CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH - COURT NO. III

E-Hearing

Customs Appeal No.55862 of 2023

[Arising of Order-in-Original No.18/VC/COMMR/Continental Automotive/ICD-PPG/2023-24 dated 15.09.2023 passed by the Commissioner of Customs,(ICD PPG & Other ICDs), New Delhi]

M/s. Continental Automotive Brake Systems India Private Limited,
[Now Continental Automotive Components (India) Private Limited],
Plot No.179-180, Sector-5, IMT,
Manesar, Gurugram, Haryana. **...Appellant**

Versus

Commissioner of Customs, Patparganj,
ICD Patparganj & other ICDs,
Patparganj, New Delhi. **...Respondent**

Appearance:
Present for the Appellant : Ms. Priyanka Rathi and Shri Chandrasekaran, Advocates
Present for the Respondent: Shri Shiv Shankar, Authorised Representative.

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO.50763/2026

Date of Hearing:02.04.2026
Date of Decision:22.04.2026

BINU TAMTA:

1. M/s. Continental Automotive Brake Systems (India) Private Limited [1] has assailed the Order-in-Original [2] denying the benefit of concessional rate of customs duty in terms of Notification No.50/2017-Cus dated June 30, 2017, as amended and re-classifying the goods, Pressure Transducers/Sensors under Tariff Item No.90318000. Accordingly, the demand and recovery of duty amount was confirmed

[1] The Appellant
[2] 18/VC/COMMR/CONTINENTAL AUTOMOTIVE/ICD-PPG/2023-24 dated 15.09.2023

along with interest under Section 28AA and penalty under Section 112(a)(ii) of the Customs Act, 1962.

2. The appellant is engaged in the manufacturing of Anti-lock Brake Systems[3] /Electronic Accepted Control System[4] and brake sensors, which are supplied to automobile manufacturers in India. For manufacturing these systems, the appellant imported the following components during the period 1.4.2021 to 30.09.2022:-

1. ABS Motors	CTH85013119
2. MK 100 MAB Motors	
3. Pressure Transducers/Sensors	CTH 90318000
4. Brake Light Sensors	

3. The appellant availed concessional rate of basic customs duty under Sl.No.485A and 581B of Notification No.50/2017-Cus, as amended, on the ground that the imported goods were components used in the manufacture of ABS/MAB/ECS and not directly usable in the motor vehicles.

4. Pursuant to amendment made vide Notification No.21/2021-Cus dated 31.03.2021, the Directorate of Revenue Intelligence (DRI) alleged that the imported goods were "suitable for use" in motor cars and motorcycles and hence excluded from the scope of the exemption. Show cause notice dated 24.03.2023 was issued proposing denial of exemption and recovery of differential duty for 179 Bills of entry.

5. On adjudication, the Commissioner was of the view that the goods imported by the appellant being part of the part, which is used in

[3] ABS
[4] ECS

the manufacturing of automobiles is not entitled to exemption under Notification. The demand of differential customs duty amounting to Rs.7,24,38,749/- was confirmed under Section 28(1) of the Act along with interest and penalty. The classification of Pressure Transducers/Sensors was upheld under CTH 90318000, which provides a description more akin to Pressure Transducers/Sensors. Being aggrieved, the appellant has preferred the present appeal.

6. Heard Ms. Priyanka Rathi and Shri Chandrasekaran, Advocates for the appellant and Shri Shiv Shankar, Authorised Representative for the respondent/Department.

7. The submission of the learned counsel is that the appellant had imported DC motors, which is used in ABS systems, but the motors being of general use are "capable of being used" in other industrial units. The learned counsel negated the application of the principle that "a part of a part is a part of the whole" on the basis that the classification of the imported part should be as parts/motor cycle classifiable under CTH 8708, however, the motors imported are classified under CTH 8501. The submission is that the essential characteristic of the goods is to function as an electric motor and hence the same cannot be classified as a part of the motor vehicle under Chapter 8701. Learned Counsel has also argued that the concept in the notification "suitable for use" has not been defined under the notification, however, it has been interpreted in the decision of the Tribunal in **Cellulose Products of India Ltd. Vs. Collector of Central Excise, Vadodara** [5] to mean, "actually, practically, commercially fit for such use. Learned counsel has also referred to the decision in the case of **Quick International Vs. Commissioner of**

[5] 1996 (82) ELT 147 (Tri.-Del.

