CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHENNAI

REGIONAL BENCH – COURT No. I

Customs Appeal No. 40683 of 2023

(Arising out of Order-in Original No. 102836/2023, dated 17.07.2023 passed by the Commissioner of Customs, Chennai II (Import), Custom House, No.60, Rajaji Salai, Chennai 600 001)

M/s. Toyota Kirloskar Auto Parts Private Limited **...Appellant**
Plot No.21, Bidadi Industrial Area, Bidadi
Ramanagara District
Karnataka 562 109

Versus

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

WITH

Customs Appeal No.40684 of 2023

(Arising out of Order-in Original No. 102836/2023, dated 17.07.2023 passed by the Commissioner of Customs, Chennai II (Import), Custom House, No.60, Rajaji Salai, Chennai 600 001)

Shri Vijaya Shettigar **... Appellant**
Manager, Production Control and Logistics
Plot No.21, Bidadi Industrial Area, Bidadi
Ramanagara District
Karnataka 562 109

Versus

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

WITH

Customs Appeal No.40685 of 2023

(Arising out of Order-in Original No. 102836/2023, dated 17.07.2023 passed by the Commissioner of Customs, Chennai II (Import), Custom House, No.60, Rajaji Salai, Chennai 600 001)

Shri. K.N. Prasad **... Appellant**
Managing Director
Plot No.21, Bidadi Industrial Area, Bidadi
Ramanagara District
Karnataka 562 109

Versus

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

AND

Custom Appeal No. 40798 of 2023

(Arising out of Order-in Original No. 102836/2023, dated 17.07.2023 passed by the Commissioner of Customs, Chennai II (Import), Custom House, No.60, Rajaji Salai, Chennai 600 001)

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

Versus

M/s. Toyota Kirloskar Auto Parts Private Limited **... Respondent**
Plot No.21, Bidadi Industrial Area, Bidadi
Ramanagara District
Karnataka 562 109

APPEARANCE:

Shri T. Viswanathan, Advocate for the Appellant
Shri Rohan Muralidharan, Advocate for the Appellant
Shri Yogesh, Advocate for the Appellant

Shri C.Dhanasekaran, Authorised Representative for the Respondent

CORAM:
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER Nos.40909-40912/2026

DATE OF HEARING:27.02.2026
DATE OF DECISION:27.07.2026

Per Mr. AJAYAN T.V.

These four appeals arising out of the same Order-in Original No. 102836/2023, dated 17.07.2023 passed by the Commissioner of Customs, Chennai II (Import), Chennai (impugned order), being interconnected and involving common issues, are therefore heard together and are disposed of by this common order.

BRIEF FACTS

2. The relevant facts are that M/s Toyota Kirloskar Auto Parts Private Limited (hereinafter referred to as 'TKAP'), having their Registered Office at Bidadi, Ramanagara District, Karnataka, is a joint venture of Toyota Motor Corporation, Japan (TMC, Japan), Aisin Seiki Co. Ltd, Japan (Aisin, Japan) and M/s Kirloskar Systems Limited, India

(Kirloskar, India). TKAP is engaged, *inter-alia,* in the manufacture of automobile parts, namely, "Transmission/Transaxles" commonly known as Gear Boxes and "Rear Axle Assemblies with Differential" commonly known as Read Axle.

3. DRI, Hyderabad Zonal Unit, on the basis of intelligence that indicated that TKAP has imported 'Final Gear Kit, Differential' from TMC, classifying under tariff item 84834000 and paid Basic Customs Duty @ 7.5% and IGST @ 18% vide Sl.No. 369A of Notification No.01/2017-Integrated Tax(Rate), instead of classifying under tariff item 87085000 and paying BCD @ 15% and IGST @ 28% (Schedule IV. S.No.170), addressed a letter dated 31.12.2021 to TKAP calling for relevant documents. In response, TKAP vide letter dated 21.01.2022 furnished copies of blanket purchase order, brief description on the nature of business & manufacturing process, relevant Bills of Entry pages of import of 'Final Gear Kit, Differential', invoice & part number wise items imported and Sea Waybills. TKAP submitted that in addition to Gear Boxes, they also produce other auto-parts like "Axles" & "Propeller Shafts" which are exclusively supplied to Made-in-India Toyota Vehicles such as Innova Crysta and Fortuner. TKAP subsequently furnished copies of agreements entered into with their supplier TMC, Japan and their buyer Toyota Kirloskar Motor Private Limited. In the course of investigation, statements were recorded from the personnel of TKAP and pursuant to a pre-notice consultation, a pre notice consultation proceedings was conducted on 08.02.2023.

4. The investigation culminated in the Department forming a view that TKAP had adopted wrong classification while importing the impugned goods by deliberately mis-classifying under CTI 84834000 though they were aware that these goods are parts of differential assembly used in manufacture of rear axle assembly for Toyota Innova Crysta. Thus, Department was of the opinion that TKAP had short paid customs duties and had cleared the goods in contravention of Section 17, Section 46(4) and Section 46(4A) of the Customs Act, 1962 (the Act). Department was further of the view that for having rendered the goods liable to confiscation under Section 111(m) of the Act, TKAP was liable to penalty under Section 112(a), and further, for having made and used the false classification of the goods, TKAP was also liable to penalty under Section 114AA. Therefore, a show cause notice No. GR5/07/2023

dated 09.02.2023 (SCN) was issued to the TKAP proposing to reject the assessment and classification of the impugned goods imported vide bills of entry as detailed in worksheet -1 declared as 'Final Gear kit, Differential' and other parts of differential under CTI 8434000, and proposing reclassification under CTI 87085000 and consequent reassessment. The SCN further proposed to demand from TKAP a differential duty of Rs.14,88,51,255/- in terms of Section 28(1) of the Act along with applicable interest, proposed confiscation of the impugned goods with assessable value of Rs.69,60,54,516/- under Section 111(m) of the Act and also proposed imposing penalty under Section 112(a) and 114AA of the Act for rendering the imported goods liable to confiscation by their acts of omissions and commissions and for the mis-declaration and misclassification.

5. The SCN also proposed to impose penalty on, Shri. Vijay Shettigar, Manager (Production Control and Logistics) of TKAP under section 112(a), 114AA and 117 of the Act for his deliberate acts of omission and commission and false statement, and on Shri. K. N. Prasad, Managing Director of TKAP under section 112(a) and 114AA of the Act for his deliberate acts of omission and commission.

6. After due process of law, the adjudicating authority passed the impugned order, inter-alia, holding that harmonious reading of the two customs tariff headings shows that, if the gears are of general purpose and used in machinery etc., they are classifiable under CTH 8483, whereas, if they are principally and solely meant for vehicles, they are rightly classifiable under CTH 8708. That the gears, gearing and gear pinion principally and solely used in the vehicles merit classification under CTH 8708 and not under 8483. The impugned imported goods merit classification under CTH 8708 and further the item gear, differential ring has already obtained the essential characteristics of a gear used in rear axle assembly and 8708 is more appropriate classification for the said item also. That the trade parlance test is also an important and determinative rule for the identification of the product and it is found that even the trade is treating the goods in the market as parts of differential assembly and are being sold under CTI 87085000 and thus the said goods merit classification only under CTI 87085000.The TKAP personnel were also found liable for penalties as proposed.

7. Accordingly, the impugned order was passed confirming the demand of differential duty of Rs.14,88,51,255/- along with appropriate interest from TKAP and imposing an equivalent penalty under Section 114A of the Act while refraining from imposing penalty under section 112(a) since penalty under Section 114A was imposed. The impugned goods were held liable to confiscation and a redemption fine of Rs.7,00,00,000/- in lieu of confiscation was imposed. Shri. Vijaya Shettigar was visited with a penalty of Rs.3,50,000/- under Section 112(a), Rs.7,00,000/- under Section 114AA and Rs.50,000/- under Section 117 of the Act, while a penalty of Rs.7,00,000/- under section 112(a) and Rs.14,00,000/- under Section 114AA of the Act was imposed on Shri. K. N. Prasad. Aggrieved, TKAP and its personnel, the appellants herein, have preferred these appeals. The Department is also in appeal against the impugned order on the ground that the Adjudicating Authority ought to have imposed penalty on TKAP under Section 112(a), having held the goods liable for confiscation under Section 111(m) of the Act.

APPELLANTS' CONTENTIONS

8. Shri. T. Viswanathan Ld. Advocate, assisted by S/Shri. Rohan Muralidharan and Yogesh, Ld. Advocates, appeared for the Appellants and Shri. C. Dhanshekaran, Ld. Special Counsel, appeared for the Respondent and made their respective submissions.

9. Shri. T. Viswanathan, Ld. Counsel for the Appellants, contended that the imported goods are correctly classifiable under Heading 8483 and not under Heading 8708. Drawing attention to the list of the products imported during the period from February 2021 to November 2022, i.e. the relevant period, for the manufacture of the final products whose classification is under dispute, reproduced below as given in the appellant's synopsis,

Product Description	Description	Classification adopted by the Appellant	Classification adopted by the Department
Final Gear Kit; Differential	Consists of 2 types of gears namely **Ring Gear** and **Pinion Gear**. They are not assembled or housed in	8483 4000	8708 5000

(pictures are available at **Pg. No. 12 of Appeal Paperbook)**	housing. They are intended to be used as an input for the manufacture and assembly of differential assembly.		
Gear, Differential Side (pictures are available at **Pg. No. 209 of Appeal Paperbook)**	These type of Gears facilitate transfer of power from the engines to the wheels. Each wheel axle is attached to a differential side gear which meshes with the differential pinions.	8483 4000	8708 5000
Pinion, Differential (pictures are available at **Pg. No. 210 of Appeal Paper book)**	The pinion gear along with ring gear and side gear are the key component of the differentials of the vehicle and translates the transmission rotation 90 degrees from the driveshaft to the axle shafts, which in turn spin the wheels. The differentials allows wheels on the same axle to rotate at different speeds. When the vehicle goes around a corner the wheel on the outside must travel faster than the wheel on the inside. This function is considered as the 'Differential'	8483 4000	8708 5000
Rotor, Skid Control RR (pictures are available at **Pg. No. 211 of Appeal Paper book)**	The Rotor (Skid Control), is a gear which will be used in the manufacture of shaft sub-assembly.	8483 4000	8708 5000
Pinion, Differential (pictures are available at **Pg. No. 212 of Appeal Paper book)**	Pinion Differential is used in the type of gear used in manufacture of the gear box	8483 4000	8708 5000
Gear, Differential Side (pictures are available at **Pg. No. 213 of Appeal**	These gears are used in the manufacture of the gear box	8483 4000	8708 5000

Paper book)			
Gear, Differential Ring (pictures are available at **Pg. No. 214 of Appeal Paper book)**	These gears used in the manufacture of the gear box	8483 4000	8708 5000

it was submitted that none of the gears are assembled together at the time of import. Post import, these gears undergo various processes such as washing, caulking, pressing, crimping etc. for manufacture and assembly into a differential and/or gear boxes. Further submissions were made as under:

a) It is not the case of the Department that the subject good are 'differentials' in itself; rather, the Department is alleging that the subject goods being 'parts' of differential are classifiable under Heading 8708.

b) Section XVI of the Customs Tariff covers the goods under Chapter 84 and 85. Similarly, Section XVII of the Tariff covers Chapter 86 to 87.

c) Heading 8483 of the Tariff and the HSN are fully aligned with each other. Relevant portion of Heading is 8483 is as under: -

8483		**TRANSMISSION SHAFTS (INCLUDING CAM SHAFTS AND CRANK SHAFTS) AND CRANKS; BEARING HOUSINGS AND PLAIN SHAFT BEARINGS; GEARS AND GEARING; BALL OR ROLLER SCREWS; GEAR BOXES AND OTHER SPEED CHANGERS, INCLUDING TORQUE CONVERTERS; FLYWEHEELS AND PULLEYS, INCLUDING PULLEY BLOCKS; CLUTCHES AND SHAFT COUPLINGS (INCLUDING UNIVERSAL JOINTS)**
8483 40 00	-	**Gears and gearing**, other than toothed wheels, chain sprockets and other transmission elements presented separately; ball or roller screws; gear boxes and other speed changers, including torque converters
8483 50	-	Flywheels and pulleys, including pulley blocks;
8483 90 00	-	**Toothed wheels**, chain sprockets and other transmission elements presented separately; parts

d) From the above extract, it can be seen that "Gears and Gearings" as well "Toothed Wheels" are specifically covered by nomenclature in Heading 8483.

e) HSN Explanatory Notes to Heading 8483 provided in para (C) under the heading "Gears and gearing including friction gears and Chain sprocket" states that the basic gear is the toothed wheel, cylinder, cone, rack or worm, etc. In the present case, on a perusal of the products, it can be seen that the imported goods are also in the form of toothed wheels and therefore, the imported goods are specifically covered under Heading 8483. The relevant portion of the HSN Explanatory Notes to Heading 8483 is extracted below:

"(C) GEARS AND GEARING INCLUDING FRICTION GEARS AND CHAIN SPROCKETS

The basic gear is the toothed wheel, cylinder, cone, rack or worm, etc. In an assembly of such gears, the teeth of one engage with the teeth of another so that the rotary movement of the first is transmitted to the next, and so on. According to the relative number of teeth in the separate units, the rotary movement may be transmitted at the same rate, omit a faster or slower rate; according to the type of gear and the angle at which it meshes with the next, the direction of transmission may be changed, or rotary movement converted into a linear movement or vice versa (as with a rack and pinion).

