsel for the Appellant has further relied upon the decision of the Tribunal in *Battre Electric Mobility Pvt. Ltd. vs. Principal Commissioner of Customs*, ***2025 (2) TMI 639 (CESTAT New Delhi)***, wherein the Tribunal concerned with classification of parts of e-scooty and applicability of GRI 2(a) held that two or more Bills of Entry cannot be taken together and assessed and that each Bill of Entry filed in respect of those goods must be independently assessed. There is no provision in the Customs Act to combine the goods

imported under more than one Bill of Entry to decide the classification and assess duty. Accordingly, the Tribunal ruled that the subject goods must be classified under their respective headings.

95. It is settled that the expression "essential character" is not to be equated merely with functional completeness, as held in *Universal Commercial Corporation vs. Collector of Customs*, ***1999 (108) E.L.T. 81 (S.C.)***. However, the determination of essential character must be made having regard to the nature of the product and the component which imparts its primary function.

96. We find considerable force in the submissions of the Learned Counsel for the Appellant that the imported consignments admittedly did not include battery packs, which are essential for propulsion in an electric vehicle. The Department has sought to rely on the HSN Explanatory Notes to Chapter 87 to contend that the absence of certain components does not affect the applicability of Rule 2(a). However, such reliance is misconceived and cannot be sustained in the facts of the present case. The said approach fails to appreciate the fundamental distinction between conventional vehicles and electric vehicles. In the case of electric vehicles, the battery is not merely a component but

constitutes the **primary source of propulsion**, analogous to the engine in an internal combustion engine vehicle. This position is also recognised in the statutory scheme itself, as evident from Entry 531A of Notification No. 50/2017-Cus. dated 30.06.2017, wherein the battery pack is specifically identified as one of the essential components of a CKD kit of electric vehicles. Further, we find that the Tribunal in *Commissioner of Customs vs. Twinkle Tradecom Pvt. Ltd.*, ***2024 (5) TMI 472 (CESTAT Kolkata)***, has held that *in the absence of battery, the imported goods cannot be said to possess the essential character of a complete electric vehicle.* In view of the above, the absence of battery in the present case is a decisive factor which negates the applicability of Rule 2(a). This view is further fortified by the fact that the decision of the Tribunal in *Commissioner of Customs vs. Twinkle Tradecom Pvt. Ltd.*, *2024 (5) TMI 472 (CESTAT Kolkata),* has been affirmed by the Hon'ble Supreme Court, as reported in ***2025 (8) TMI 1491 (S.C.)***, wherein the appeal filed by the Department was dismissed both on the grounds of delay as well as on merits. The affirmation of the said decision by the Apex Court lends further strength to the proposition that in the absence of essential components such as battery, the imported goods cannot be said to possess the essential character of a complete electric vehicle. This view has also been reiterated in *Vani Electric Vehicle Pvt. Ltd.*, *2024 (11)*

*TMI 17 (CESTAT Kolkata),* and *Jade Korea Spine Life*, *2025 (1) TMI 835 (CESTAT Kolkata).* In the case of electric vehicles, the battery is not merely an accessory but the sole source of propulsion.

97. It is true that the expression "essential character" cannot be equated purely with functional completeness; however, the same has to be determined in the context of the nature of the product and its core components. In the case of electric vehicles, the battery being the sole source of propulsion assumes critical importance in determining essential character.

98. Applying the above principles, we find that the test of "essential character" under Rule 2(a) has to be applied strictly to the goods as presented at the time of Imports. In the present case, it is not disputed that batteries were not imported along with other components. In the absence of such a critical component, which is indispensable for the functioning of an electric vehicle, the imported goods cannot be said to possess the essential character of a complete e-scooter. The reliance placed by the Appellant on *Twinkle Tradecom (supra)* and affirmed by the Supreme Court both on delay as well as merits; and other decisions is therefore well founded. **Thus, the 'as presented' test laid down by the Hon'ble Supreme Court in Sony India is not satisfied**.

99. The Explanatory Notes to Rule 2(a) further clarify that the rule applies only where the components are presented for assembly by means of simple fixing devices and not where substantial working or manufacturing operations are required. Where the imported goods require further processing or manufacturing before attaining the final product, they cannot be treated as complete articles under Rule 2(a). The Appellant has submitted that the activities undertaken by them after import go far beyond mere assembly and cannot be termed as "screwdriver technology" as alleged by the Department which remains uncontroverted. According to the appellant, these involve significant technical input and value addition, particularly as critical components like batteries are sourced separately and integrated post-import, that the imported goods cannot be regarded as complete or near-complete vehicles, and the Department's reliance on the concept of "screwdriver technology" is misplaced. However, in the present case, the appellant has admitted that all the components were assembled except for Battery packs, tyres, mirrors, *etc.,* which were procured locally. We find there is no major working operations on the imported goods at least in the initial two to three years. No finding is required to be given on this as the essential test has failed for invoking Note Rule 2(a).

