CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
New Delhi

PRINCIPAL BENCH – COURT NO.1

Customs Appeal No.52227 Of 2022

[Arising out of Order-in-Original No. 24/2022/SG/Pr. Commr./ICD-Import/TKD dated 05.08.2022 passed by the Principal Commissioner of Customs (Imports), ICD Tughlakabad, New Delhi]

Rissala Electric Motors (P) Ltd. **: Appellant**
537/1, Shivam Kunj Road, Khera
Dewat Road, Gurugram-122001

Vs

Principal Commissioner of Customs **: Respondent**
ICD TKD NEW DELHI
Near IGI Airport, New Delhi-110037

APPEARANCE:

Shri Sushant Uniyal, Advocate for the Appellant

Shri N. M. Goyal, Authorized Representative for the Respondent

CORAM :
HON'BLE DR. RACHNA GUPTA, OFFICIATING PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER No. 51605/2026

Date of Hearing:09.09.2026

Date of Decision:13.10.2026

HEMAMBIKA R. PRIYA

The present appeal has been filed by M/s Rissala Electric Motors Private Limited to assail the Order-in-Original No. 24/2022/SG/Pr. Commr./ICD-Import/TKD dated 05.08.2022 passed by the Commissioner, whereby the benefit of exemption claimed by the appellant under Notification No. 50/2017-Cus dated 30.06.2017 was denied, and the demand of duty, along with penalty was confirmed.

2. The brief facts of the case are that the Appellant was engaged in the import of electric two-wheeler components in CKD (Completely Knocked Down) condition. During the relevant period, the Appellant filed Bills of Entry declaring the classification under CTH 87116020, and claimed concessional rate of duty under Notification No. 50/2017-Cus dated 30.06.2017 as amended by Notification No. 03/2019-Customs dated 29.01.2019. Subsequently, a Show Cause Notice was issued alleging that the appellant had wrongly classified the goods and had incorrectly availed the benefit of exemption. It was alleged that the goods did not satisfy the conditions prescribed under the relevant entries of the notification and were liable to be assessed at a higher rate of duty. The Adjudicating Authority, vide the impugned order, confirmed the demand of duty amounting to Rs. 54,82,066/- along with applicable duties. The goods were also held liable for confiscation under Section 111 (m) of the Customs Act, and penalty under Section 112 was imposed. Aggrieved by the said order, the appellant has preferred the present appeal before this Tribunal.

3. Learned counsel for the appellant submitted that the show cause notice[1] in the present case had been issued by the Assistant Commissioner, despite the fact that the demand involved exceeded the prescribed monetary limits and fell within the jurisdiction of the Principal Commissioner. He contended that it was a settled position of law that the jurisdiction of an officer must be determined with reference to the statutory provisions and applicable administrative

1 SCN

instructions at the time of issuance of the SCN.In the present case, the issuance of SCN by an officer lacking monetary jurisdiction rendered the entire proceedings void ab initio. Jurisdiction is not a procedural irregularity but goes to the root of the matter, and any action taken without jurisdiction is a nullity in the eyes of law. Learned counsel submitted that the Adjudicating Authority has sought to justify this defect by noticing that a corrigendum was subsequently issued, making the SCN answerable to the Principal Commissioner, making the reasoning ex facie erroneous and unsustainable. In the present case, the goods were duly assessed and cleared by the proper officer at the time of import after full disclosure of all relevant particulars. The issuance of the Show Cause Notice by a different officer, who neither conducted the original assessment nor has been shown to be the competent "proper officer", rendered the entire proceedings without jurisdiction. Learned counsel further submitted that such a fundamental defect cannot be cured by way of a subsequent corrigendum. A notice which is void ab initio cannot be validated retrospectively. In view of the above, he submitted that the impugned SCN, having been issued by an incompetent authority, is void ab initio and all proceedings emanating therefrom are liable to be quashed. Consequently, the impugned order passed in pursuance of such invalid SCN is also unsustainable and deserves to be set aside. He also submitted that the impugned order has observed that a consultative letter dated 28.06.2021 was issued to the Appellant and, since no response was received, the Department was justified in proceeding further. The said finding was wholly erroneous and contrary to both