The group covers all types of gears including simple cog wheels, bevel gears, conical gears, helical gears, worm, rack and pinion gears, differential gears, etc., and assemblies of such gears. It also covers toothed and similar wheels for use with transmission chains.

f) On a perusal of the above Heading 84.83 of the Customs Tariff and the HSN Explanatory Notes to Heading 84.83, it is clear that those goods which are in the form of gears and gearings are classifiable under Heading 8483 by virtue of General Interpretative Rule 1 to Customs Tariff. The imported goods which are in the form of toothed wheels are precisely gears and gearings which facilitate rotary movement from the engine, through the gear box and to the rear axle and finally to the wheels. Therefore, the imported goods are specifically covered under Heading 8483 of the Tariff.

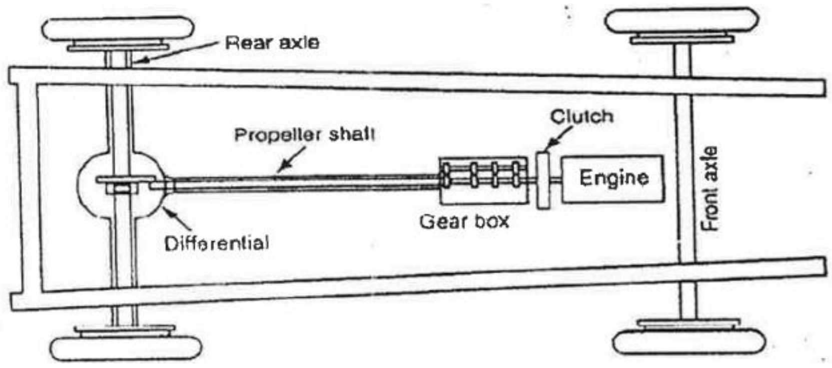
g) Reliance is placed on the decisions ***in Eicher Ltd. v. CCE, Chennai, 2002 (142) E.L.T. 136 (Tri. - Chennai)***, ***Eimco Elecon (India) Ltd. v. CCE, Vadodara, 2002 (145) E.L.T. 421 (Tri. - Mumbai), Central Excise, Rohtak v. Kafila Forge Limited, 2004 (167) ELT***

343 (Tri Del), JTEKT Sona Automotive India Limited v. Commissioner of Customs, 2020 (371) E.L.T. 730 (Tri), and ***Commissioner of Central Excise, Chennai V Best Cast (P) Ltd, 2001 (127) E.L.T. 730 (Tri. — Chennai)*** affirmed by the Hon'ble Supreme Court in ***Commissioner v. Best Cast (P) Ltd., 2001 (133) E.L.T. A258 (S.C)*** to contend that various Benches of the Tribunal have been consistently holding the goods of the type imported by the appellants, as classifiable under Heading 8483 as "transmission parts" and NOT as parts of motor vehicles under Heading 8708.

10. Ld. Counsel argued that in the present case Department has contended that the imported goods are used in the manufacture of final product viz., Rear Axle under Tariff Item 8708 5000 as 'Drive-axles with differential, whether or not provided with other transmission components non-driving axles and parts thereof' and Gear Boxes which are classifiable under Tariff Item 8708 4000 as 'Gear boxes and parts thereof. Drawing attention to the HSN Explanatory Notes to Section XVII, it is further argued that in order to be classified under Chapter 87, HSN Explanatory Notes to Section XVII, requires the following three conditions to be cumulatively satisfied, namely,

a. The parts or accessories must not be excluded by the terms of Note 2 to this Section; and
b. They must be suitable for use solely or principally with the articles of chapter 86 to 88;
c. They must not be more specifically included elsewhere in the nomenclature.

11. Further, the functions of the subject goods have not been disputed by the department in the impugned show cause notice and therefore there is no doubt that the subject goods are integral to the transmission function performed by the motor vehicle engine. Referring to Note 2(e) of Section XVII which states that those machines which are integral part of engines and are classifiable under Heading 8483 are excluded from Section XVII, it is argued that therefore the imported goods are not classifiable under Heading 8708. Reliance is placed on the decision in ***Hero Motorcorp Ltd. v. Commissioner of Customs (NS-I), Raigad, 2022 (379) E.L.T. 214 (Tri. — Mumbai***). Drawing attention to a pictorial representation of the working and transfer of power as below,



it is argued that in the present case, the rotational force generated by the engine is transferred to the gear box which is further transferred to the rear axle through the propeller shaft and from the above, the imported goods can be considered as Transmission parts of engines and are therefore excluded by Note 2(e).

12. Drawing attention to HSN Explanatory Notes to Section XVII it is pointed out that under (A), Parts and accessories excluded by Note 2 to Section XVII, which excludes the parts and accessories whether or not they are identifiable as for the articles of the said Section, under Sl.No. 6, "Certain other goods of Chapter 84", at clause (c) thereof, what stands excluded are "Internal parts of engines or motors (crank shafts, cam shafts, flywheels etc.) falling in heading 84.83. It is therefore argued that the imported goods which are used in the manufacture of rear axles and gear boxes are excluded from chapter 87.

13. It is also contended that the reliance placed by the Department on the Foreign Rulings wherein it has been held that goods similar to the imported goods are classifiable under heading 8708 are distinguishable and cannot be said to hold persuasive value since the competing heading under heading 8483 has not been canvassed before the authority.

14. Ld. Counsel further argues that the imported goods are specifically covered under Heading 8483 as Gears and Gearings and that therefore when a product is covered under a specific heading elsewhere, the same cannot be classified under Section XVII. Reliance is placed on the decisions in ***CCE, Aurangabad v. M/s. Videocon Industries Ltd., 2023 (3) TMI 1338 – Supreme Court***, ***Eicher Precision Machines Ltd. v. CCE, New Delhi, 2001 (131) E.L.T. 600 (Tri. - Del.), CCE v. Uni Products India Limited, 2020 (372) E.L.T. 465 (S.C.), Shiroki Auto Components India Private Limited v. CCE, 2020 (7) TMI 706 - CESTAT AHMEDABAD, affirmed by the Supreme Court in***

CCE v. Shiroki Auto Components India Pvt. Ltd, 2021 (9) TMI 729 - SUPREME COURT and ***Secure meters v. Commissioner of Customs, 2015 (14) SCC 239.***

15. Ld. Counsel also contended that the classification adopted by the suppliers are not binding on the Appellant and reliance was placed on the decision in ***Commissioner of Customs & Central Excise v Reliance Infrastructure, 2022 (1) TMI 1403-CESTAT HYDERABAD***, wherein it has been held that the HSN indicated by the supplier cannot bind either the importer or the proper officer or the adjudicating authority in classifying the goods- a process which must be done on merits. Reliance was also placed on the decisions in ***S.T. Enterprises v CC, 2021 (378) ELT 514 (Tri-Chennai)*** and ***Ayush Business Overseas v Commissioner, 2021 (378) ELT A 142 (SC)***.

16. Further contentions were raised emphasising that:
    a) Interest on IGST demand cannot be recovered in the absence of substantive provisions for levy of interest, placing reliance on the decisions in ***India Carbon Ltd v. State of Assam, (1997) 6 SCC 479, which relied upon an earlier decision in J. K. Synthetics Ltd v. CTO, (1994) 4 SCC 276, V.V.S Sugars v Govt. of A.P & Ors, (1999) 4 SCC 192, Pioneer Silk Mills Pvt Ltd v. UOI, 1995 (80) ELT 507(Del), Mahindra & Mahindra Ltd v. UOI, 2022 (10) TMI 212- Bombay High Court, A.R. Sulphonates Pvt Ltd v. UOI, 2025 (4) TMI 578-Bombay High Court, Chiripal Poly Films Ltd v CC, Ahmedabad, 2024 (9) TMI 940-CESTAT Ahmedabad, M/s. Suraydev Alloys and Power (P) Ltd v. Principal Commissioner of Customs (Audit), Chennai, 2025 (8) TMI 1356-CESTAT Chennai*** and ***M/s. Flextronics Technology India Pvt Ltd v. Commissioner of Customs, Cheennai-VII Commissionerate, 2025 (3) TMI 695- CESTAT Chennai***.
    b) That the entire exercise is revenue neutral as the IGST paid by the Appellant would be instantly available as input tax credit under the GST Law, relying on the decisions in ***International Auto Ltd. v. CCE, 2005 (183) ELT 239 (SC), CCE v. Narayan Polyplast Ltd., 2005 (179) ELT 20 (SC), CCE v. Narmada Chematur Pharma , 2005 (179) ELT 276 (SC), CCE v. Coca-Cola India Pvt. Ltd., 2007 (213) ELT 490 (S.C.),*** and ***CCE v. Jamshedpur Beverages, 2007 (214) ELT 321 (S.C.)***

c) That claiming an incorrect classification or the benefit of an ineligible exemption notification does not amount to making a false or incorrect statement and does not amount to mis-declaration of any particular under section 111(m) of the Act, more so when it only a claim of the appellant and it is not an incorrect description of the goods or their value. Reliance was placed on the decisions in ***Northern Plastic Ltd v. CC, 1998 (101) ELT 549 (SC)*** and ***Lewek Altair Shipping Private Limited v CC, 2019 (366) ELT 318 (Tri-Ahmd) affirmed by the Hon'ble Supreme Court in Commissioner v. Lewek Altair Shipping Pvt Ltd., 2019 (367) ELT A 328 (SC), Hindustan National Glass & Industries v CC, 2002 (145) ELT 162 (Tri-Kolkata)*** and ***Sirthai Superware India Ltd v. CC, 2019 (10)TMI 460-CESTAT Mumbai***.

d) The description specified by the Appellant is correct and the same is not disputed by Customs. Given the same, the Appellant's actions are bonafide and no malafide intention can be attributed to them. Reliance in this regard is placed on the Tribunal's decision in ***C. Natvarlal & Co. v. CC (Import), Mumbai***.

e) That there is no seizure of goods and the imported goods are not liable for confiscation in terms of Section 111(m) of the Customs Act and accordingly the redemption fine imposed is liable to be set aside. Reliance is placed on the decisions in ***Weston Components Ltd. v. CC, 2000 (115) E.L.T. 278 (S.C.),*** **Hyundai Motors India Limited in Final Order No. 75096/2020 dated 28.05.2020,** ***CC Vs. Finesse Creation Inc – 2009 (248) ELT 122 (Bom.), Affirmed by the Supreme Court in 2010 (255) ELT A120, CC Vs. Shilpa Trading Company – 2014 (309) ELT 641 (Kar.), CC Vs. National Leather Cloth Mfg. Co., 2015 (321) ELT 135 (Bom.),*** and ***Chinku Exports Vs. CC, Calcutta, 1999 (112) ELT 400 (Tribunal) affirmed by the Supreme Court in 2005 (184) ELT A36 (SC).***

f) For the various reasons contended since the imported goods are not liable to confiscation under Section 111(m) of the Act, consequently no penal provisions could be invoked for penalties on any of the appellants.

g) That in imposing penalty on TKAP under Section 114A the impugned order has traversed beyond the SCN as the SCN proposed only penalty under section 112(a). Reliance was placed on the decisions in ***Commr. of Customs, Mumbai v. Toyo Engineering India Ltd.***

reported at 2006 (201) ELT 513 (SC) and ***Commissioner of C. Ex. v. Brindavan Beverages (P.) Ltd. reported at 2007 (213) 487 (S.C.).*** That in any case since the goods could not have been held liable for confiscation under Section 111(m) due to wrong classification especially when the appellant has been adopted the same classification historically, the penalty under Section 112(a) could not be imposed the company (main appellant)

h) That since duty demand is unsustainable, penalty is not imposable. That when the issue involved is one involving interpretation as to the applicable classification, penalty is not imposable. Reliance is placed on the decisions in ***CCE v H.M.M. Ltd, 1995 (76) ELT 497 (SC), CCE v. Balakrishna Industries, 2006 (201) ELT 325 (SC)*** and ***Whiteline Chemicals v CCE, 2008 (229) ELT 95 (Tri-Ahmd)***.

i) That invocation of 117 is incorrect as the provision can be invoked if the contravention is not covered by any other provision of the Customs Act and since Section 111 and 112 have been invoked, it loses its application.