Customs, Calcutta[6], where the words ”suitable“ has been interpreted to mean, “capable of being used”. According to her, the goods imported by the appellant are neither “actually, practically” nor “commercially” capable of being used in a motor vehicle and it becomes useable only upon incorporation into the ABS. In the context, learned Counsel relied on the principle that assessment of duty has to be determined at the time of import in the form and condition the goods are presented to Customs Authorities. Subsequent use of the imported goods has no bearing on the classification of the duty liability /exemption. Reliance has been placed on the decision in the case of **Commissioner of Customs, New Delhi Vs. Stonex India Pvt. Ltd. Vs. CC, Mundra**[7], **Dunlop India Ltd. & Madras Rubber Factory Ltd. Vs. Union of India**[8]**.** In nutshell the submission of the appellant is that at the time of import, the goods are “not suitable” for use in motor vehicles/cars. The goods are actually used to manufacture ABS, which are then sold to automobile cars and therefore, the appellant rightly claimed the benefit under the notification. On the issue of classification of Pressure Transducers/Sensors, the learned Counsel submitted that the product imported is classifiable under CTH 90262000. The Department cannot classify the same under CTH 9031, which is a residuary entry for “measuring or checking instruments, appliances or machines not specified or included elsewhere in this Chapter, profile projectors”. Also that HSN Entry Notes 9031 excludes articles of 9026. Reliance has been placed on the decision of the **AAR** in the case of **Mahindra & Mahindra Ltd.**[9] classifying the Pressure Transducers/Sensors under sub-heading 90262000.

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[6] 2001 (131) ELT 471 (Tri.-Cal)
[7] 2024 (25) Centax 359 (Tri.-Ahmd.)
[8] 1983 (13) ELT 1566 (SC)
[9] (2024) 16 Centax 431 (AAR-Cus-Mum)

8. The learned Authorised Representative for the Department extensively supported the findings of the Adjudicating Authority and prayed that the appeal needs to be rejected.

Analysis

9. The entitlement of the appellant to avail the benefit of the concessional rate of customs duty under S.No.485A and 581B of Notification No.50/2017–CUS dated June 30, 2017 (as amended) centres around the interpretation of the words of the notification, "suitable for use in". The relevant entries, (S.No.485 A and 581B) of the notification are reproduced herein below:-

S. No.	Chapter or Heading or Sub heading or tariff item	Description of goods		Standard rate
		Pre-amendment (before 01.04.2021)	Post-amendment(w.e.f. 01.04.2021)	
485A	8501 10, 8501 2000, 8501 31, 8501 32, 8501 33, 8501 34, 8501 40, 8501 51, 8501 52, 8501 53	All goods	All goods other than those suitable for use in- (i)motor vehicles falling under heading 8702 or 8704; (ii)motor cars falling under heading 8703; or (iii)motor cycles falling under heading 8711	10%

S.NO.	Chapter or Heading or Sub heading or tariff item	Description of goods		Standard rate
		Pre-amendment (before 01.04.2021)	Post-amendment(w.e.f. 01.04.2021)	
581B	9031 8000	All goods	All goods other than those suitable for use in- (i)motor vehicles falling under heading 8702 or 8704; (ii)motor cars falling under heading 8703; or (iii)motor cycles falling under heading 8711	7.5%

From the description of goods under the two entries, it is apparent that concessional rate of duty is not applicable for the goods suitable for use in motor vehicles falling under CTH 8702, motor cars falling under CTH 8703 and motor cycles falling under CTH 8711. The term "suitable for use" has been considered by the Tribunal in the case of **Cellulose Products of India Limited**, which is subsequently followed in the case of **Indu Nissan Oxo Chemical Industries Ltd**. **Vs. CCE & C, Vadodara**[10]**.** In **Cellulose Products of India Ltd.,** the Bench took the view that it has been judicially determined to mean actually, practically and commercially fit for the use described. The Bench referred to the decisions of **US Customs** cases, where it has been held that for an item to be suitable for a particular purpose within meaning of the Tariff Act, the merchandise need not be used for a stated purpose, but there must be evidence of more than a casual, incidental, exceptional, or possible use, the use must be substantial. More plausible reasoning given by the Tribunal in the case of **Quick International** is that the word "suitable" shall be interpreted to mean "capable of being used" and, therefore, held that when the impugned cassettes are capable of being used in S–VHS type of VCR, it shall be construed that the same are suitable for use with such type of VCR.