facts and law, the appellant had never received any such consultative letter. Learned counsel stated that the requirement under the aforesaid Notification was not an empty formality, but a substantive safeguard intended to provide an opportunity to the assessee to engage with the Department prior to issuance of the Show Cause Notice. He further submitted that the authority had incorrectly proceeded on the assumption that mere issuance of a letter satisfied the requirement of pre-consultation, thus defeating the very purpose and spirit of the statutory scheme. In the present case, there had been no effective consultation, no opportunity of participation, and no meaningful engagement with the Appellant prior to issuance of the SCN.

3.1 Learned counsel for the appellant submitted that the adjudicating authority had erred in denying the benefit of concessional rate under Serial No. 531(1) (a) and Serial No. 531A (1) (b) of Notification No. 50/2017-Cus dated 30.06.2017 by adopting a self-contradictory and legally unsustainable approach.The authority had invoked General Interpretative Rule 2(a) to hold that the goods imported by the Appellant, though incomplete, possessed the essential character of an electric two-wheeler and therefore classifiable as complete vehicles. Having taken this position, the authority thereafter, proceeded to deny the benefit of CKD exemption on the ground that certain components such as batteries and controllers were not imported and, therefore, the goods do not satisfy the conditions of CKD. Learned counsel submitted that the conditions of CKD must be interpreted practically and purposively, keeping in view the nature of

trade and assembly of such vehicles. The mere absence of certain components at the time of import does not ipso facto negate the essential character of CKD kits, especially when the core assemblies and structure of the vehicle were imported. He contended that the reliance by the Revenue on the decision of Y.C. Electric Vehicle Vs. vide Final Order No. 50298/2025 dated 10.02.2025 was misplaced as the same was not applicable to the facts and circumstances of the present case. The appellant had imported e-Bike in CKD condition with all pre-assembled essential parts and components but not mounted on chassis/body assembly. The revenue has simply stated that the case of the appellant is covered by YC Electric but the said case is completely different from that of the appellant.

3.2 Learned counsel further stated that the appellant had disclosed the nature of the goods, classification claimed, and the exemption was availed in the Bills of Entry and accompanying documents. As the order itself in para 27.2 acknowledge the same, it says that "there is no dispute about the classification of the goods under CTH 87116020." The goods were duly examined by the proper officer and cleared accordingly. Thus, all primary facts were within the knowledge of the Department from the very inception, and there has been no suppression or misstatement on the part of the appellant. In such circumstances, the finding of the adjudicating authority that the appellant had acted with intent to evade duty was unsustainable. He stated that it was a settled position that when all relevant facts were disclosed to the Department, the allegation of suppression cannot be sustained, and the burden to establish willful intent lay with the

Department, which had not been discharged in the present case. Learned counsel submitted that the appellant had consistently maintained the same classification and claimed exemption from the outset. On the contrary, it was the Department which sought to alter its view after clearance of the goods, without any new material or evidence. Such a mere change of opinion cannot be equated with willful misstatement or suppression. He further submitted that the dispute in the present case pertained to classification and eligibility of exemption under Notification No. 50/2017-Cus dated 30.06.2017 which was inherently a matter of legal interpretation. The adjudicating authority had failed to appreciate that classification disputes, by their very nature, involve interpretational differences and cannot ipso facto give rise to penal consequences. The entire case of the Department rested solely on a reinterpretation of the same set of facts already disclosed by the appellant. Such a reinterpretation, even cannot retroactively convert a bona fide claim into a case of misdeclaration or fraud. Further, learned counsel stated that the essential ingredients for imposition of penalty namely, suppression, misstatement, or intent to evade duty were completely absent, hence, the penalty imposed under the impugned order was liable to be set aside.