17. As regards the imposition of penalty on the co-appellants, Ld. Counsel refers to the statement dated 12.09.2022 of Mr. Vijay Shettigar as extracted in the synopsis and submits that the department has misconstrued the statement to state that the Co-appellant had made false statements by stating that the supplier had classified the 'Final Gear Kit, Differential" under Heading 8483. That on perusal of the statement it can be seen that on the contrary, the question of the department was only as to how they adopted the classification under heading 8483 to which proper justification was provided by stating that the supplier had been classifying the goods under heading 8483 and that basis the same as well as the Customs Tariff and HSN, classification under Heading 8483 was adopted. Ld. Counsel submitted that when the Appellant company started importing the goods in 2011, the supplier was also classifying the goods in Heading 8483 and the said classification was subsequently changed by the supplier to Heading 8708 after 2017. Thus, it proves that no false statement has been made by the co-appellant.

18. As regards the allegation against the Co-appellant Mr. K.N. Prasad, namely that, being the Managing Director, he prevailed over the other members of the Company's board leading to the misclassification of the

goods which resulted in short levy of customs duties, it was argued by the Ld. Counsel that it is a settled position in law that a classification dispute is a matter of interpretation of complex legal provisions and statutory provisions and therefore no penalty is imposable. Reliance was placed on the decisions in ***M/s. Samsung India Electronics Pvt. Ltd. Principal Commissioner of Customs, Air Cargo, 2023 (12) TMI 1155 - CESTAT NEW DELHI,*** and ***Midas Fertchem Impex Vs. Principal CC, 2023 (1) TMI 998 – CESTAT NEW DELHI***.

19. It was also argued that the Co-Appellants have acted according to the bona fide belief as understood by them as per the GIRs, HSN and decisions. Therefore, in absence of any such personal benefit, penalty on the Appellant/Co-Appellant cannot be imposed under Section 112(a) of the Customs Act, 1962. Reliance was placed on the decision in ***Carpenter Classic Exim Pvt Ltd. vs. Commissioner of Customs, Bangalore, 2006 (200) ELT 593 (Tri-Bang), maintained by Supreme Court in 2009 (235) ELT 201 (SC)***. It was also contended that it is a settled position of law that personal penalty cannot be imposed on employees when the issue involved is one of classification and interpretation of exemption provisions and reliance was placed on the decision in ***Komatsu India Pvt. Ltd. V. CCE, 2017 (345) E.L.T. 256 (Tri. – Mumbai)*****.** It was therefore prayed that the appeals be allowed with consequential relief.

REVENUE'S CONTENTIONS

20. Shri. C. Dhanasekharan, Ld. Special Counsel for the Respondent, made submissions as under:

a) The Adjudicating Authority has correctly determined, based on the technical literature, supplier's documents and the end use of the imported items that they were classifiable under chapter 8708.

b) The Adjudicating Authority has considered CTH 8708, the relevant section/chapter notes from the Customs Tariff Act, 1975 (Customs Tariff), the HSN Explanatory Notes, Note 2 to Section XVII of HSN and the three tests formulated by the General Explanatory Notes to Section XVII. The Adjudicating Authority has relied upon the General Explanatory Notes to Chapter 87 of the HSN

c) The Adjudicating Authority has determined that imported goods were not integral parts of the engine or motors, thus the goods were not excluded by Note 2(e) of Section XVII. The triple conditions under 8708 were fulfilled by the Revenue.

d) The statements of the Senior Functionaries of the Appellant clearly establish that the said articles were a final gear kit differential classifiable under CTH 8708

e) The Adjudicating Authority has relied upon the ruling of the Commercial and Trade Facilitation Division of the United States Customs and Border Protection and the National Commodity Specialist Division of the United Stated Customs and Border Protection in September 2015, which also classified similar items under HSN 8708.

f) The Adjudicating Authority has also relied upon the trade parlance test as these goods in the market are sold as parts of the differential assembly and are being sold under CTH 8708.

g) The Adjudicating Authority has detailed the roles of Shri Vijaya Shettigar and Shri K.N. Prasad in classifying the imported goods under 8483 even though the supplier, the original equipment manufacturer, has supplied the goods under CTH 8708.

h) The Adjudicating Authority has taken into consideration the factual matrices and reclassified the goods, imposing a penalty and interest. However, while imposing penalty, instead of imposing a penalty under Section 112(a), the Adjudicating Authority has wrongly imposed a penalty under Section 114A, which was not part of the SCN at all and aggrieved by this, the Revenue has filed a separate appeal for remanding the matter.

21. The Ld. Special Counsel therefore contends that the order is legal and fair, except to the extent of non-imposition of penalty under Section 112(a) for which the Revenue is in appeal, and therefore prays for dismissal of the appeals filed by the Appellants and to allow the Revenue's Appeal. Ld. Special Counsel has at the bar placed reliance on the decisions in ***CCE, Shillong v. Wood Craft Products Ltd, 2002 (143) ELT 247 (SC), CC v Business Forms Ltd, 2002 (142) ELT 18 (SC), CCE Delhi v. M/s. Uni Products India Ltd, 2020 (372) ELT 465 (SC)*** and ***G.S. Auto International v. CCE, Chandigarh, 2003 (152) ELT 3 (SC)*** in support of his contentions.

ANALYSIS AND REASONINGS.

22. We have heard the rival submissions at length and carefully perused the material available on record including the images and technical specifications.

23. The issues that arise for our determination are:
    A) Whether the 'Final gear kit, Differential' and other parts of differential, imported by the main appellant TKAP are classifiable under CTI 84834000 as declared or under CTI 87085000 as reclassified by the Department? and
    B) Whether the consequent reassessment and demand of differential duty, liability to confiscation and resultant redemption fine as well as penalties imposed on the appellants are tenable?

24. The indisputable facts that come to the fore from the materials available on record are:
    a) TKAP is a joint venture among TMC, Japan, Aisin, Japan and Kirloskar, India.
    b) TKAP is engaged in the manufacture of automotive parts, components etc., inter-alia, 'Rear Axle Assembly with Differential' and Gear Boxes.
    c) TKAP has entered into an agreement captioned 'Toyota Components Supply Agreement for TKAP-made Unit Parts' with TMC, Japan on 26th day of June, 2002, as per which the TMC Japan will supply parts, components and materials which are assembled by TKAP into automotive unit parts which shall be incorporated as original equipment materials into Toyota Vehicles.
    d) There is also a General Purchase Agreement between Toyota Kirloskar Motor Private Limited (TKM), a company engaged in the manufacture of Toyota Automobiles, and TKAP, providing, inter-alia that TKAP as the seller, shall sell and supply the products to TKM for production requirements.
    e) TKAP imports the impugned goods, required for the manufacture of 'Rear Axle Assembly with Differential' and Gear Boxes. The Finished merchandise/product, 'Rear Axle Assembly with differential' is classified under HSN Code 8708 50 00 and Gear Boxes are classified under HSN Code 8708 40 00 when sold to TKM. Gear Boxes are also stated to be commonly known as Transmission or Transaxles.

25. The goods whose classification are under dispute are tabulated below:

Sl No	Goods involved	Classification adopted by the Importer at the time of import-CTI	Classification adopted by Revenue-CTI	Differential Duty Demand (Rs.)
1	412012616000 Final Gear Kit, Differential; 412017110000 Final Gear Kit, Differential and (FOC) Final Gear Kit Differential	8483 40 00	8708 50 00	9,58,82,901
2	413317101090 Gear, Differential Side	8483 40 00	8708 50 00	2,62,99,775
3	413417101100 Pinion, Differential	8483 40 00	8708 50 00	1,84,93,060
4	435173501000 Rotor, Skid Control, RR	8483 40 00	8708 50 00	80,13,705
5	4134152100 Pinion, Differential	8483 40 00	8708 50 00	41,016
6	4133152090 Gear, Differential Side	8483 40 00	8708 50 00	81,444
7	412210D270 Gear, Differential Ring	8483 40 00	8708 50 00	39,354
TOTAL				14,88,51,255

26. It is the case of the Department as alleged in the SCN, and evident from the summary at para 15 thereof, inter-alia, that:

a. Differential Ring Gear and Differential Pinion Gear assembled with other parts to form 'Differential case sub-assembly' and 'Differential carrier sub-assembly' respectively which together forms 'Differential assembly' which is further sub-assembly of 'Rear Axle Assembly'.

b. The 'Final Gear Kit, Differential' imported by TKAP is solely and principally used with vehicles of Toyota i.e., Toyota Innova Crysta only and not for any other purpose and the same is part of rear axle assembly and not a part of gear box.

c. Invoices and Sea Waybills indicated that the impugned goods are parts and components for automobiles and not general-purpose machinery parts and are finished parts for differential assembly.

d. Toyota Innova Crysta is rear wheel drive vehicle which has engine in the front side of the vehicle. Engine is followed by Transmission/Gear Box which is connected to propeller shaft. Propeller shaft is connected to ‘differential assembly’ of rear axle through Pinion gear of ‘Final Gear kit, Differential’.

e. There was no mention about differentials, drive/non-driving axles and parts thereof under chapter 84.

f. Gear boxes and differentials designed for use in automobiles do not fall under heading 84.83 and the same are excluded by virtue of HSN explanatory notes to Heading 84.83

g. Customs Tariff and HSN Explanatory Notes specifically covered drive-axle with differentials & parts thereof used in motor vehicles under 87085000.

h. Supplier of ‘Final Gear Kit, Differential’ i.e., TMC, Japan, manufacturer of Innova Crysta has mentioned HS Code 87085000 for ‘Final Gear kit, Differential’ in invoices and documents furnished for issuance of Sea Waybills.

i. HS Code 84344000 was not mentioned anywhere in invoices, Sea Way Bills and documents furnished for issuance of Sea Way Bills by TMC, Japan.

j. US Customs ruled that Differential, Final Driven Gear, Final Gear Set, Differential Carrier assembly, Differential Case Assembly etc are to be classified specifically under 87085089 and these parts are similar to impugned goods imported by TKAP

The Department had therefore proposed to reject the classification of the impugned goods imported declared as “Final Gear kit, Differential” and other parts of differential under CTI 84834000 and to reclassify them under CTI 87085000 and reassess accordingly.

27. TKAP has in its reply to the SCN, provided the images of the impugned goods and stated their technical specifications, as under:

A) **<u>Rear Axle Assembly</u>**: A Rear Axle assembly, consisting of more than 55 components, is used to propel the vehicle by converting rotational force into linear motion. The drive shaft sends rotational power from the engine and transmission to the Rear Axle Assembly, Differential. The said assembly uses a ring and pinion gear set to convert the rotational power to liner motion by turning the axles, tires and wheels.

The following impugned goods are used in the manufacture of said rear axle:

a) **Final Gear Kit, Differential**: Final Gear Kit, Differential having part no. 412017110000 and 412012616000 consists of 2 types of gears in a single package, namely Ring Gear and Pinion Gear intended to be used as an input for the manufacture of the Rear Axle.

b) **Gear, Differential Side**: 'Gear, Differential side' having part no.4133171010, also known as side gear, is a key component in Rear Axle Assembly which facilitates transfer of power from the engine to the wheels. Each wheel axle is attached to a differential side gear which meshes with the differential pinions.

c) **Pinion, Differential**: The 'Pinion Differential' having part no. 413417101100, is an individually imported Pinion Gear and a part of differential assembly which is used for the manufacture of the Rear Axle.

d) **Rotor, Skid Control, RR**: The Rotor, Skid Control, RR having part no. 435173501000 is a gear which will be used in the manufacture of shaft sub-assembly. The shaft-assembly will be further used for the manufacture of Rear Axle.

TKAP has stated in the reply that the ring gear, pinion gear and side gear are the key component of the differential of the vehicle and translates the transmission rotation 90 degrees from the drive shaft to the axle shafts, which in turn spins the wheels. It allows the wheels on the same axle to rotate at different speeds. When the vehicle goes around a corner the wheel on the outside must travel faster than the wheel on the inside. This function is considered as the 'Differential'.

B) Gear Box Assembly: Gearboxes are essentially multiple open gear sets contained in a housing. It is a mechanical device used to increase the output torque or to change the speed (RPM) of a motor. The following impugned goods are used in the manufacture of Gear Box:

a) **Pinion, Differential:** The 'Pinion, Differential' having part no.4134152100 is used in the manufacture of the gear box.

b) **Gear, Differential Side:** The 'Gear, Differential Side' having part no. 4133152090 is used in the manufacture of gear box.

c) **Gear, Differential Ring:** The 'Gear, Differential Ring' having part no. 412210D270, is a Gear Blank which outlines the shape of a gear. It is imported as an unfinished gear. The Gear, Differential Ring is put through the process of turning, drilling, hobbing, shaving and heat treating which will convert the Gear Blank into a Gear.

