GSTAT

State Bench Lucknow

Court No. Court I

APL/20/LCK/2026

AJIT KUMAR MINZ **.....Appellant**

Versus

NATASHA AUTOMOBILES PRIVATE LIMITED, DIRECTOR, 83-A MODEL TOWN BAREILLY MODEL TOWN UPBAR 243005 NEAR HARI MANDIR **.....Respondent**

Quorum

Hon'ble Santosh Kumar Srivastava, Member(Judicial)
Hon'ble Arvind Kumar, Member (Technical)

Counsel for Appellant
MRS. NIDHI SHARMA, SUPERINTENDENT, CGST
MR. ANUPAM KUMAR, SUPERINTENDENT, CGST

Counsel for Respondent
MR. DHARMENDRA SRIVASTAVA, CA

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZN540371026000412H **Date of order :** 21/10/2026

1.	GSTIN/Temporary ID/UIN - 09AAACN2900R2Z6	
2.	Appeal Case Reference no. - APL/20/LCK/2026	Date - 04/02/2026
3.	Name of the appellant - Ajit Kumar Minz , ajitkm.c109301@gov.in , 9835161422	
4.	Name of the respondant - 1. NATASHA AUTOMOBILES PRIVATE LIMITED , ravigpt85@gmail.com , 9927774477	
5.	Order appealed against - AD090425014739T	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD0907252092765	Date - 22/07/2025
6.	Personal Hearing - 21/10/2026 21/09/2026 09/09/2026 18/08/2026 11/08/2026 04/06/2026	

7.	Status of Order under Appeal - Reject - Order under Appeal is annulled
8.	Order in brief - M/s Natasha Automobiles Pvt. Ltd., engaged in the supply of Hyundai Creta, Alcazar and Tucson vehicles, was alleged to have paid Compensation Cess at 20% instead of 22% under Entry 52B of Notification No. 05/2017-Compensation Cess (Rate). The Department raised a demand of Rs.25,66,695/- along with interest and penalties under Section 74 of the CGST Act, 2017, on the ground that the vehicles satisfied the prescribed SUV classification criteria, including ground clearance of 170 mm or above. The First Appellate Authority set aside the Order-in-Original, holding that the ground clearance of the vehicles before 26.07.2023 was to be determined in the laden condition and that the relevant technical evidence showed clearance below 170 mm. Aggrieved by this decision, the Revenue filed the present second appeal, contending that the vehicles were popularly known as SUVs and attracted Compensation CESS at 22%. Upon examination, the Tribunal held that the vehicles satisfied the SUV criterion and that the manufacturer's specifications were relevant evidence for determining ground clearance. It concluded that the differential cess demand was sustainable and that suppression of facts with intent to evade tax had been established. Accordingly, the Order-in-Appeal dated 21.07.2025 was set aside, the Order-in-Original dated 24.01.2025 was restored, and the Revenue's appeal was allowed.

Summary of Order

9.	If demand order then whether demand quantified: Yes

Section-I

Particulars	Central tax		State/UT tax		Integrated tax		Cess		Total	
	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount
1	2	3	4	5	6	7	8	9	10	11
(a) Tax	0		0		0		2566695	2566695	2566695	2566695
(b) Interest	0		0		0		0		0	0
(c) Penalty	0		0		0		5133390	5133390	5133390	5133390
(d) Fees	0		0		0		0		0	0
(e) Others										0
(f) Refund										0

10.	For Other orders and Demand orders which are not quantified:	
Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Short or non-payment of tax	Dropped	Department Appeal is allowed

Place :LUCKNOW

Signature

Date : 22.10.2026

LUCKNOW ANAMIKA DEVI

Designation : Stenographer/Law researcher

Jurisdiction :Lucknow

ORDER

Brief Facts of the Case

1.1 M/s Natasha Automobiles Pvt. Ltd, 4th KM Stone, Rampur Road, C.B. Ganj, Bareilly-243005, having its GSTIN 09AAACN2900R2Z6 (hereinafter referred to as "respondent" and is engaged in the supply of motor cars, motor vehicles, including Sports Utility Vehicles (SUVs), and parts and accessories thereof, falling under Chapter Heading 8703 of the tariff.

1.2 The dispute arose pursuant to an investigation conducted by the Directorate General of GST Intelligence (DGGI), Meerut Zonal Unit, regarding the rate of Compensation Cess discharged by the appellant on certain Hyundai vehicles, namely Creta 1.6, Alcazar 2.0 and Tucson 2.0, having engine capacity exceeding 1500 cc. The Department alleged that the appellant had discharged Compensation Cess at 20% instead of 22% during the relevant period.

1.3 The Department proceeded on the basis that the aforesaid vehicles satisfied the conditions prescribed under S. No. 52B of Notification No. 05/2017-Compensation Cess (Rate) dated 11.09.2017, namely, engine capacity exceeding 1500 cc, length exceeding 4000 mm and ground clearance above 170 mm. Accordingly, it was alleged that the vehicles were liable to Compensation Cess at 22%, whereas the appellant had discharged cess at 20%.