3.3 Learned counsel further submitted that the adjudicating authority had erred in confirming the demand by applying the full rate of 100% Basic Customs Duty (BCD), without appreciating the structure and scheme of Notification No. 50/2017-Cus dated 30.06.2017. The impugned order had proceeded on the premise that since the appellant was not eligible for the concessional rate under Serial No. 531A (1),

the goods were automatically liable to duty at the full tariff rate of 100% BCD. This conclusion was wholly erroneous and contrary to the express provisions of the notification. Learned counsel stated that the authority had failed to consider the alternative plea raised by the Appellant and has, without any reasoning, jumped from a concessional rate of 15% to the maximum rate of 100%, which vitiated the demand. He further submitted that Section 111(m) provided for confiscation of goods where such goods "do not correspond in respect of value or in any other particular with the entry made under this Act." Thus, the sine qua non for invoking the provision was clear and demonstrable mismatch between the goods and the declaration made by the importer. In the present case, no such mismatch existed. The Appellant had accurately declared the description of goods, the classification claimed, and the exemption availed in the Bills of Entry and accompanying documents. The goods were duly examined by the proper officer and cleared for home consumption. At no stage had the Department established that the goods physically differed from what was declared. Thus, there was complete correspondence between the declaration and the goods imported, and the very foundation of Section 111(m) is absent. He also submitted that the essential ingredients for imposition of penalty namely, knowledge, intent, or involvement in any act rendering the goods liable to confiscation were completely absent. The Appellant had made full and true disclosure of all material particulars at the time of import, and the goods were examined and cleared by the Department. The dispute pertained only to classification and eligibility of exemption, which was a matter of

legal interpretation. It is a settled position that a bona fide classification dispute cannot attract penal consequences.

4. Learned Authorized Representative appearing for the Department submitted that General Rules of Interpretation[2]1 to 4 must be applied strictly sequentially. He stated that the GRI 2(a)'s 'essential character' test governed the classification of incomplete or CKD goods 'as presented at the time of import'. The adjudicating authority, in this case, had correctly applied GRI 2(a) by holding that the e-bike CKD kit, despite the absence of Battery Pack, Charger, and other components, retained the essential character of a complete electrically-operated motorcycle/scooter under CTH 87116020 the very heading under which the appellant itself self-declared and self-assessed the goods at the time of import. The appellant's attempt to belatedly reclassify the goods as 'parts' under CTH 8714, was advanced only after the audit objection was impermissible under the 'as presented at import' principle. Such consideration was further barred by the stringent evidentiary threshold for displacing a self-declared eo-nomine classification. Learned AR further stated that as regards the pre-notice consultation, the record showed that a consultative letter dated 28.06.2021 was duly sent and the appellant's own reply to the SCN in Para 36.2 admitted the receipt of such letter. Having admitted the pre-notice consultation letter, the appellant cannot now deny it. He submitted that the **ITC Limited** judgment relied upon by the appellant holds that self-assessment is an appealable order. The Supreme Court did not hold that the Revenue

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2 GRIs

cannot initiate SCN proceedings under Section 28, where there is mis-declaration or wrong availment of exemption. Section 28(1) expressly enables recovery where exemption has been wrongly availed. Section 17(1) and Section 46 of the Customs Act cast a duty on the importer to make a correct self-assessment, where the importer avails an exemption notification for a kit that does not contain all mandatory components. The Revenue has established from the importer's own packing list that all components were not imported which constituted wilful wrong availment, attracting Section 28 proceedings.

4.1 Learned AR stated that Rule 2(a) of the Interpretative Rules is clear that an unassembled or incomplete article that has the essential character of a complete article is liable to be classified as the complete article. The CKD e-bikes, even without the Battery Pack and other components, retained the essential character of electrically operated motor cycles, as confirmed by the CBEC Circular 55/95 dated 30.05.1995 on CKD/SKD imports. The HSN Explanatory Notes as applicable to CTH 8711 provide that incomplete or unfinished vehicles are classified as complete vehicles if they have the essential character of the complete vehicle. The goods declared by the appellant themselves as "e-Bike in CKD condition with all pre-assembled essential parts and components". Learned AR stated that it was pertinent to note that the appellant declared this as an e-bike, not as parts. The classification under CTH 8711 60 20 was therefore correctly confirmed by the adjudicating authority.