28. TKAP has stated that the imported impugned goods are subjected to processes such as washing, caulking, pressing, crimping etc., before assembling it into the differential assembly or the gear box assembly which in turn is used in the further manufacture of Rear Axle or Gear Box. The said Rear Axle and the Gear Box manufactured are classified and sold under CTI 87085000 which covers 'Drive-axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof. It was also further stated that TKAP also imports the complete 'differential assembly' used in the manufacture of the Rear Axle. Since, the differential assembly is not covered under a specific heading in the nomenclature, the said differential assembly imported is classified under CTH 8708.

29. The Adjudicating Authority has observed that while both the Department and the Importer has considered the impugned goods at Sl.No.1 to 4 of the table above as 'parts of rear axle assembly', there is a divergence in view in so far as the goods at Sl.No.5 to 7 are concerned with the importer/TKAP contending that they are parts of gear assembly, while the Department maintains that they too are ' parts of rear axle assembly'. He relied on the technical literature available on the internet for the latter three items to hold that these are items used in the differential assembly are being marketed for front differential of the vehicles and also that the term 'differential' appended at the end by the Original Equipment Manufacturer (TMC) shows that these goods are primarily meant only for differential assembly as they are classified under CTI 87085000 by the supplier. Hence the adjudicator rejected the importer's contention that they are meant for gear assembly. After noticing, inter-alia, the chapter headings in the Customs Tariff as well as the HSN Explanatory notes, the Adjudicator observed as under:

> "81. Thus the CTH 8708 specifically covers gear boxes and differentials (870840 and 870850) and only internal parts of engines are excluded from this CTH. If the Importer's argument is accepted then every gear is covered under CTH 8483 and then sub-headings 870840 & 870850 will become redundant. On plain reading of the relevant explanatory notes, I find that gears, gearing, pinion gear are also mentioned under CTH 8483 and the same are also mentioned as parts under CTH 8708. Harmonious reading of

these two customs tariff headings shows that, if the gears are of general purpose and used in machinery etc. they are rightly classifiable under CTH 8483 where as if they are principally and solely meant for vehicles, they are rightly classifiable under CTH 8708. …"

30. The Adjudicator also negatived the contentions of TKAP that the impugned goods stood excluded from the CTH 8708 by virtue of the explanatory notes to Section XVII of HSN, while placing reliance on the statements of the personnel of TKAP as well as the rulings referred by DRI in support of his findings while passing the impugned order. Thus, the submissions of the importer in support of its contentions did not find favour with the Adjudicating Authority.

31. Before proceeding further, it is apposite to take note of the relevant Section Notes and Chapter Headings of the competing Tariff Headings of the Customs Tariff, 1975, as well as the relevant extracts of the Section Notes and Chapter Headings as given in the HSN Explanatory Notes, 2022 Edition.

32. The Notes to Section XVI of the Customs Tariff, 1975 are as under:

"**Section XVI**

MACHINERY AND MECHANICAL APPLIANCES; ELECTRICAL EQUIPMENT; PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS; AND PARTS AND ACCESSORIES OF SUCH ARTICLES.

Notes:

1. This Section does not cover:

(a) Transmission or conveyor belts or belting, of plastics of Chapter 39, or of vulcanised rubber (heading 4010), or other articles of a kind used in machinery or mechanical or electrical appliances or for other technical uses, of vulcanised rubber other than hard rubber (heading 4016);
(b) Articles of leather or of composition leather (heading 4205) or of furskin (heading 43.03), of a kind used in machinery or mechanical appliances or for other technical uses;
(c) bobbins, spools, cops, cones, cores, reels or similar supports, of any material (for example, Chapter 39, 40, 44 or 48 or Section XV);
(d) perforated cards for Jacquard or similar machines (for example, Chapter 39 or 48 or Section XV);
(e) transmission or conveyor belts or belting of textile material (heading 5910) or other articles of textile material for technical uses (heading 5911);
(f) precious or semi-precious stones (natural, synthetic or reconstructed) of headings 7102 to 7104 or articles wholly of such stones of heading 7116 except unmounted worked sapphires and diamonds for styli (heading 8522);

(g) Parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);
(h) drill pipe (heading 73.04);
(ij) endless belts of metal wire or strip (Section XV);
(k) articles of Chapter 82 or 83,
(l) articles of Section XVII;
(m) articles of Chapter 90;
(n) clocks, watches or other articles of Chapter 91,
(o) interchangeable tools of heading 8207 or brushes of a kind used as parts of machines (heading 9603), similar interchangeable tools are to be classified according to the constituent material of their working part (for example, in Chapter 40, 42, 43, 45 or 59 or heading 6804 or 6909);
(p) articles of Chapter 95; or
(q) typewriter or similar ribbons, whether or not on spools or in cartridges (classified according to their constituent material, or in heading 9612 if inked or otherwise prepared for giving impressions), or monopods, bipods, tripods and similar articles, of heading 9620.

2.Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

(a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings:

(b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466. 8473, 8503, 8522, 8529 or 8538 as appropriate, However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517

(c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548.

3. Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

4. Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.

5. For the purposes of these Notes, the expression "machine" means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85."

33. The extract of Tariff Heading 8483 of the Customs Tariff, 1975, is as under:

Chapter 84

Machinery and mechanical appliances

Tariff Item	**Description of goods**	**Unit**	**Rate of duty**	
			Standard	*Preferential Areas*
(1)	(2)	(3)	(4)	(5)
8483	**Transmission shafts (including cam shafts and crank shafts), and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)**			
8483 10	-*Transmission shafts (including cam shafts and crank shafts), and cranks:*			
8483 10 10	---Crank shafts for sewing machines	u	15%	-
	--- Other:			
8483 10 91	----Crank shaft for engines of heading 8407	u	15%	-
8483 10 92	----Crank shaft for engines of heading 8408	u	15%	-
848399	----Other	u	7.5%	-
8483 20 00	- Bearing housings, incorporating ball or roller bearings	u	7.5%	-
8483 30 00	- Bearing housings, not incorporating ball or roller bearings; plain shaft bearings	u	7.5%	-
8483 40 00	- Gears and gearing, other than toothed wheels, chain sprockets and other transmission elements presented separately; ball or roller screw; gear boxes and other speed changers, including torque converters	u	7.5%	-
8483 50	- *Flywheels and pulleys, including pulley blocks*			
8483 50 10	--- Pulleys, power transmission	u	7.5%	-
8483 50 90	--- Other	u	7.5%	-
8483 60	- *Clutches and shaft couplings (including universal joints):*			
8483 60 10	--- Flexible coupling	u	7.5%	-
8483 60 20	--- Fluid coupling	u	7.5%	-
8483 60 90	--- Other	u	7.5%	-
8483 90 00	- Toothed wheels, chain sprockets and other transmission elements presented separately; parts	u	7.5%	

34. The relevant extracts of Section XVI, from the HSN Explanatory Notes, 2022 Edition, are as under:

"**SECTION XVI**

MACHINERY AND MECHANICAL APPLIANCES; ELECTRICAL EQUIPMENT; PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, AND PARTS AND ACCESSORIES OF SUCH ARTICLES

Notes.

1. This Section does not cover:
   (a) Transmission or conveyor belts or belting, of plastics of Chapter 39, or of vulcanised rubber (heading 40.10), or other articles of a kind used in machinery or mechanical or electrical appliances or for other technical uses, of vulcanised rubber other than hard rubber (heading 40.16);
   (b) xxxxx
   (c) xxxxx
   xxxxx
   (k) Articles of Chapter 82 or 83;
   (l) Articles of Section XVII;

2.-Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules:
   (a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings;
   (b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 84.79 or 85.43) are be classified with the machines of that kind or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of heading 85.17 and 85.25 to 85.28 are to be classified in heading 85.17 and parts which are suitable for use solely or principally with the good of heading 85.24 are to be classified in heading 85.29;
   (c) All other parts are to be classified in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate or, failing that, in heading 84.87 or 85.48.

3.-Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

4.-Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.

5. -For the purposes of these Notes, the expression "machine" means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85.

6.- xxxxx

GENERAL

(I) GENERAL CONTENT OF THE SECTION

(A) Subject to certain **exclusions** provided for in the Notes to this Section and to Chapters 84 and 85 and apart from goods covered more specifically in other Sections, this Section covers all mechanical or electrical machinery, plant, equipment, apparatus and appliances and parts thereof, together with certain apparatus and plant which is neither mechanical nor electrical (such as boilers and boiler house plant, filtering apparatus, etc.) and parts of such apparatus and plant.

The main **exclusions** from the Section are:

(a) Spools, cops, bobbins, reels, etc., of any material (classified according to their constituent material). However, warp beams should not be regarded as bobbins, spools or similar support and fall in **heading 84.48**.
xxxxx
xxxxx
xxxxx

(e) Articles of Section XVII.
xxxxx "

35. The relevant extracts of HSN Heading 84.83, from the HSN Explanatory Notes, 2022 Edition, are as under:

84.83- Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws, gear boxes and other speed changers, including torque converters, flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints).

8483.10 -Transmission shafts (including cam shafts and crank shafts) and cranks

8483.20 - Bearing housings, incorporating ball or roller bearings

8483.30 -Bearing housings, not incorporating ball or roller bearings; plain shaft bearings

8483.40 -Gears and gearing, other than toothed wheels, chain sprockets and other transmission elements presented separately; ball or roller screws; gear boxes and other speed changers, including torque converters

8483.50 - Flywheels and pulleys, including pulley blocks

8483.60 - Clutches and shaft couplings (including universal joints)

8483.90 -Toothed wheels, chain sprockets and other transmission elements presented separately; parts.

The goods covered by this heading are mainly:

(i) Certain mechanical parts which are used in the transmission of power from an **external** power unit to one or more machines.

(ii) Certain **internal** parts of a machine, used to transmit power to the various parts of the same machine.

(A) TRANSMISSION SHAFTS (INCLUDING CAM SHAFTS AND CRANK SHAFTS) AND CRANKS
XXXX

(B) BEARING HOUSINGS AND PLAIN SHAFT BEARINGS
XXXX

(C) GEARS AND GEARING INCLUDING FRICTION GEARS AND CHAIN SPROCKETS

The **basic gear** is the toothed wheel, cylinder, cone, rack or worm, etc. In an assembly of such gears, the teeth of one engage with the teeth of another so that the rotary movement of the first is transmitted to the next, and so on. According to the relative number of teeth in the separate units, the rotary movement may be transmitted at the same rate, or at a faster or slower rate according to the type of gear and the angle at which it meshes with the next, the direction of transmission may be changed, or a rotary movement converted into a linear movement or vice versa (as with a rack and pinion).

The group covers all types of gears including simple cog wheels, bevel gears, conical gears, helical gears, worms, rack and pinion gears, differential gears, etc., and assemblies of such gears. It also covers toothed and similar wheels for use with transmission chains.

The group also covers **friction gears**. These are wheels, discs or cylinders, which, when mounted one on the driving shaft and one on the driven shaft, transmit the movement by friction between them. They are usually of cast iron, in certain cases being covered with leather, wood, bonded fibres or other material to increase the friction.
XXXXX
XXXXX

PARTS

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), the heading also covers parts of the goods covered by this heading.

The heading also **excludes**:

(a) Pieces roughly shaped by forging, of heading 72.07.

(b) Transmission equipment of the kinds described above (gear boxes, transmission shafts, clutches, differentials, etc.), but which are designed for use solely or principally with vehicles or aircraft (**Section XVII**); it should, however, be noted that this exclusion does not apply to internal parts of vehicle or aircraft engines - these parts remain classified in this heading.

Thus a crank shaft or a cam shaft remains in this heading even if it is specialised for a motor car engine; but motor car transmission (propeller) shafts, gear boxes and differentials fall in **heading 87.08**

It should further be noted that transmission equipment of the type described in this heading remains classified here even if it is specially designed for ships.

(c) Parts of clocks or watches (**heading 91.14**).

36. The relevant extracts of Notes to Section XVII of the Customs Tariff, 1975 are as under:

"SECTION XVII

VEHICLES, AIRCRAFT, VESSELS AND ASSOCIATED TRANSPORT EQUIPMENT

Notes:

1.This Section does not cover articles of heading 9503 or 9508, or bobsleighs, toboggans or the like of heading 9506.

2.The expressions "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:

(a) joints, washers or the like of any material (classified according to their constituent material or in heading 8484) or other articles of vulcanised rubber other than hard rubber (heading 4016);

(b) parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);

(c) articles of Chapter 82 (tools);

(d) articles of heading 8306;

(e) machines or apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines or motors, articles of heading 84.83;

(f) electrical machinery or equipment (Chapter 85);

(g) articles of Chapter 90;

(h) articles of Chapter 91;

(ij) arms (Chapter 93);

(k) lamps or lighting fittings of heading 9405; or

(l) brushes of a kind used as parts of vehicles (heading 9603).