10. The basic contention of the appellant is that imported goods are not directly usable in the automobile and cannot function independently as they are incorporated with all other components required to manufacture a complete ABS, MAB and ECS, which are then supplied to the consumers in manufacture of two or four wheelers. We are not convinced with the argument raised by the appellant, firstly for the

[10] 1998 (101) ELT 201 (Tri.-Bom.)

reason that we are concerned with the interpretation of the phrase "suitable for use" under the exemption notification and the principle for interpretation thereof requires that it has to be construed strictly. The term used in the notification is simple and unambiguous that the goods other than those suitable for use in motor vehicle and not that it has to be used directly in the motor vehicle. If the intention of the legislature was to exclude only those goods which were to be used directly in motor vehicles, nothing restrained them from providing the expression, 'all goods other than those directly for use in motor vehicles', however such an expression would have given a very narrow and restricted operation but since the legislature intended to give a broad expression to exclude all sorts of goods which are suitable/capable for use in motor vehicles, the phrase has deliberately used the word "suitable". It is a settled principle of law as affirmed by the Constitution Bench of the Apex Court in **Commissioner of CUS (Import), Mumbai versus Dilip Kumar & Co.** [11] that the exemption notification has to be construed strictly and the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification and in the event of ambiguity in exemption notification, which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the assessee and it must be interpreted in favour of the Revenue. We, therefore, cannot restrict the operation of the exclusion clause by incorporating the word "directly" which has not been used in the Notification.

11. We may now consider the principle "part of part is a part of a whole" and whether the same is applicable in the context here. The undisputed fact is that appellant is engaged in manufacturing of

[11] 2018 (361) ELT 577 (SC)

electronic breaking system and brake sensor, which are further used in manufacture of vehicles. The appellant has imported the goods in question with the sole purpose of using the same in the manufacture of ABS, which is specifically used in the motor vehicles to improve braking performance and prevent accidents and are supplied to customers, who use them in manufacture of four wheelers or two wheelers. The important facts with reference to anti-lock breaking system as enumerated by the appellant are:-

> "●While a vehicle is moving at fast speed or turns, and emergency brakes are applied, the brake pads can get locked with the wheels resulting in the tyres losing grip on the road. Further, the brakes may not apply uniformly on all wheels resulting in wheels rotating at different speeds. During turns, the inner wheels need to travel less distance as compared to outer wheels thereby requiring unequal braking. In all such cases, locking of wheels or unequal braking or wheels running at different speeds can cause the vehicle to skid or swivel thereby resulting in accident accidents
>
> ●To minimize human intervention and prevent accidents arising from possible human errors, apart from improvisation in the braking system per se, additional security measures have been developed with advancement in technology to stabilize the vehicle by automatically controlling under/over braking and under/over steering to prevent skidding /swivelling etc. This is achieved through ABS which inter-alia comprises of following main elements:

12. The appellant in their reply dated 17.11.2021 admitted that the imported automotive parts i.e. ABS Motor, Motor MK 100, brake light sensor and pressure sensor are used in the manufacture of automobile parts, namely ABS and ESC, which are further used in motor vehicles and cars classifiable under Tariff Heading 8703 and 8711 of CTH. The Manager of the appellant company, Shri Narendra Singh also admitted in his statement dated 7.03.2022 that the product "MK 100 MAB–ABS" provides improved brake control and thereby ensures more driving

safety through an optimised deceleration. The catalogue obtained from their website specifically mentioned that goods "MK 100 MAB" was a solution for two wheeler falling under tariff 87141090, which is suitable for use in motorcycles falling under tariff 8711. It is also a fact that automotive companies were placing orders for these products from the appellant for specific purpose of manufacturing motor vehicles. Thus it is evident that the goods imported were parts of ABS which is an important component/part of motor vehicle and therefore, it falls within the exclusion clause under the Notification "being suitable for use in the motor vehicle".

13. We may refer to the decisions cited at the bar. The learned Authorised Representative for the Department has relied on the decision of this Tribunal in the case of **Lapp India Private Ltd**. **Vs. Commissioner of Central Excise & ST (Appeals), Bangalore**[12] where the appellant had cleared power cables to various windmill projects at 'nil' rate of duty by availing the exemption Notification No. 6/2002-CE dated March 1, 2002, however, the stand of the Revenue was that the appellant is not entitled to the benefit thereof. The Tribunal held that the power cables were meant for control application Supervisor Control and Data Acquisition and therefore, they were parts of Wind Operated Electricity Generators. Hence the appellant was held to be entitled to the benefit of notification.