4.2 Learned AR further submitted that the exemption under S. No. 531A(1) of Notification 50/2017-Customs was available only to

electrically operated motor cycles imported as a knocked down kit containing all the necessary components, parts or sub-assemblies for assembling a complete vehicle, with specified rates for kits with (a) disassembled or (b) pre-assembled Battery Pack, Motor, Motor Controller, Charger, Power Control Unit, Energy Monitor Contractor, Brake System, and Electric Compressor not mounted on a chassis or body assembly. Learned AR submitted that the Revenue's case stands established from the appellant's own Packing List - that the Battery Pack, Power Control Unit, Energy Monitor Contractor, Charger, and Electric Compressor were not present in the import. Without these, the import does not qualify as a CKD kit "containing all the necessary components." The exemption was therefore not available, and the differential duty at the full tariff rate of 100% BCD is correctly demanded. Learned AR submitted that the case was squarely covered by the decision of the Tribunal in **Y.C. Electric Vehicle** versus **Principal Commissioner, Customs (Import), ICD TKD[3].**

5. We have heard the learned Counsel for the appellant, learned AR for the department and perused the records. The issue before us is whether the goods imported by the appellant are eligible for the benefit of the notification claimed in the Bills of Entry.

6. We note that the Ld Counsel has very vehemently submitted that the SCN in the present case had been issued by an Assistant Commissioner, even though the demand involved exceeded the prescribed monetary limits. Further the issue of a corrigendum did not satisfy the law and rendered the entire proceedings void ab initio. In

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3 Final Order No. 50298/2025 dated 10.02.2025

this context, we note that it is a settled position of law that a corrigendum is valid where it corrects, clarifies or supplements the SCN, with no prejudice to the noticee, before adjudication. In the instant case, we note that apart from merely making the said notice answerable to the Pr. Commissioner, there was no prejudice caused to the appellant. The expression 'proper officer' is function specific and not officer specific. Under the law as authoritatively stated by the Apex Court, an officer, including DRI officer has been assigned the powers of Customs Officers, including that of Section 28 of the Customs Act. Hence, an Assistant Commissioner who has been designated as an officer of Customs under Section 2(34) of the Customs Act is the proper officer. Hence, we are unable to accept the contention that the Assistant Commissioner does not have the power to issue the said SCN.

6.1 Further, a change in the "answerable to" clause does not after the nature of the said notice. In this context, we draw support from the Apex Court judgment in **State of Rajasthan & another** versus **J. K. Udaipur Udyog Limited & another**[4] has observed that the use of the word 'corrigendum' indicates the intention of correction and to rectify that the State Government thought had been erroneously done. This view was also taken by Karnataka High Court in **M/S. Jubilant Organosys Limited** versus **Assistant Commissioner of Central Excise, Mysore-III**[5] observing that "a corrigendum is nothing but a correction and it relates back to notification itself". In the instant

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4 [2004 (7) SCC 673]
5 [2012 (276) ELT 335 (Kar.)]

case, the corrigendum issued making the show cause notice answerable to the Principal Commissioner related back to the show cause notice itself.

6.2 In view of the above, we hold that the issue of a corrigendum does not vitiate the adjudication proceedings in the instant case. As regards the submissions of the lack of pre-consultation before the issuance of the said notice, we find that the impugned order notes that the appellant has referred to the receipt of the pre-consultative letter dt 28.06.21 and cannot now take up the plea of non-receipt or the nature of the letter.

7. As regards the Ld Counsel's submissions that the Bills of Entry have attained finality, we find this aspect was dealt by the coordinate bench of this Tribunal in **Famous Steel** versus **Commissioner of Customs, Mundra**[6] held as follows:

> "5.2 Regarding first point i.e. demand of Anti-Dumping Duty, learned Counsel, Shri Vikas Mehta argued that the imported goods were cleared under self-assessment which has neither been challenged by the department by way of filing an appeal nor is there any other order setting aside the assessment and therefore, demand of Anti-Dumping Duty and IGST are not tenable in view of decision of Hon'ble Apex Court in ITC case (cited supra). He refers to para 47 of the decision where it has been held as under:-
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> .....
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> We find that in ITC case, issue for consideration before Hon'ble Court was claim of refund of duty filed by ITC who subsequent to assessment of duty, found that they were eligible to benefit of Notification 6/2000-CE dated 01.03.2000 granting complete exemption from duty upto certain specified quantity of finished goods manufactured by using