3. References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

4. For the purposes of this Section:

(a) Vehicles specially constructed to travel on both road and rail are classified under the appropriate heading of Chapter 87,

(b) Amphibious motor vehicles are classified under the appropriate heading of Chapter 87;

(c) Aircraft specially constructed so that they can also be used as road vehicles are classified under the appropriate heading of Chapter 88.

5. xxxxx

37. The extract of Tariff Heading 8708 of the Customs Tariff, 1975, is as under:

CHAPTER 87

Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof

Tariff Item	**Description of goods**	**Unit**	**Rate of duty**	
			Standard	*Preferential Areas*
(1)	(2)	(3)	(4)	(5)
8708	**Parts and accessories of the motor vehicles of headings 8701 to 8705**			
8708 10	-*Bumpers and parts thereof*			
8708 10 10	--- For tractors	Kg.	15%	-
8708 10 90	---Other	Kg.	15%	-
	-*Other parts and accessories of bodies (including cabs):*			
8708 21 00	--Safety seat belts	u	15%	-
8708 29 00	--Other	Kg.	15%	-
8708 30 00	-Brakes and servo-brakes, parts thereof	Kg.	15%	-
8708 40 00	-Gear boxes and parts thereof	Kg.	15%	-
8708 50 00	-Drive axles with differential, whether or not provided with other transmission	Kg.	15%	-

	components, non-driving axles; parts thereof			
8708 70 00	-Road wheels and parts and accessories thereof	Kg.	15%	-
8708 80 00	-Suspension systems and parts thereof (including shock absorbers)	Kg.	15%	-
	-*Other parts and accessories*			
8708 91 00	-- Radiators and parts thereof	Kg.	15%	-
8708 92 00	-- Silencers(mufflers) and exhaust pipes; parts thereof	Kg.	15%	-
8708 93 00	-- Clutches and parts thereof	Kg.	15%	-
8708 94 00	-- Steering wheels, steering columns and steering boxes; parts thereof	Kg.	15%	-
8708 95 00	-- Safety airbags with inflater system; parts thereof	Kg.	15%	-
8708 99 00	- Other	Kg.	15%	-

38. The relevant Extract from the HSN Explanatory Notes, 2022 Edition of Section XVII are as under:

"**Section XVII**

VEHICLES, AIRCRAFT, VESSELS

AND ASSOCIATED TRANSPORT EQUIPMENT

Notes.

1.-This Section does not cover articles of heading 95.03 or 95.08, or bobsleighs, toboggans or the like of heading 95.06.

2.-The expressions "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this Section.

(i) Joints, washers or the like of any material (classified according to their constituent material or in heading 84.84) or other articles of vulcanised rubber other than hard rubber (heading 40.16);

(j) Parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);

(k) Articles of Chapter 82 (tools);

(l) Articles of heading 83.06;

(m) Machines or apparatus of headings 84.01 to 84.79, or parts thereof other than the radiators for the articles of this Section; articles of heading 84.81 or 84.82 or provided they constitute integral parts of engines or motors, articles of heading 84.83;

(n) Electrical machinery or equipment (Chapter 85);

(o) Articles of Chapter 90;

(p) Articles of Chapter 91;
(ij) Arms (Chapter 93);
(k) Luminaires and lighting fittings or parts thereof of heading 94.05; or
(l) Brushes of a kind used as parts of vehicles (heading 96.03).

3. References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

4. For the purposes of this Section:
(a) Vehicles specially constructed to travel on both road and rail are classified under the appropriate heading of Chapter 87,
(b) Amphibious motor vehicles are classified under the appropriate heading of Chapter 87;
(c) Aircraft specially constructed so that they can also be used as road vehicles are classified under the appropriate heading of Chapter 88.

5. xxxxx

GENERAL

(I) GENERAL CONTENT OF THE SECTION

xxxxx

(II) SELF -PROPELLED OR OTHER MOBILE MACHINES

xxxxx

(III) PARTS AND ACCESSORIES

It should be noted that Chapter 89 makes **no provision** for parts (other than hulls) or accessories of ships, boats or floating structures. Such parts and accessories, even if identifiable as being for ships etc., are therefore classified in other Chapters in their respective headings. The other Chapters of this Section each provide for the classification of parts and accessories of the vehicles, aircraft or equipment concerned.

It should, however be noted that these headings apply **only** to those parts or accessories which comply with **all three** of the following conditions:

(a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A) below).

and (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below).

and (c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below).

(A) Parts and accessories excluded by Note 2 to Section XVII.

This Note **excludes** the following parts and accessories, whether or not they are identifiable as for the articles of this Section:

(1) **Joints, gaskets, washers and the like**, of any material (classified according to their constituent material or in heading 84.84) and other articles of vulcanised rubber **other than** hard rubber (e.g., mudguard-flaps and pedal covers) (**heading 40.16**).

(2) xxxxx

(3) xxxxx

(4) xxxxx

(5) xxxxx

(6) **Certain other goods of Chapter 84**, e.g.:

(a) Taps, cocks, valves and similar appliances (e.g., radiator drainage taps, inner-tube valves) (**heading 84.81**).

(b) Ball or roller bearings (**heading 84.82**).

(c) Internal parts of engines or motors (crank shafts, cam shafts, flywheels, etc.) falling in **heading 84.83**.

(7) xxxxx
(8) xxxxx
(9) xxxxx
(10) xxxxx
(11) xxxxx
(12) xxxxx

(B) **Criterion of sole or principal use**

(1) Parts and accessories classifiable both in Section XVII and in another Section.

Under Section Note 3, parts and accessories which are not suitable for use solely or principally with the articles of Chapters 86 to 88 are excluded from those Chapters.

The effect of Note 3 is therefore that when a part or accessory can fall in one or more other Sections as well as in Section XVII, its final classification is determined by its principal use. Thus, the steering gear, braking systems, road wheels, mudguards, etc., used on many of the mobile machines falling in Chapter 84, are virtually identical with those used on the lorries of Chapter 87, and since their principal use is with lorries, such parts and accessories are classified in this Section.

(2) **Parts and accessories classifiable in two or more headings of the Section**

Certain parts and accessories are suitable for use on more than one type of vehicle (motor cars, aircraft, motorcycles, etc.); examples of such goods include brakes, steering systems, wheels, axles, etc. Such parts and accessories are to be classified in the heading relating to the parts and accessories of the vehicles with which they are principally used.

(C) **Parts and accessories covered more specifically elsewhere in the Nomenclature**

Parts and accessories, even if identifiable as for the articles of this Section, are **excluded** if they are covered more specifically by another heading elsewhere in the Nomenclature, e.g.:

(1) Profile shapes of vulcanised rubber other than hard rubber, whether or not cut to length (**heading 40.08**).

(2) Transmission belts of vulcanised rubber (**heading 40.10**).

(3) Rubber tyres, interchangeable tyre treads, tyre flaps and inner tubes (**headings 40.11 to 40.13**).

(4) Tool bags of leather or of composition leather, of vulcanised fibre, etc. (**heading 42.02**).

(5) Bicycle or balloon nets (**heading 56.08**).

(6) Towing ropes (**heading 56.09**).

(7) Textile carpets (**Chapter 57**).

(8) Unframed safety glass consisting of toughened or laminated glass, whether or not shaped (**heading 70.07**).

(9) Rear-view mirrors (**heading 70.09** or **Chapter 90**-see the corresponding Explanatory Notes).

(10) Unframed glass for vehicle headlamps (**heading 70.14**) and, in general, the goods of **Chapter 70**.

(11) Flexible shafts for speed indicators, revolution counters, etc. (heading 84.83).

(12) Vehicle seats of **heading 94.01**.”

39. The relevant extracts of HSN Heading 87.08, from the HSN Explanatory Notes, 2022 Edition, are as under:

“87.08 Parts and accessories of the motor vehicles of headings 87.01 to 87.05.

8708.10 - Bumpers and parts thereof

-Other parts and accessories of bodies (including cabs):

8708.21 -- Safety seat belts

8708.22 -- Front windscreens (windshields), rear windows and other windows specified in Subheading Note I to this Chapter

8708.29 -- Other

8708.30 - Brakes and servo-brakes; parts thereof

8708.40 - Gear boxes and parts thereof

8708.50 - Drive-axles with differential, whether or not provided with other transmission components, and non-driving axles; parts thereof

8708.70 - Road wheels and parts and accessories thereof

8708.80 - Suspension systems and parts thereof (including shock-absorbers)

- Other parts and accessories:

8708.91 -- Radiators and parts thereof

8708.92 -- Silencers (mufflers) and exhaust pipes; parts thereof

8708.93 -- Clutches and parts thereof

8708.94 -- Steering wheels, steering columns and steering boxes; parts thereof

8708.95 -- Safety airbags with inflater system; parts thereof

8708.99 -- Other

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05 **provided** the parts and accessories fulfil **both** the following conditions:

(i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles:

and (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

Parts and accessories of this heading include:

(A) Assembled motor vehicle chassis-frames (whether or not fitted with wheels **but without engines**) and parts thereof (side-members, braces, cross-members; suspension mountings; supports and brackets for the coachwork, engine, running-boards, battery or fuel tanks etc.

xxxxxx

xxxxxx

xxxxxx

(D) Gear boxes (transmissions) of all types (mechanical, overdrive. Preselector, electro-mechanical, automatic, etc.); torque converters; gear box (transmission) casings: shafts (other than internal parts of engines or motors); gear pinions; direct-drive dog-clutches and selector rods, etc.

(E) Drive-axles, with differential; non-driving axles (front or rear); casings for differentials; sun and planet gear pinions, hubs, stub-axles (axle journals), stub-axle brackets.

(F) Other transmission parts and components (for example, propeller shafts, half-shafts: gears, gearing, plain shaft bearings: reduction gear assemblies; universal joints). But the heading excludes internal parts of engines, such as connecting-rods, push-rods and valvelifters of heading 84.09 and crank shafts, cam shafts and flywheels of heading 84.83

xxxxx

xxxxx

xxxxx

The heading does not cover hydraulic or pneumatic cylinders of **heading 84.12**."

27. We find from a perusal of the relevant Section Notes and Chapter Headings of the competing Tariff Headings of the Customs Tariff, 1975, as well as the relevant extracts of the Section Notes and Chapter Headings as given in the HSN Explanatory Notes reproduced supra, that:

A) Section Note 2(l) of Section XVI excludes articles of Section XVII

B) Gears and Gearing are specifically mentioned in Heading 8483 and more specifically covered under Tariff item 8483 40 00.

C) Note 1(l) in the HSN explanatory notes to Section XVI as well as the general explanatory note thereto at paragraph I (A) (e) inter-alia lists Articles of Section XVII as one of the main exclusions.

D) The HSN Explanatory Notes to Heading 84.83, in paragraph (C), states that the group covers all types of gears including simple cog wheels, bevel gears, conical gears, helical gears, worms, rack and pinion gears, differential gears, etc., and assemblies of such gears.

E) The said explanatory notes to Heading 84.83 also states that the heading excludes Transmission equipment of the kinds gear boxes, transmission shafts, clutches, differentials etc., but which are designed for use solely or principally with vehicles or aircrafts

(Section XVII); and further, that this exclusion does not apply to internal parts of vehicles or aircraft engines-these parts remain classified in this heading.

F) As per Note 2 (e) of Section XVII of the Customs Tariff, the expressions "parts" and "parts and accessories" do not apply to articles of heading 8483, provided they constitute integral parts of engines or motors, whether or not they are identifiable as for the goods of this section.

G) As per Note 3 of Section XVII of the Customs Tariff, the references in Chapter 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those chapters.

H) Heading 8708 has the description of goods "Parts and accessories of the motor vehicles of heading 8701 to 8705" and the tariff item 8708 40 00 has the description of goods "Gear boxes and part thereof" while the tariff item 8708 50 00 has the description of goods "Drive -axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof.

I) The HSN explanatory notes to Heading 87.08 of Chapter 87 stipulates what are the Parts and accessories that the heading includes and at paragraph (D) thereunder indicates, inter-alia, Gear boxes (transmissions) of all types (mechanical, overdrive. Preselector, electro-mechanical, automatic, etc.), shafts (other than internal parts of engines or motors), gear pinions; at paragraph (E) indicates, inter-alia, Drive-axles, with differential; non-driving axles (front or rear); casings for differentials; at paragraph (F) indicates, inter-alia, other transmission parts and components, for example, propeller shafts, half-shafts: gears and gearing.

J) Beneath the HSN chapter heading 87.08 and sub headings, the explanatory notes stipulate that this heading covers parts and accessories of the motor vehicles of heading 87.01 to 87.05, provided the parts and accessories fulfil both the following conditions:

(i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles:

and (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

K) Notes 2(e) and 3 of Section XVII in the Explanatory Notes to HSN is verbatim the same as Notes 2(e) and 3 of Section XVII of the Customs Tariff.