14. Similarly, the Apex Court in **CCE., Nagpur versus Hyundai Unitech Electrical Transmission Ltd.**[13] dealt with the issue as to whether windmill doors and electrical boxes are components and or parts of wind operated electricity generators and held that the windmill doors or tower doors are safety device, which is used as security for

[12] 2018 (363) ELT 383 (Tri.-Bag.)
[13] 2015 (323) ELT 220 (SC)

high voltage equipment, fitted inside the towers, preventing unauthorised access and preventing entries of reptiles, insects, etc. inside the towers and accordingly, they were held to be parts of the electricity generators.

15. The controversy in the case of **Pushpam Forging versus Commissioner of Central Excise, Raigard**[14] is more identical to the facts of the present dispute. The Tribunal noted that MS Flanges are parts of windmill tower which inturn is part of Wind Operation Electricity Generators and therefore, flanges are part of WOEG and the appellant is entitled to the benefit of Notification No.6/2000-CE. The relevant paragraph of the decision is quoted below:-

> **"2.2** Once tower is accepted and found and held to be part of Wind Operational Electric Generator (WOEG for short) it is to be held that part i.e. flange of this part i.e. tower will be part of the whole i.e. Wind Generated Mill producing electricity from unconventional services. Every devices/systems part in this case having been specifically designed for that purpose in mind. That part of part is part of whole is well settled, relying upon [*CCE* v. *Mahendra Engineering Works* - 1993 (67) E.L.T. 134 followed in *Bensel Industrial Corporation* - 2000 (118) E.L.T. 119]. We find the 'flanges' to be a part of WOEG.
>
> **2.2.** The restriction being given to the exemption as part of the tower by reading Sr. No. 20 of lists, only on the grounds that flanges were not eligible since they were not consumed in the factory of production for the manufacture of tower has to be considered with the fact that tower of a Wind Mill being huge structures would only came into existence in the factory of manufacture as a design & in fact they would arise only infact at site after assembly using the flanges. Consumption at site in tower is not questioned on facts nor it can be said that flange is not used where the tower came into existence. The concept of interpretation of "consumed in factory of production" & limiting the same to the Central Excise registered premises of the appellants herein & deprive the use at site cannot be upheld.
>
> **2.3** In any case, the flange being part of tower which is Essential Component of Wind Operated Electrical Generator, an unconventional energy service device, would be eligible under Sr. No. 5 if not under 20 as part of Sr. No. 1 to 19. Coverage is also to be available under Sr. No. 13 of list 5."

[14] 2006 (193) ELT 334 (Tri-Bom)

16. In **HAL Transport Aircraft Division versus Principal Commissioner of Customs, New Delhi**[15], we considered the issue of availing the benefit of the notification on the import of fire extinguisher and their parts by claiming them as parts of aircraft for concessional duty rates. After considering several decisions, the matter was remanded to the Adjudicating Authority to decide the issue in light thereof. Though the said decision was specifically with reference to the equipments which were used exclusively as part of a specific aircraft and has been designed and developed to meet the governing specification and, therefore, the same is to be considered as a part of the aircraft, whereas the DG motors imported by the appellant were of general use but the fact remains that the wording used in the notification are specific to the 'suitability' of the goods for motor vehicles which cannot be denied as the appellant has been using them for the purposes of manufacturing parts of motor vehicles and, therefore, the same would be covered under the notification. Resultantly, the benefit of the concessional rate of duty would not be applicable to the goods imported by the appellant.

17. Agreeing with the decision of the Tribunal in **Quick International,** we are of the view that the goods imported by the appellant are capable of being used in motor vehicles in terms of the notification.

18. The decision cited by the learned Counsel for the appellant in case of **Hero Electric Vehicles Private Limited versus Commissioner of Customs, Ludhiana**[16] , the issue for consideration was whether DC motor imported was classifiable under tariff item 8501 31 19 or under Tariff Item 8714 10 90, and it is in that context, it was concluded that the essential character of the goods was that of a motor

[15] 2026 (39) Centax 358 (Tri-Del)
[16] 2018 (364) ELT 1090 (Tri.-Chandigarh)

and hence same merits classification under Tariff Item 8501 31 19, as classified by the appellant therein. The classification of DC motors is not in issue and the decision, therefore, has no applicability in the present case, which has to be decided with reference to the contents of the notification granting or excluding the benefit of concessional rate of duty.