6 Final Order no 10752 dt. 23.09.26

unconventional raw materials. As per them, duty was paid but exemption was available to them under a Notification, hence, they filed the refund claim. In these facts, Hon'ble Supreme Court held that unless assessment is challenged by way of filing an appeal and there is an appellate order to that effect, refund will not arise. Para 44 of the said decision amplifies this proposition in following words:

> *"44. The provisions under Section 27 cannot be invoked in the absence of amendment or modification having been made in the bill of entry on the basis of which self-assessment has been made. In other words, the order of self-assessment is required to be followed unless modified before the claim for refund is entertained under Section 27. The refund proceedings are in the nature of execution for refunding amount. It is not assessment or re-assessment proceedings at all. Apart from that, there are other conditions which are to be satisfied for claiming exemption, as provided in the exemption notification. Existence of those exigencies is also to be proved which cannot be adjudicated within the scope of provisions as to refund. While processing a refund application, re-assessment is not permitted nor conditions of exemption can be adjudicated. Re-assessment is permitted only under Section 17(3)(4) and (5) of the amended provisions. Similar was the position prior to the amendment. It will virtually amount to an order of assessment or reassessment in case the Assistant Commissioner or Deputy Commissioner of Customs while dealing with refund application is permitted to adjudicate upon the entire issue which cannot be done in the ken of the refund provisions under Section 27.*
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> *In Hero Cycles Ltd. v. Union of India - 2009 (240) E.L.T. 490 (Bom.) though the High Court interfered to direct the entertainment of refund application of the duty paid under the mistake of law. However, it was observed that amendment to the original order of assessment is necessary as the relief for a refund of claim is not available as held by this Court in Priya Blue Industries Ltd. (supra)."*

5.3 The present matter involves non-payment of Anti-dumping duty and IGST thereon, during self- assessment of goods and therefore, the issue in hand is related to duty demand governed by the provisions of Section

28 of the Customs Act, 1962 and not by refund provisions. During subsequent scrutiny of documents, department found that Anti-dumping duty and IGST thereon, was not paid on the goods during self-assessment, and therefore, it exercised it's right under Section 28 of the Customs Act, 1962 by issuing show cause notice. The provisions of Section 28 of the Customs Act dealing with recovery of duties of customs not levied or not paid……. are entirely different than the refund provisions under Section 27 arising out of any assessment or reassessment order. We also note that similar issue came up for decision before Hon'ble Supreme Court in the case of Jain Shudh Vanaspati Ltd. 1996 (86) ELT 460 (SC) which in para 6 of said decision, held as under:-

> *"6. The case of the appellants in the show cause notices is that the stainless steel containers in which the said oil was imported were banned, that the stainless steel containers were deliberately camouflaged by painting them to resemble mild steel containers, and that this was done with a view to enabling their clearance. A clearance order under Section 47 obtained by fraudulent means such as this (if it, in fact, be so) cannot debar the issuance of a show-cause notice for confiscation of goods under Section 124. Fraud, if established, unravels all. An order under Section 47 obtained by the employment of fraudulent methods does not have to be set aside by the exercise of revisional powers under Section 130 before the ill-effects of the fraud can be set right by initiation of the process of confiscation of the fraudulently cleared goods under Section 124."*

5.4 Similar issue also came up for consideration before CESTAT Mumbai in the case of Asia Motors Works where customs duty was demanded by issuing demand cum show cause notice without challenging the assessment order. The Tribunal in their order reported at 2020 (371) ELT 729 (T) held as under: 8 C/10080/2024-DB:

> *"6. It has been argued by the Ld. Counsel for AMW that since the assessment has not been challenged, demand under Section 28 cannot be raised. In this regard Ld. AR had relied on decision of Ld. Apex Court in case of Jain Shudh Vanaspati Ltd. (supra) wherein it has been held that the demand can be raised under*

Section 28 even if challenging assessment. Consequently, this argument of Ld. Counsel for AMW is rejected."