L) The General Explanatory Note of Section XVII, under the Heading "General", in the Category "(III) Parts and Accessories" stipulate that the headings that provide for classification of parts and accessories of the vehicles, aircraft or equipment concerned in the other chapters of Section XVII, apply only to those parts or accessories which comply with the following three conditions:

(a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A)).

and (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B)).

and (c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C)).

M) In the paragraph (A) "Parts and accessories excluded by Note 2 to Section XVII", given in page XVII-3 of the 2022 Edition of the Explanatory Notes, the manner in which the exclusion in terms of Note 2 is to be understood is elaborated. In the paragraph (A), it is stipulated at Sl.No. 6 under legend "Certain other goods of Chapter 84" at clause (c) thereof, on page XVII-4, "Internal parts of engines or motors (crank shafts, cam shafts, flywheels etc.) falling in heading 84.83."

N) In the paragraph (B)" Criterion of sole or principle use", the effect of the stipulation in Section Note 3, that parts and accessories which are not suitable for use solely or principally with the articles of Chapters 86 to 88 are excluded from those Chapters is given, namely, that when a part or accessory can fall in one or more other Sections as well as in Section XVII, its final classification is determined by its principal use. It is further explained as regards parts and accessories classifiable in two or more headings of the Section, they are to be classified in the heading relating to the parts and accessories of the vehicles with which they are principally used.

O) In the paragraph (C)" Parts and accessories covered more specifically elsewhere in the Nomenclature", it is stipulated that parts and accessories, even if identifiable as for the articles of this

Section, are excluded if they are covered more specifically by another heading elsewhere in the Nomenclature and examples pertaining to such exclusions and the headings in which they are more specifically covered are given.

40. At this juncture, it is apposite to note that **the Honourable Supreme Court, in the case of Commissioner of Customs (Import) v. M/s. Welkin Foods, reported as 2026 INSC 19**, has analysed the entire gamut of the fundamental concepts that govern classification of goods imported into India, including the General Rules for the Interpretation of First Schedule- The import Tariff as well as the role of HSN Explanatory Notes, and has observed as under:

"35. **<u>The primary purpose of the GRIs is to establish mandatory boundaries for any classification inquiry, ensuring a structured, uniform, and predictable approach to classification. It is essential not to treat these GRIs as a menu of options that can be invoked randomly, but rather as a legal framework that dictates a precise and sequential methodology for classifying all goods.</u>**

36. **This Court has repeatedly reiterated that GRIs 1-4 must be applied sequentially.** [See ***Commissioner of Central Excise, Nagpur v. Simplex Mills Co. Ltd.***, reported in **(2005) 3 SCC 51** and ***Secure Meters Limited v. Commissioner of Customs, New Delhi***, reported in **(2015) 14 SCC 239**]. **<u>GRI 1, which gives primacy to the headings and notes, is the non-negotiable starting point. GRI 2, which deals with incomplete, unassembled or composite goods or mixtures, often acts as an extension of GRI 1, by deeming the headings to include incomplete/unassembled goods or mixtures or combinations of a material or substance. GRI 3 is only invoked when the application of GRI 1 and/or GRI 2 results in a good being prima facie classifiable under two or more competing headings. GRI 3 exists solely to resolve this tie. GRI 4, the rule of last resort, is mutually exclusive to GRI 3 and is only invoked if GRI 1 and 2 have failed to find even one possible heading for the good. To illustrate, let us take the analogy of "locked doorways":</u>**

<u>a. Classification begins and, in most cases, ends at the first door: GRI 1.</u>

<u>b. If, upon applying GRI 1 and/or GRI 2, the result is a *tie* between two or more headings, the key to the GRI 3 door is granted to find the tie-breaker. Further, once the door to GRI 3 is unlocked, the subsequent doors to GRI 3(b)</u>

<u>and GRI 3(c) are also unlocked in a sequential manner, i.e., the door to GRI 3(b) unlocks only when the dispute is not resolved through application of GRI 3(a), and similarly door to GRI 3(c) unlocks only when the dispute is not resolved through application of GRI 3(b)</u>

<u>c. If, upon applying GRI 1 and/or GRI 2, the result seems to be that no heading applies at all, the key to the GRI 4 door is granted to find the "most akin" good.</u>

<u>(b) Role of HSN Explanatory Notes</u>

37. The official interpretation of the HSN is provided in the Explanatory Notes published by the World Customs Organisation (hereinafter "**Explanatory Notes**"). Therefore, these Explanatory Notes form the foundation for interpreting the HSN. Given their importance for classification, it is apposite to understand how they can be used when addressing questions of classification under the First Schedule of the Act, 1975.

38. This Court, in ***Commissioner of Central Excise, Salem v. Madhan Agro Industries (India) Private Ltd.***, reported in **2024 SCC OnLine SC 3775**, while dealing with a classification dispute under excise law, made the following pertinent observations regarding consideration of the Explanatory Notes:

"***16.*** *<u>Ergo, in resolving disputes relating to tariff description and classification, a ready reckoner is the internationally accepted nomenclature in the HSN. That being said, we must hasten to reiterate what was pointed out in Wood Craft Products Ltd.. If the headings/entries in the First Schedule to the Act of 1985 are different from the headings/entries in the HSN or if they are not fully aligned, reliance cannot be placed upon the HSN for the purpose of classifying those goods under the Act of 1985.</u>*

17. *To sum up, the First Schedule to the Act of 1985 is based on the HSN, which is an internationally standardized system developed and maintained by the World Customs Organization for classifying products, and <u>unless the intention to the contrary is found within the Act of 1985 itself, the HSN and the Explanatory Notes thereto, being the official interpretation of the Harmonized System at the international level, would be of binding guidance in understanding and giving effect to the headings in the First Schedule. It is only when a different intention is explicitly indicated in the Act of 1985 itself that the HSN would cease to be of guidance. In effect, the legislative intention to depart from the HSN must be clear and unambiguous</u>. For instance, in Camlin Ltd. v. Commissioner of Central*

Excise, Mumbai, this court found that there was an inconsistency between the Central Excise Tariff description and the entry in the HSN and, therefore, reliance upon the HSN entry was held to be invalid. It was affirmed that it is only when the entry in the HSN and the tariff description in the First Schedule to the Act of 1985 are aligned that reliance would be placed upon the HSN for the purpose of classification of such goods under the correct tariff description."

(Emphasis Supplied)

Thus, in ***Madhan Agro*** (*supra*), this Court clarified the applicability of the Explanatory Notes. Their application is governed by a single, critical condition of 'alignment'. This test is met when the domestic tariff entry (in the First Schedule of the Act, 1975) is fully aligned with the corresponding HSN heading, and no explicit deviation or contrary legislative intent is found in the Act, 1975. Where such alignment exists, the Explanatory Notes are to be treated as binding guidance. The rationale is based on the legislative intent. Since the First Schedule of the Act, 1975 was amended to be in accordance with the HSN, the Explanatory Notes, being the official, international interpretation, are the most authentic guide to understanding the scope of the headings." **(Emphasis Supplied)"**

41. This Bench of the Tribunal, has in the case of ***Johnson Lifts Pvt Ltd v. Commissioner of Customs, Chennai Customs Commissionerate - II, 2026 (1) TMI 535-CESTAT CHENNAI***, followed the aforesaid decision of the Hon'ble Apex Court and has held as under:

"27. It is also pertinent that how to interpret the First Schedule of the Import Tariff, is specified therein, under the title, "General Rules for the Interpretation of This Schedule". It is stipulated that classification of goods in the Schedule shall be governed by the principles stated therein. Rule 1 of these rules state that the titles of Sections, Chapters and Sub-Chapters are provided for easy of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such heading or notes do not otherwise require, according to the following provisions. **When we peruse the Tariff, it can be seen that the it groups the goods in Sections, Chapters and sub-Chapters which have been given titles that indicate the categories or types of goods that they cover. Understandably, the variety is so vast that it would be impossible to cover or cite all of them fully detailed in the title. Hence the stipulation in Rule 1 that the titles are provided for ease of reference only. They have no legal bearing on**

<u>classification. Thus, the mandate of Rule 1 is that for legal purposes, classification shall be determined according to the terms of the headings and any relative Section Notes or Chapter Notes.</u> If the headings or any relative Section Notes or Chapter Notes are worded such that they obviate any need to refer to the remaining rules of the general rules of interpretation, then they do not arise for consideration. If there is no such indication in the headings or any relative Section Notes or Chapter Notes that the remaining rules are to be excluded, then the remaining rules also arise for consideration, if need be. This has been lucidly explained by the three-judge bench of the Hon'ble Apex Court in ***Khandelwal Metal & Engineering Works v Union of India, 1985 (20) ELT 222 (SC)***, wherein it has been held as under:

> "28……. Putting Rule 1 in simple language, classification has to be determined according to the description of the article in the heading and, if the Heading or a Note does not otherwise require, according to the provisions of the other Rules and Notes. In the instant case, the terms of the relevant Heading do not, by themselves, yield an answer to the question whether copper waste and scrap include brass scrap. But the particular Heading does not require or provide that the other rules should be excluded while determining the classification of articles under that Heading. That is how, Rules 2 to 4 become relevant for deciding the question whether `copper waste and scrap' includes brass
> scrap. What is meant by the clause in Rule 1: "and, provided such Headings or Notes do not otherwise require" is not that a Heading must require that the provisions contained in the rules following Rule 1 should be applied. What it means is exactly the opposite, namely, that if a Heading does not require the exclusion of the other rules, those other rules must also be applied for determining the classification of an article. Therefore, all the relevant rules of interpretation in the Import Tariff come into play in the classificatory process. Rules 2 to 4 of the Import Tariff are not a mere adornment. Nothing ever is an adornment in an Import Tariff. Therefore, classification has to be determined both according to the terms of the Headings and according to the provisions of the rules unless, a particular Heading or Note excludes the application of rules other than Rule 1."

28. Thus, given the aforesaid exhaustive exposition of law elaborately dealing with the principles that govern classification of goods in the aforesaid pellucid terms, by the Hon'ble Supreme Court in Welkin Foods case as extensively reproduced supra, it is evident that the sentence "*Therefore, classification has to be determined both according to the terms of the Headings and according to the provisions of the rules unless, a particular Heading or Note excludes the application of rules other than Rule 1"* as

held in the Khandelwal Judgement of the Hon'ble Apex court as reproduced above, does not lend itself to an understanding divested of the context in which it was explained, that is while examining the phrase "*and, provided such Headings or Notes do not otherwise require*". Therefore the former sentence can be understood to be stating that it does not necessarily mean that it should always be an explicit exclusion in as many words, but if the particular Heading or Note categorically states that it applies only to certain goods, then the remaining rules will not come into play so as to bring it within their fold given the non-negotiable primacy of GRI 1, and likewise, if the particular Heading or Note categorically excludes certain goods then the remaining GIR rules cannot be banked upon to include them therein. **However, if there is no such clear indication emanating from the headings or notes as to the precise classification of the good, then classification has to be determined both according to the terms of the Headings and according to the provisions of the rules, in the sequential manner as elaborated in the Judgement in Welkin Foods case supra**.

29. **At this juncture, it is also apposite to note that it is a settled position in law that if Revenue is proposing to redetermine the classification being claimed by an assessee, on the contention that the goods are to be classified under a different tariff heading, then the burden of proof is squarely on the Revenue.** It has been held in ***HPL Chemicals Ltd v. CC, Chandigarh, 2006 (197) ELT 324 (SC),*** as under:

> "29. This apart, classification of goods is a matter relating to chargeability and the burden of proof is squarely upon the Revenue. If the Department intends to classify the goods under a particular heading or sub-heading different from that claimed by the assessee, the Department has to adduce proper evidence and discharge the burden of proof. In the present case the said burden has not been discharged at all by the Revenue….."

The said view has been consistently reiterated by the Hon'ble Apex Court as can be seen from the decision in *CC & CE, Amritsar v. D.L. Steels, 2022 (381) ELT 289 (SC)* wherein it was held that when the Revenue challenges the classification made by the assessees, the onus is on the Revenue to establish that the item in question falls in taxing category as claimed by them. The burden is on the Revenue to adduce proper evidence to show that the goods are classifiable under a different heading than that claimed by the assessee. The recent decisions in ***Hewlett Packard India Sales Pvt Ltd v Commr of Cus (Import), Nhava Sheva, 2023 (383) ELT 241 (SC)*** as well as ***Gastrade International v CC, Kandla,***

,2025 (392) ELT 529 (SC) also hold to the same effect." **(emphasis supplied)**

28. Bearing the above in mind, from the relevant extracts of the Customs Tariff and Explanatory notes to HSN reproduced above, it is seen that Section XVI of the Customs Tariff covers the goods under chapter 84 and 85. Note 1 (l) of Section XVI unambiguously states that the Section does not cover articles of Section XVII. It is seen from the Explanatory Notes to the Harmonized Commodity Description and Coding System of the World Customs Organization, seventh edition (2022) produced by the appellant that the said embargo is verbatim stated in the Note 1 (l) of Section XVI thereof at page XVI-1. The Explanatory Notes to Section XVI under heading 'General' under sub-heading '(I) General Content of the Section', at page XVI-2, in (A), inter-alia, lists the main exclusions from the section and at page XVI-3, under (e), reiterates that Articles of Section XVII are excluded.