19. We may now consider the challenge to the classification of the goods, namely pressure transducers/sensors - whether the same would fall under CTH9026 as claimed by the appellant or under CTH9031 as classified by the Revenue. The contesting entries are quoted below:-

> **"9026 INSTRUMENTS AND APPARATUS FOR MEASURING OR CHECKING THE FLOW, LEVEL, PRESSURE OR OTHER VARIABLES OF LIQUIDS OR GASES (FOR EXAMPLE, FLOW METERS, LEVEL GAUGES, MANOMETERS, HEAT METERS), EXCLUDING INSTRUMENTS AND APPARATUS OF HEADING 9014, 9015, 9028 OR 9032 9026 10**
>
> - For measuring or checking the flow or level of liquids:
>
> 9026 10 10 Flow meters u
> Free
>
> 9026.10 20-Level gauges u
> Free
>
> 9026 10 90- Other u
> Free
>
> **9026 20 00 For measuring or checking pressure u**
> **Free**
>
> 9026 80-Other instruments or apparatus:
>
> 9026 80 10 Heat meters u
> Free
>
> -9026 80 90 Other u
> Free
>
> -90269000-Parts and accessories u
> Free
>
> **CTH of 9031**
>
> **9031 MEASURING OR CHECKING INSTRUMENTS, APPLIANCES AND MACHINES, NOT SPECIFIED OR INCLUDED ELSEWHERE IN THIS CHAPTER; PROFILE PROJECTORS**

9031 1000-Machines for balancing mechanical parts	u	7.5%
-9031 20 00-Test benches	u	7.5%
--Other optical instruments and appliances:		
9031 41 00 For inspecting semiconductor wafers or devices (including integrated circuits) or for inspecting photomasks or reticles used in manufacturing semiconductor devices (including integrated circuits	u	Free
-90 9031 49 00-Other	u	7.5%
-9031 80 00-Other instruments, appliances and machines	**u**	**15%**
9031 90 00-Parts and accessories	u	7.5%”

20. According to the appellant, pressure transducers/sensors, measure hydraulic brake fluid pressure and hence are covered under CTH9026 2000. In this regard, we take note of the observations made by the Adjudicating Authority that the importer himself have been classifying the impugned goods under CTH90318000 through self-assessed pressure Transducer/sensors in all the bills of entry and hence there is no reason as to why the said classification should be changed at this stage, which is not even the subject matter in the show cause notice. We find from the contents of the show cause notice that the Adjudicating Authority was right in saying that classification of pressure transducers/sensor under the CTH 90318000 is not in dispute. The claim of the appellant that they have been classifying the same under 9026 2000 since January, 2023 and the Revenue has not disputed, does not entitle them to claim the said classification during the period in question i.e., 1.04.2021 to 30.09.2022. Reliance has been placed by the learned Counsel on the decision in the case of **Mahindra and Mahindra Limited**, which decided the issue of classification of Tire Pressure Monitoring, Sensors and Differential Pressure Sensors under CTH90262000, however, in view of the peculiar facts as stated above,

we are not inclined to classify the goods as claimed by the appellant. Hence, we accept the findings of the Adjudicating Authority in this regard.

21. The challenge is also to the levy of interest and penalty on IGST on the ground that prior to 16.08.2024, no interest and penalty could be levied on the IGST under the Customs Act. This issue has been decided by the Bombay High Court in **A.R. Sulphonates Pvt. Ltd. Vs. Union of India**[17] holding that provisions of Section 3(12) after its amendment by Finance Act, 2024 dated August 16, 2024, providing for levy of interest and penalties to integrated tax is prospective in nature and therefore, the same would be applicable only from August 16, 2024 onwards. We accordingly, hold that no interest and penalty shall be leviable on the demand towards differential IGST. Therefore, interest and penalty has to be calculated ignoring interest and penalty on integrated tax.

22. On merits, there is no reason to interfere with the impugned order and the duty liability along with interest and penalty is hereby affirmed, however, no interest and penalty is leviable on the integrated tax for the period prior to 16.08.2024. The present appeal is, accordingly partly allowed, as stated above.

[Order pronounced on 22nd April, 2026]

(BINU TAMTA)
MEMBER (JUDICIAL)

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

Ckp.

[17] (2025) 29 Centax 212 (Bom.)