7.1 In view of above judicial pronouncements, we are of the view that there is no bar in issuance of show cause notice by the department under Section 28 of the Customs Act for demanding differential customs duty without challenging self-assessment of goods.

8. We will now take up the submissions on the merit of the case. The Ld Counsel has submitted that the conditions of CKD must be interpreted practically, and the mere absence of certain components at the time of import does not ipso facto negate the essential character of CKD kits, especially when the core assemblies and structure of the vehicle are imported. In this context, we note that Rule 2(a) reads as follows:-

"2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled……"

8.1 We note that Rule 2(a) of the General Rules for the Interpretation is an expansion rule, and prevents classification from being defeated merely because an article arrives incomplete, unfinished, or knocked down—provided the statutory conditions are met at the time and in the condition in which the goods are presented to Customs. The decisive inquiry is the identity and character of the goods as presented for assessment. In this context, we note that this

Bench in its decision in the case of Y.C. Electricals in Final Order No. 50298/2025dated 10.02.2025 has held that e-rickshaw components imported in CKD/SKD condition, even without all parts, have the essential character of a complete vehicle and must be classified as such. Recourse has been taken to the HSN Explanatory Notes for Chapter 87 which state that a vehicle 'not yet fitted with...battery' is still classifiable as the complete vehicles were expressly approved. The relevant paras are reproduced hereinafter:

> *"14. We find that the HSN Explanatory Notes for the Chapter 87 states as follow: "An incomplete or unfinished vehicle is classified as the corresponding complete or finished vehicle provided it has the essential character of the latter [see Interpretative Rule 2 (a)], as for example: (A) A motor vehicle, not yet fitted with the wheels or tyres and battery, (B) A motor vehicle not equipped with its engine or with its interior fittings, and (C) A bicycle without saddle and tyres".*
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> *15. In the instant case, we note that the appellant have imported certain components of the E-Rickshaw i.e.converter. charging socket, connection box, On-off switch, digital speedometer, alarm system, throttle with left grip, controller, left right switch, hand brake with wire, handle T, lamp ear, shocker, arm rest and motor. We also note that each of these items are in imported equal numbers, as is evident from the Table 2 above. Thus, it is seen from the above components, an E-Rickshaw can be assembled, even though it might be in an incomplete E-Rickshaw.*
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> *16. We take note of the HSN Explanatory Notes which categorically states that an incomplete or unfinished vehicle is classified as the corresponding complete or finished vehicle, provided it has the essential character of the latter. As per the HSN Explanatory Notes, even though parts of E-Rickshaw falling under CTH 8708 9900 were imported, on assembly, the said e-rickshaw is liable to be classified as complete or finished vehicle under CTH 8703 9000 provided it has the essential character of the latter. We now examine whether the incomplete or unfinished vehicle has the essential character of the complete or finished vehicle. The learned counsels for the appellant has submitted*

that they 9 CUSTOMS APPEAL NO. 51965 OF 2022 have procured many of the components domestically in India. The Rule 2(a) of General Rules of Interpretation for classification under HSN is reproduced here under:-—

…….

In the instant case some parts of E-Rickshaw are imported and some parts are domestically procured. The question arises which are the major components/assemblies that provide essential characteristics to make a complete E-rickshaw in CKD SKD condition. 17. Learned Authorized Representative has drawn our attention to the office order dated 12.03.2014 is shed by port of import i.e. Principal Commissioner, Customs (Import) New Delhi (ICD TKD). It was submitted that a Committee was constituted in 2014 by the Commissioner of Customs ICD TKD to decide as to what percentage of components/assemblies combine together make E-rickshaw in CKD SKD as per Rule 2(a) of the Interpretative Rules to the First Schedule to the Customs Tariff Act, 1975. On the basis of recommendations of this Committee, an Office Order dt 12-03-2014 from C.No. VIII/ICD/TKD/6AG/104/2013/pt was issued……x……

……..