29. Section XVII of the Customs Tariff covers Chapter 86, 87, 88 and 89. Thus, if the impugned goods are articles under Chapter 87, they would get ousted from Chapter 86 per the said Note 1(l) of Section XVI of the Customs Tariff as well as the HSN explanatory notes.

30. It is the case of the Revenue that, since Heading 8708 has the description of the goods "Parts and accessories of the motor vehicles of heading 8701 to 8705", and Tariff item 87085000 has against it the description of goods as "Drive-axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof", the impugned goods being parts of rear axle assembly, are to be classified thereunder.

31. Now a question arises whether 'parts' of the goods described against a heading, sub-heading or tariff item as 'parts thereof', are also 'articles of Section XVII'. If, for example, we consider the heading 8708 with the description of goods "Parts and accessories of the motor vehicles of heading 8701 to 8705", beneath which, against a '-', the description "other parts and accessories of bodies (including cabs)' is given for the group of articles that come under it. Beneath the said '-' and description aforementioned, there is again a '- -' indicated against the tariff item 87082100, having against it the description, 'safety seat belts'.

Therefore, it can hardly be disputed that 'safety seat belts' that come under the description 'other parts and accessories of bodies (including cabs)' is an article. In fact, the General explanatory notes given below the General Rules for the Interpretation of the First Schedule stipulates that where in column (2) of this Schedule, the description of an article or group of articles under a heading is preceded by "-" the said article or group of articles shall be taken to be a sub-classification of the article or group of articles covered by the said heading, with the further explanation that where the description of an article or group of articles is preceded by "- -", the said article or group of articles shall be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has "-". Thus, indisputably, any goods as listed against a heading, sub-heading or tariff item in the schedules of chapters of Section XVII, including 'parts thereof', would qualify as "articles of Section XVII", so long as they are liable to be classified thereunder in accordance with the relevant chapter notes and section notes, read with the explanatory notes to HSN where they are also applicable.

32. It is pertinent to note that the Hon'ble Apex Court in Welkin Foods cited supra, has said that the explanatory notes to HSN can be considered as binding guidance so long as the relevant tariff heading is fully aligned with the corresponding HSN heading and when there does not exist any explicit statutory deviation or contrary legislative intent stipulated in the Tariff Act. The Apex Court had observed that since the First Schedule of the Act, 1975 was amended to be in accordance with the HSN, the Explanatory Notes, being the official, international interpretation, are the most authentic guide to understanding the scope of the headings.

33. Therefore, to examine if the impugned goods would get ousted from Chapter 84 per the said Note 1(l) of Section XVI, both in the Customs Tariff as well as that in the HSN pertaining to Section XVI as reproduced supra, it becomes necessary to see whether they are articles under Chapter 87. This necessitates an examination of the tariff heading 8708 of the Customs Tariff and that provided in HSN and also the notes to Section XVII of the Customs Tariff, as well as that provided in the HSN as pertaining to Section XVII.

34. As per Note 2 (e) of Section XVII of the Customs Tariff, the expressions "parts" and "parts and accessories" do not apply to articles of heading

8483, provided they constitute integral parts of engines or motors, whether or not they are identifiable as for the goods of this section. Note 3 further states that references in Chapter 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. Note 3 goes on to stipulate that a part or accessory which answers to a description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principal use of that part or accessory. Thus, articles of heading 8483 that constitute integral parts of engines or motors, and parts or accessories that are not suitable for use solely or principally with the articles of chapter 86 to 88, whether or not they are identifiable as for the goods of Section XVII, are not covered under the expression "parts" and "parts and accessories" as prevalent in Section XVII.

35. We notice that the Customs Tariff Heading 8708 with the corresponding description of goods "Parts and accessories of the motor vehicles of heading 8701 to 8705" is the same as the heading in Chapter 87 of HSN which is seen to be 87.08 with the corresponding description "Parts and accessories of the motor vehicles of heading 8701 to 8705". The specific tariff item under consideration, namely, 87085000 in the Customs Tariff has the corresponding description as "***- Drive-axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof***, which is exactly the description as that provided in HSN sub heading 8708.50. Likewise, the tariff item 87084000 in the Customs Tariff has the corresponding description as "***- Gear boxes and parts thereof***", which is verbatim the description as that provided in HSN sub heading 8708.40.

36. We find that the Adjudicating Authority has noticed the HSN explanatory notes to Heading 87.08 of Chapter 87 stipulates what are the Parts and accessories that the heading includes, and has taken cognizance of the categories of articles at paragraphs (D), (E) and (F) thereunder, which are as below:

"D) Gear boxes (transmissions) of all types (mechanical, overdrive. Preselector, electro-mechanical, automatic, etc.); torque converters; gear box (transmission) casings: shafts (**other than** internal parts of engines or motors); gear pinions; direct-drive dog-clutches and selector rods, etc.

E) Drive-axles, with differential; non-driving axles (front or rear); casings for differentials; sun and planet gear pinions, hubs, stub-axles (axle journals), stub-axle brackets.

(F) Other transmission parts and components (for example, propeller shafts, half-shafts: gears, gearing, plain shaft bearings: reduction gear assemblies; universal joints). But the heading **excludes** internal parts of engines, such as connecting-rods, push-rods and valvelifters of **heading 84.09** and crank shafts, cam shafts and flywheels of **heading 84.83**."

This has weighed with the Adjudicating Authority in holding that the impugned goods are includable as parts of rear axle assembly under Tariff Item 87085000.

37. However, directly beneath the HSN chapter heading 87.08 and sub headings along with the description of goods, and preceding the statement "Parts and accessories of this heading include:", there are stipulations in between, which appears to have escaped his attention. These stipulations as given therein are reproduced below:

"This heading covers parts and accessories of the motor vehicles of heading 87.01 to 87.05, **provided** the parts and accessories fulfil **both** the following conditions:

i. They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles:

and (ii) **<u>They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note)</u>**."
<u>(emphasis supplied)</u>

Thus, even if the parts are identifiable as being suitable for use solely or principally with the motor vehicles of heading 87.01 to 87.05, what is necessary is that both the conditions are to be satisfied conjunctively.

38. This leads to an examination of the Notes to Section XVII as provided in the Explanatory Notes to HSN. We find that the Notes 2(e) and 3 of Section XVII of the Customs Tariff are verbatim present as Notes 2(e) and 3 of Section XVII in the Explanatory Notes to HSN. As noticed supra, as per Note 2(e), the expressions "parts" and "parts and accessories" do not apply to articles of heading 8483, provided they constitute integral parts of engines or motors, whether or not they are identifiable as for the goods of this section.

39. To understand what is meant by integral parts of engine or motors to which the aforesaid expressions do not apply, as stated in Note 2(e) one only needs to peruse the General Explanatory Notes of Section XVII, where, under the Heading "General", there is the Category "(III) Parts and Accessories".

40. The stipulation under this Category "(III) Parts and Accessories", which begins with the observation that Chapter 89 makes no provision for parts (other than hulls) or accessories of ships, boats or floating structures goes on to state how such parts and accessories, even if identifiable as being of ships, etc. are therefore classified in other chapters in their respective headings. It further stipulates that the other chapters of Section XVII each provide for the classification of parts and accessories of the vehicles, aircrafts or equipment concerned.

41. Thereafter, with the use of the adverb "however", a caution is expressed that it should be noted that these headings, i.e., the headings that provide for classification of parts and accessories of the vehicles, aircraft or equipment concerned in the other chapters of Section XVII, **apply only to those *parts or accessories* which comply with all three of the following conditions**:

(a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A) below).

and (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below).

and (c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below).

Indisputably, these conditions have to be satisfied cumulatively, in order for articles to be considered as parts or accessories of the vehicles, aircrafts or equipment concerned in the chapters 86,87 and 88 of Section XVII.

42. Under this Category "(III) Parts and Accessories", in the paragraph (A) "Parts and accessories excluded by Note 2 to Section XVII", given in page XVII-3 of the 2022 Edition of the Explanatory Notes, the manner in which the exclusion in terms of Note 2 is to be understood is elaborated. In the paragraph (A), at Sl.No.6 a legend "Certain other goods of Chapter 84" is provided and at clause (c) thereof, on page XVII-4, the goods indicated are "Internal parts of engines or motors (crank shafts, cam shafts, flywheels etc.) falling in heading 84.83." This

is also found stated in the HSN explanatory notes to Chapter 87 Heading 87.08 that stipulates what the Parts and accessories of this heading include, in paragraph (F) as noticed supra, where it is stated "the heading **excludes** internal parts of engines, such as connecting-rods, push-rods and valvelifters of **heading 84.09** and crank shafts, cam shafts and flywheels of **heading 84.83".** Thus, in light of the above stipulations, we are of the firm opinion that it is only the articles of heading 8483 which are internal parts of engines or motors, that are considered as the integral parts of engine or motors, to which the expression "parts" and "parts and accessories" do not apply, whether or not they are identifiable as for the goods of section XVII, so as to attract the exclusion provided in Note 2(e) to Section XVII.

43. Drawing attention to the functioning of the impugned goods as given in the pictorial depiction, Ld. Counsel had argued that in the present case, the rotational force generated by the engine is transferred to the gear box which is further transferred to the rear axle through the propeller shaft and from the above, the imported goods can be considered as Transmission parts of engines and are therefore excluded by Note 2(e). Admittedly, TKAP considers the impugned goods either as "parts of rear axle assembly" or "parts of gear box assembly". Thus, even as per the explanation provided by TKAP as well as the pictorial representation provided, concededly, it is not the case of TKAP that these are internal parts of the engine. Hence, in view of the specific stipulations of the General Explanatory note in respect of parts and accessories as noticed above, the impugned goods are not internal parts of the engine, and as such, the reliance placed on Note 2(e) of Section XVII is misconceived. For these reasons the reliance placed in this regard on the decision in ***Hero Motorcorp Ltd. v. Commissioner of Customs (NS-I), Raigad, 2022 (379) E.L.T. 214 (Tri. — Mumbai***) is also misconceived, moreso, when the facts and circumstances of that case indicate that the goods dealt with therein pertain to motorcycles and are therefore different from those involved in the instant case. Moreover, the submissions made therein on the explanatory notes as recorded, do not indicate that the HSN General Explanatory Notes of Section XVII, and particularly that under Category "(III) Parts and Accessories", which included the paragraph (A) "Parts and accessories excluded by Note 2 to Section XVII", arose for consideration of the Tribunal in that case.

44. We also note that the Adjudicating Authority, while noticing the appellant’s contest that classification of the impugned goods under chapter 87 is only possible on the satisfaction of the triple conditions for the goods to be classifiable under 8708, has, however, considered only the reliance on Note 2(e) to Section XVII.

45. It appears that the stipulations in the paragraph (C) under Category “(III) Parts and Accessories” at page XVII-6, relied upon by the appellant in its reply, which elaborated on the condition “They must not be more specifically included elsewhere in the Nomenclature”; one of the essential conditions that is part of the three conditions required to be cumulatively satisfied to in order for articles to be considered as parts or accessories of the vehicles, aircrafts or equipment concerned in the chapters 86,87 and 88 of Section XVII, and in this case particularly to be considered as parts or accessories of the vehicles in the chapter 87; has escaped his attention.

46. We notice that in paragraph (C) aforementioned, the stipulation is that “Parts and accessories, *even if identifiable as for the articles of this Section*, are **excluded** *if they are covered more specifically by another heading elsewhere in the Nomenclature*.” Therefore, parts, as well as accessories, may be identifiable as for the articles of Section XVII. Nevertheless, it is immaterial whether such identification of these parts and accessories as that of the articles of Section XVII, emanate from the description of the goods against the heading or sub-heading or tariff item under the chapters of the section, for, the expression “***even if identifiable as for the articles of this section***” is unequivocal, as it unambiguously states that even if that were to be so, such parts and accessories are excluded if they are covered more specifically by another heading elsewhere in the Nomenclature. The phrase “*covered more specifically by* ***another heading elsewhere*** *in the nomenclature*” in the latter part of the condition, when read along with the phrase “***even if identifiable as for the articles of this section***” in the former part of the condition, again reaffirms that the more specific coverage is to be enquired into with respect to the nomenclature in other chapters of the Customs Tariff, dehors the factum of these parts and accessories figuring in the description against any of the headings, sub-headings or tariff item in the chapters of Section XVII.