100. We also find that the entire case of the Department is premised on an inference drawn from the pattern of imports and post-importation assembly. However, such an approach is contrary to the settled legal position that classification must be determined at the time of import and not on the basis of subsequent use or assembly. The Hon'ble Supreme Court in *Sony India Ltd. (supra)* has clearly held that post-importation events are irrelevant for classification which reads as follows:-

> *"6: The classification of imported goods has to be determined on the basis of the goods as presented at the time of importation. The test under Rule 2(a) of the General Rules for Interpretation is whether the incomplete or unfinished article, as presented, has the essential character of the complete or finished article. The rule cannot be applied on the basis of post-importation assembly or use.*
>
> *7: Where goods are imported in separate consignments over a period of time, they cannot be clubbed together to treat them as a complete article. Each consignment must be assessed independently, and classification cannot be based on intended assembly or cumulative effect of multiple imports."*

We find that the Supreme Court in Sony India Ltd. holds that Rule 2(a) applies only to goods "as presented" in a single consignment and prohibits aggregation of multiple imports for classification purposes.

**INVOCATION OF EXTENDED PERIOD:**

101. Coming to the issue of limitation, we find that the Learned Counsel for the Appellant has strongly contended that

the demand is barred by limitation, both on account of the interpretational nature of the dispute as well as the complete disclosure of all material particulars at the time of import. It has been submitted that the classification adopted by the Appellant was consistently declared in the Bills of Entry, which were duly assessed by the Department, and that there was no suppression or misstatement of any fact. It is further contended that the issue involved pertains to the applicability of Rule 2(a) of the General Rules for Interpretation and the correct classification of imported goods, which is a matter of legal interpretation and has been the subject matter of divergent judicial views. In support of this contention, Appellant has placed reliance on the judgments of the Hon'ble Supreme Court in *Nizam Sugar Factory vs. CCE*, *2006 (197) E.L.T. 465 (S.C.), Densons Pultretaknik vs. CCE*, *2003 (155) E.L.T. 211 (S.C.),* and *Northern Plastics Ltd.*, *1998 (101) E.L.T. 549 (S.C.)*, to contend that extended period cannot be invoked in cases involving bona fide classification disputes.

102. During the course of hearing, the Learned Counsel for the Appellant brought to our notice that the Department had, in fact, issued two separate Show Cause Notices covering substantially overlapping periods on the very same issue. It was submitted that the first Show Cause Notice was issued invoking only the normal period of limitation and has already

been adjudicated, against which an appeal is presently pending before this Tribunal, whereas the second Show Cause Notice, issued subsequently, invokes the extended period of limitation and is still pending adjudication. Though this aspect was not brought on record by the Appellant at the earlier stages of hearing, once placed before us, it assumes considerable significance. The issuance of the earlier Show Cause Notice on the same set of facts clearly demonstrates that the Department was fully aware of the nature of imports, the classification adopted by the Appellant, and the entire factual matrix surrounding the transactions. In such circumstances, the subsequent allegation of fraud, suppression or wilful misstatement, for the purpose of invoking the extended period under Section 28(4), cannot be sustained and appears to be nothing but an afterthought. The details of the SCN's issued on identical issues are tabulated below: -

| S. No. | SCN No. & Date | Issuing Authority | Period Covered | Duty Demand | Issue Involved | Extended Period |
|---|---|---|---|---|---|---|
| 1 | SCN No. 34/2020 dated 31.12.2020 | SIIB, Chennai | 31.03.2018 – 19.05.2020 | ₹2.54 Cr | Classification under 8714 10 vs 8714 91 | No. (Sec 28(1)) |
| 2 | F.No.04/2021-22 dated 07.11.2022 | Chennai Customs | 06.11.2017 – 27.04.2020 | ₹2.20 Cr | Same classification dispute (parts vs parts sub-heading) | YES (Sec 28(4)) |
| 3 | SCN No. 26/2023 dated 17.03.2023 (Impugned SCN) | DRI / Customs | 20.03.2018 – 31.12.2021 | ₹56.43 Cr | CKD classification under 8711 via GRI 2(a) | YES (Sec 28(4)) |

Appellant contended that the conduct of the Department in issuing successive notices on the same facts further reinforces the absence of any intent to evade duty.

103. *Per Contra*, the Learned Authorized Representative has, however, contended that the Appellant deliberately mis-declared the goods as parts and suppressed the fact that complete CKD kits were being imported. We are unable to accept this contention. It is an admitted position that all imports were made through duly filed Bills of Entry, which were subjected to assessment by the Department. The classification adopted by the Appellant was thus within the knowledge of the Department at all relevant times. There is no material on record to indicate that the Appellant withheld any information or made any false declaration. The dispute, in essence, is one relating to the interpretation of Rule 2(a) and the applicability of tariff headings, and cannot be elevated to a case of suppression or fraud merely because the Department has taken a different view at a later point in time.