We note that the appellant and has imported connection box for the e-rickshaw. The Connection box in an E rickshaw also known as junction box, is an electrical 11 CUSTOMS APPEAL NO. 51965 OF 2022 enclosure that protects wiring connections. It is an important safety feature that protects people from electric shock and the connections from environmental conditions. We also note that as per open source available on internet, the transmission system or the gearbox is essentially connected to the electric motor through a shaft, which then connects to the motor's wiring that would likely be routed through a dedicated connection box for managing the electrical power coming from the battery controller to the motor; effectively making the gearbox indirectly linked to the electrical connection points. This makes the component an integral part of the transmission system. In addition, we also note that the appellant has imported identical numbers of other parts of an e-rickshaw. Therefore, we are of the view that with the three major components/assemblies in addition to the other components provide essential characteristics to make a complete E-rickshaw in CKD

SKD condition, classifiable at 8703 have been imported. In addition, a perusal of the proximity of imports vide various Bills of Entry importing the parts of an E-Rickshaw establishes that complete e-Rickshaw in CKD/SKD condition was imported by the appellant."

8.2 In the instant case, we note that Battery pack/Charger even not having imported are precisely the components which are cited in the HSN note which do not affect the essential character of the imported goods. Further, it is an admitted fact that the appellant themselves declared the goods as "e-Bike in CKD condition with all pre-assembled essential parts & components, not as parts. Consequently, we hold that the goods imported possess the essential characteristics of complete vehicle and satisfies the requirements of Rule 2(a) of GRIs. Hence, the classification of the imported goods under CTH 87116020 as decided by the adjudicating authority is upheld.

9. Learned Counsel has contended that the appellant was eligible for the reduced rate of duty under Sl. No. 531A(1) of Notification No. 50/2017-Customs. A perusal of the said notification reveals that the said exemption is available to electrically operated motor cycles imported in knocked down condition containing all the necessary components. It is also an admitted fact that Battery pack, Charger, Electric Compressor was not imported. Hence, we hold that the benefit under the said notification cannot be extended to the appellant. Ld Counsel submitted that the appellant was eligible for the alternative exemption under Sl No. 531A(2). We note that in **Y.C Electricals**, the appellant had raised the identical plea, which had not been claimed at time of import. The Tribunal relying on the decision in **Abhedya**

Industries judgment held that notification benefit not claimed at time of filing of Bill of Entry cannot be entertained later. The relevant para is extracted hereinbelow:

> "25. The Appellant has claimed the benefit of Sl. No. 526A of Notification No. 55/2017 dt. 30.06.2017. In this context, we note that the benefit of Sl. No. 526A of Notification No. 55/2017 dt. 30.06.2017 was not claimed by the Appellant at the time of filing of Bill of Entry. We also note that the impugned order has denied the benefit of the said Notification relying CESTAT Order in the case of Abhedya Industries Ltd. Versus Commr. Of C. Ex. & S.T., Hyderabad-III reported as 2016 (340) E.L.T. 398 (Tri.-Hyd) [21-06-2016]. The relevant para is reproduced below: —
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> *8. This being so, the contention of the appellant that even if they are not eligible under Notification No.44/2001 they could be given benefit of Notification No. 43/2001-C.E. (N.T.) is therefore misconceived and unacceptable, since it is not the case of appellant that they had applied for benefit under Notification No. 43/2001."*

9.1 We find no reason to differ from the findings of this Tribunal on identical facts in **Y.C. Electricals decision (supra)**.

10. The Ld Counsel has stated that the confiscation under Section 111(m) confirmed, but no redemption fine was imposed, but penalty under Section 112(a)(ii) imposed. It has been submitted that since confiscation was set aside, the penalty under Section 112(a)(ii) also falls. In this context we note that the Tribunal upheld the Order-in-Original in **Y C Electricals** in an identical confiscation without

imposition of redemption fine, recognising these to be legally distinct outcomes. We are of the opinion that confiscation and redemption fine are indeed separate action. Hence, we find no reason to differ from these findings.

11. In view of the above discussions, we find no reason to interfere with the impugned order, and uphold the same. Consequently, the appeal stands dismissed.

(Pronounced on 13.10.2026)

(DR. RACHNA GUPTA)
OFFICIATING PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

G.Y.