47. As observed by us supra, Gears and Gearing are specifically mentioned in Heading 8483, and are more specifically covered under Tariff item 8483 40 00.

48. Admittedly, the Adjudicating Authority too has found that gears, gearing, pinion gear are mentioned under CTH 8483 and the same are also mentioned as parts under CTH 8708. We also notice that what is excluded under the HSN explanatory notes to Heading 84.83 in Chapter 84, as given at page XVI-8483-5, in sub-para (b) is "Transmission equipment of the kinds described above (gear boxes, transmission shafts, clutches, differentials etc.), but which are designed for use solely or principally with vehicles or aircrafts (Section XVII); it should, however be noted that this exclusion does not apply to internal parts of vehicles or aircraft engines-these parts remain classified in this heading." Pertinently, it is not the case of the Revenue that the subject good are 'differentials' in itself. It is the case of the Revenue that, since Heading 8708 has the description of the goods "Parts and accessories of the motor vehicles of heading 8701 to 8705", and Tariff item 87085000 has against it the description of goods as "Drive-axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof", the impugned goods being parts of rear axle assembly, are to be classified thereunder. It is also not in dispute that these are parts and accessories for Toyota Vehicles that come under heading 8703.

49. That said, as observed supra, while noticing the appellant's contest that classification of the impugned goods under chapter 87 is only possible on the satisfaction of the triple conditions for the goods to be classifiable under 8708, the adjudicating authority has however considered only the reliance on Note 2(e) to Section XVII. Hence, the view expressed that if he were to interpret gears and gearing to be solely classifiable under CTH 8483 then "parts thereof" occurring under CTI 87084000 & 87085000 will become redundant, has been so stated, oblivious to the stipulations in the paragraph (C) under Category "(III) Parts and Accessories", and is therefore misplaced. Therefore, we are of the considered view that the finding of the Adjudicating Authority upon taking cognizance of paragraphs (D), (E) and (F) of the HSN explanatory notes to Heading 87.08, that the gears, gearing and gear pinion principally and solely used in the vehicles merit classification

under CTH 8708 and not under CTH 8483, has been arrived at without fully considering whether the impugned goods stood excluded by the provisions of the said General Explanatory Note to Section XVII. The said finding is therefore misconceived.

50. It has been the endeavour of the Ld. Counsel to impress upon us that by virtue of the exclusion at Note 2(e) which stood satisfied since according to the appellant, since they are articles of 8483 that constitute integral parts of the engine, two out of the three conditions mentioned under "(III) Parts and Accessories" as provided at page XVII-3 of the HSN explanatory notes are not satisfied, namely:

> (a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A) below).
>
> and (c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below).

51. For the reasons stated above, we have found that the impugned goods are not internal parts of the engine so as to be considered as articles of heading 8483 that constitute integral parts of the engine, so as to satisfy the exclusion stated in Note 2(e) and hence the contention of TKAP that the condition at (a) is not satisfied is negatived. In other words, the condition at (a) for inclusion in "Parts and Accessories" of Chapter 87 and under heading 8708, that they must not be excluded by the terms of Note 2 to Section XVII, stood fulfilled in the instant case.

52. Further, under Section Note 3, parts and accessories which are not suitable for use solely or principally with the articles of Chapters 86 to 88 are excluded from those Chapters, the effect of which, we have seen from the HSN explanatory notes to Section XVII, is that when a part or accessory can fall in one or more other Sections as well as in Section XVII, its final classification is determined by its principal use. However, we hasten to say, the application of Section Note 3 is also subject to the fundamental prescription provided in the General Explanatory Notes of Section XVII, under the Category "(III) Parts and Accessories", namely, that these headings apply only to those parts or accessories which comply with all three conditions that are stated therein.

53. Furthermore, both sides are *ad idem* that the impugned goods are suitable for use solely or principally with the articles of Chapter 87, thus to our mind, the condition (b), namely, they must be suitable for use

solely or principally with the articles of Chapters 86 to 88 also stood satisfied. While the Revenue has deemed to treat the impugned goods as parts of rear axle assembly, given that the specific contentions and explanation of TKAP, referring to the particular part number of some of the impugned goods and distinguishing them as that used in gear boxes, has not been controverted by the Revenue with any evidence, we find that the Revenue has not discharged its onus of proving its proposed classification is attracted and hence we are inclined to accept the contention of TKAP in this regard.

54. No doubt, the explanatory notes to Heading 84.83 also states that the heading excludes Transmission equipment of the kinds gear boxes, transmission shafts, clutches, differentials etc., but which are designed for use solely or principally with vehicles or aircrafts (Section XVII). However, it is not the case of revenue that the impugned goods are "differentials" or "Drive-axles with differential". Revenue is only considering them to be "parts of rear axle assembly". We have already found that the term "articles of Section XVII" would also encompass the "parts" of such articles. Therefore, the exclusions listed in Paragraph C of category "(III) Parts and Accessories" of the HSN explanatory Notes to Section XVII, would equally be applicable to parts of such articles covered under heading 8708, "Parts and Accessories of the motor vehicles of heading 8701 to 8705".

55. Ergo, from our analysis of Paragraph C of category "(III) Parts and Accessories" of the HSN explanatory Notes to Section XVII detailed above, and our finding, that the impugned goods are specifically included in Heading 8483, we hold that the condition (c) that they must not be more specifically included elsewhere in the Nomenclature, is not satisfied which results in the non-fulfilment of the three conditions required to be fulfilled cumulatively that is essential for the impugned goods to be classified as parts under heading 8708 of chapter 87. This, to our mind, results in the ouster of the impugned goods from classification under Heading 8708 and resultantly from being classified under Tariff Item 8708 50 00 and 8708 40 00. Given that we have already found Gears and Gearing are specifically mentioned in Heading 8483 and more specifically covered under Tariff item 8483 40 00, we are of the considered view that the finding of the Adjudicating Authority that the gears, gearing and gear pinion principally and solely used in

the vehicles merit classification under CTH 8708 and not under CTH 8483, is wholly untenable and liable to be set aside.

56. We have already noted that in terms of Rule 1 of the General Rules for Interpretation, classification is to be determined according to the terms of the Headings and the relevant Section and Chapter Notes. Heading 8708 covers parts and accessories of motor vehicles, and even though the impugned goods, are identifiable as parts suitable for use solely or principally with such vehicles, however, in the light of the fundamental prescription provided in the General Explanatory Notes of Section XVII, under the Category "(III) Parts and Accessories", namely, that these headings apply only to those parts or accessories which comply with all three conditions that are stated therein and furthermore, in view of the specific exclusion provided under the HSN Explanatory Notes in Section XVII under Category "(III) Parts and Accessories" in the paragraph (C) at page XVII-6 discussed above, classification under Heading 8483 is appropriate. Accordingly, the impugned goods are classifiable under Heading 8483 in terms of Rule 1 itself, and we do not find any necessity to revert to the subsequent rules of interpretation.

57. Given that we have determined the classification of the impugned goods on first principles and for the reasons stated above, we also do not find merits in the additional justifications provided by the Adjudicating Authority. The Adjudicating Authority has sought to justify the classification on the ground that the supplier has chosen to classify the impugned goods under Heading 8708. In this regard, we find the reliance placed by the Appellants on the decision in ***Commissioner of Customs & Central Excise v. Reliance infrastructure, 2022 (1) TMI 1403- CESTAT HYDERABAD,*** to be apposite. The coordinate bench has in the said decision, observed that the HSN mentioned by such supplier does not estop either the importer or the proper officer or the adjudicating authority from classifying the goods under any other heading, going on to observe that otherwise, anyone can ask the supplier to indicate an incorrect but convenient HSN in the invoice and packing list and reduce the duty liability. The Tribunal has gone on to observe that if it is held that HSN in the supplier's documents binds the importer or the assessing officer or the adjudicating authority in classification of goods, as the Revenue seems to suggest, it can lead to absurd results with disastrous consequences for the Revenue itself. Yet

another reason that has found favour with the Adjudicating Authority is that the Senior Personnel of the Appellant had agreed to the stated classification voluntarily. We also notice that equally they have stated their justification as to why the classification as has been declared in the Bills of Entry have been adopted. Classification is based on the description of the goods as presented together with the connected import documents including accompanying literature about the goods, if any, and is not based on opinions of the personnel of the appellant. Hence little sustenance can be drawn from such statements. As regards the reliance placed on the rulings the ruling of the Commercial and Trade Facilitation Division of the United States Customs and Border Protection and the National Commodity Specialist Division of the United Stated Customs and Border Protection, we notice that the Heading 8483 had not arisen for the consideration of the authority and the aptness of the said Heading in comparison with the Heading 8708 was not an issue that has been analysed. These rulings are therefore of no avail to the Revenue in the instant case. So too, the observation that it is the trade practice to classify the impugned goods under 8708 is a mere *ipse dixit,* as the impugned order, or the notice, does not discuss the examination or analysis of any evidence that is relied upon in this regard. The appellants have relied upon the case laws in ***in Eicher Ltd. v. CCE, Chennai, 2002 (142) E.L.T. 136 (Tri. - Chennai)***, ***Eimco Elecon (India) Ltd. v. CCE, Vadodara, 2002 (145) E.L.T. 421 (Tri. - Mumbai), JTEKT Sona Automotive India Limited v. Commissioner of Customs, 2020 (371) E.L.T. 730 (Tri),*** and ***Commissioner of Central Excise, Chennai V Best Cast (P) Ltd, 2001 (127) E.L.T. 730 (Tri. — Chennai)*** affirmed by the Hon'ble Supreme Court in ***Commissioner v. Best Cast (P) Ltd., 2001 (133) E.L.T. A258 (S.C)*** to contend that various Benches of the Tribunal have been consistently holding the goods of the type imported by the appellants, as classifiable under Heading 8483 and not as parts of motor vehicles under Heading 8708. We have perused the same and while refraining from extracting therefrom to avoid prolixity, find such reliance placed to be appropriate.

58. Ld. Special Counsel for the Respondent has relied upon the decisions in ***CCE, Shillong v. Wood Craft Products Ltd, 2002 (143) ELT 247 (SC), CC v Business Forms Ltd, 2002 (142) ELT 18 (SC), CCE Delhi v. M/s. Uni Products India Ltd, 2020 (372) ELT 465 (SC)*** and we find that the emphasis therein is to take assistance of HSN

Explanatory notes to resolve entry related disputes, and being a course that we too have adopted in this case, are supportive of our conclusions. As regards the reliance placed on the Judgement of the Hon'ble Apex Court in G.S. Auto International case in support of the contention that goods are to be classified as to how they are referred in the market, we find that in the instant case, as observed supra, there is no reliance on any market enquiry or evidence as to the trade practice being examined or analysed in the impugned order, and as such the reliance is misplaced. That apart, the facts of the said case, as well as the parts under consideration therein, are different from that of the instant case. Moreover, the applicability of paragraph (C) of the HSN Explanatory Notes of Section XVII under category "(III) Parts and Accessories", had not arisen in the said case and hence, this judgement is of no assistance to Revenue in this matter. We find that the Judgement of the Hon'ble Supreme Court in the case of ***CCE Delhi v. M/s. Uni Products India Ltd, 2020 (372) ELT 465 (SC),*** incidentally relied upon by both sides is more appropriate. The Hon'ble Apex Court in fact, considers the paragraph (C) of the HSN Explanatory Notes of Section XVII in relation to " (III) Parts and Accessories" and, finding the goods in the subject case, namely, textile carpets, being excluded by virtue of being listed therein, and are to be classified under Chapter Heading 5703 90 90, has held that there is no necessity to import the "common parlance" test or any other similar deice of construction for identifying the position of these goods against the relevant tariff entries. We find that the said decision vindicates our analysis and bolsters our views expressed above.

59. In asmuch as we have on merits found that the TKAP cannot be faulted for adopting the classification under heading 8483 and found it to be correct, there does not arise any question of there being any liability to pay duty or the impugned goods being liable to confiscation so as to warrant visiting the appellants with the attendant detriments such as interest, redemption fine or penalty. So too, there would not arise the question of imposing any penalty on the other appellants who are the personnel of TKAP and co-noticees in this case. In light of our findings above, the Department Appeal to impose penalty under Section 112(a) is devoid of merits and is liable to be rejected. In light of our findings above, the remaining contentions of the appellants relating to interest

on IGST demand etc. does not arise for our consideration thereafter, and are therefore not addressed.

60. In light of our discussions and reasoning as well as the findings given above, we hold that the impugned order is liable to be set aside. Ordered accordingly.

61. The Department's appeal is dismissed and the appeals of the Appellants are allowed, with consequential relief(s) in law, if any.

(Order pronounced in open court on 27.07.2026)

(AJAYAN T.V.)
MEMBER (JUDICIAL)
ra

(M. AJIT KUMAR)
MEMBER (TECHNICAL)