104. We find that the Appeal records clearly demonstrate a progressive localisation of key components. It is an admitted

position that batteries were not imported as part of the subject consignments and were either imported separately or procured domestically, with a substantial shift towards localisation post April 2020. The Department has failed to establish any correlation between the number of batteries and the number of vehicles allegedly imported in CKD condition. There is no quantitative analysis demonstrating that complete kits existed at any point in time.

105. We find that the law in this regard is well settled by the Hon'ble Supreme Court in *Nizam Sugar Factory vs. Commissioner of Central Excise*, *2006 (197) E.L.T. 465 (S.C.)* (para 9), wherein it has been categorically held that once the Department is in possession of the relevant facts, it is not open to them to invoke the extended period repeatedly on the same set of facts by alleging suppression. The principle laid down therein squarely applies to the present case. The issuance of successive Show Cause Notices on identical facts, first invoking the normal period and thereafter invoking the extended period, clearly negates the allegation of suppression. In such circumstances, the invocation of extended period is legally impermissible.

**CONFISCATION AND REDEMPTION FINE:**

106. Coming to the issue of confiscation and imposition of redemption fine, we find that the Revenue has placed reliance on the judgment of the Hon'ble Madras High Court in *M/s. Visteon Automotive Systems vs. Commissioner of Customs* (CMA No. 2857 of 2011 dated 11.08.2017) to justify imposition of redemption fine. However, we find that such reliance is wholly misplaced in the facts of the present case. The issue relating to imposition of redemption fine in the absence of goods is no longer res integra. The Hon'ble Supreme Court in *Commissioner vs. Finesse Creation Inc.*, ***2010 (255) E.L.T. A120 (S.C.)***, while upholding the decision of the Hon'ble Bombay High Court, has categorically held that redemption fine under Section 125 of the Customs Act can arise only when the goods are available for redemption, and where the goods are not available, the question of confiscation and consequently redemption fine does not arise. The Apex Court has clearly observed that once the goods cannot be redeemed, no fine can be imposed.

In the present case, it is not in dispute that the goods are not available for confiscation, having already been cleared and not being under any legal obligation to be produced. Further, the

goods in question are neither prohibited nor restricted goods. In such circumstances, the very basis for imposition of redemption fine fails.

This position is also supported by the decision of the Hon'ble Supreme Court in *Weston Components Ltd. vs. Commissioner of Customs*, ***2000 (115) E.L.T. 278 (S.C.)***, and the Larger Bench decision of the Tribunal in *Shiv Kripa Ispat Pvt. Ltd. vs. Commissioner of C. Ex. & Cus., Nasik*, ***2009 (235) E.L.T. 623 (Tri.-LB)***, wherein it has been consistently held that confiscation cannot be sustained where the goods are not available and, consequently, redemption fine is not imposable. In view of the above settled legal position, we hold that though the goods may have been held liable for confiscation, in the absence of their availability, confiscation cannot be sustained and consequently, the redemption fine imposed is liable to be set aside.

107. In view of the above findings on limitation, and more importantly on merits, we are of the considered view that the very foundation for imposition of penalty under Section 114A of the Customs Act, 1962 also collapses, as the said provision is attracted only in cases involving fraud, suppression or wilful misstatement with intent to evade duty. In the present case, as discussed above, the entire dispute arises out of a bona fide difference of opinion on classification and interpretation of

Rule 2(a), and there is no material to establish any deliberate intent to evade duty. The Appellant has consistently declared the nature of goods in the Bills of Entry, and the same were assessed by the Department. The conduct of the Appellant is therefore consistent with bona fide belief and transparency, and does not warrant imposition of any penalties.

108. It is well settled that penalties cannot be imposed in cases involving interpretational disputes or where the issue is one of classification. The Hon'ble Supreme Court in *Northern Plastics Ltd. vs. Collector of Customs*, *1998 (101) E.L.T. 549 (S.C.),* has held that in the absence of misdeclaration or deliberate intent, confiscation is not justified. Similarly, the Hon'ble Supreme Court in *Densons Pultretaknik* has held that mere misclassification does not amount to suppression so as to justify penal action. Applying these principles to the present case, we find that neither confiscation under Sections 111(d) and 111(m), nor imposition of redemption fine, nor penalties under Sections 112, 114A and 114AA can be sustained. Once the demand itself fails on merits as well as on limitation, all consequential actions must necessarily fail. Accordingly, the confiscation of goods, imposition of redemption fine and penalties are liable to be set aside in Toto.

109. In view of the above discussion and findings, all the

issues in this case are decided in favour of the Appellants and against the Revenue and the impugned order is set aside.

110. Accordingly, the appeals filed by the Appellants are allowed with consequential benefits as per Law.

(Order pronounced in open court on 04.05.2026)

Sd/-
**(VASA SESHAGIRI RAO)**
MEMBER (TECHNICAL)

Sd/-
**(P. DINESHA)**
MEMBER (JUDICIAL)

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