1.4 The principal controversy between the parties related to the manner in which the ground clearance of the vehicles was required to be determined. The appellant maintained that all the prescribed conditions were required to be satisfied cumulatively and relied upon technical certification showing the ground clearance of the Creta at 169 mm in laden condition. The Department, on the other hand, relied upon the ground clearance of the vehicles in their unladen condition, which exceeded 170 mm.

1.5 In support of its view, the Department also relied upon the statement dated 28.06.2024 of Shri Avadhesh Kumar Gupta, Accounts Manager/Authorised Signatory of the appellant, as well as information contained in a press release issued by the manufacturer. On that basis, the unladen ground clearance was considered to be approximately 190 mm for Creta, 200 mm for Alcazar and 172 mm for Tucson.

1.6 Consequent to the investigation, it appeared to the DGGI that the taxpayer had contravened the provisions of Section-8, Section-9, Section-13, Section-31, Section-49,

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Section-59 of the Central GST Act 2017 and Section-20 of the IGST Act 2017. For the evasion of tax and for the violation of the above referred provisions of the Act, Show Cause Notice No. 60/2024-25 dated 23.07.2024 was issued, covering the period from 11.09.2017 to 14.03.2024.

1.7 The notice proposed recovery of differential Compensation Cess of ₹25,66,695/-, along with applicable interest and penalties, by invoking the provisions of Section 11 of the Goods and Services Tax (Compensation to States) Act, 2017 read with Section 74 of the CGST/UPGST Act, 2017. A separate penalty was also proposed under Section 122(1)(i) of the CGST/UPGST Act, 2017.

1.8 The Show Cause Notice was adjudicated by the competent authority vide Order-in-Original dated 24.01.2025. The adjudicating authority accepted the Department's view that the relevant vehicles had ground clearance exceeding 170 mm and were consequently liable to Compensation Cess at 22%. Accordingly, differential Compensation Cess of ₹25,66,695/- was confirmed along with applicable interest. Penalty of ₹25,66,695/- under Section 74(1) and a further penalty of ₹25,66,695/- under Section 122(1)(i) of the CGST/UPGST Act, 2017 were also imposed.

1.9 Aggrieved by the said order, the appellant preferred an appeal before the First Appellate Authority. The appellant principally contended that the dispute was one of interpretation of the applicable notification and did not involve fraud, wilful misstatement, suppression of facts or intention to evade tax so as to justify invocation of Section 74. It was further contended that the transactions had been duly disclosed and that the applicable rate of Compensation Cess had been adopted on the basis of the technical specifications and certification available to the appellant.

1.10 On the substantive issue, the appellant relied upon the certification of the Automotive Research Association of India (ARAI) and asserted that the relevant ground clearance of the Creta was 169 mm in laden condition. According to the appellant, the adjudicating authority had failed to undertake an independent technical examination and had instead relied upon the manufacturer's press release and the unladen ground clearance of the vehicles.

1.11 During appellate proceedings, the Appellate Authority identified the central issue as whether the ground clearance criterion prescribed under S. No. 52B was required to be determined in the laden or unladen condition, particularly in view of Notification No. 03/2023-Compensation Cess (Rate) dated 26.07.2023, which expressly clarified that ground clearance means ground clearance in the unladen condition.

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1.12 The Appellate Authority further took note of CBIC Circular No. 247/04/2025-GST dated 14.02.2025, according to which the amendment introduced by Notification No. 03/2023 would apply prospectively. The authority also referred to the judgment of the Bombay High Court in *Mercedes-Benz India Pvt. Ltd. v. Union of India*, observing that, for the period prior to the amendment, ground clearance for determining the applicable cess rate was to be considered in the laden condition.

1.13 Consequently, the relevant period was divided into two parts. For the period 11.09.2017 to 25.07.2023, ground clearance was required to be examined in the laden condition, whereas for clearances from 26.07.2023 onwards, it was required to be examined in the unladen condition.

1.14 Upon examination of the available technical material, including the ARAI certifications and other records, the Appellate Authority found that the laden ground clearance of all three disputed models was below 170 mm. It was therefore held that the clearances made by the appellant during the period 11.09.2017 to 25.07.2023 had correctly suffered Compensation Cess at 20%, and consequently, the differential demand relating to those clearances was not sustainable.

1.15 For the subsequent period commencing 26.07.2023, the Appellate Authority observed that the unladen ground clearance of the relevant models exceeded 170 mm and, therefore, such clearances would attract Compensation Cess at 22%. However, the records disclosed only two relevant clearances, dated 12.02.2024 and 14.03.2024, on which the appellant had already discharged Compensation Cess at 22%. These clearances had also not been included in the Show Cause Notice for computation of the differential liability.

1.16 Thus, the factual dispute ultimately turned not upon concealment of the supplies or the identity of the vehicles, but upon the legal and technical standard to be applied for measurement of ground clearance during the relevant period. Once the period-specific standard was applied, the record showed that the appellant had discharged Compensation Cess at 20% for the pre-26.07.2023 clearances where the laden ground clearance was below 170 mm, while Compensation Cess at 22% had already been discharged on the post-amendment clearances reflected in the record.

1.17 The appellate authority vide Order-in-appeal No. NOI-C6ST-NOIDA-O02-APPL-249-202 dated 21.07.2025 allowed the appeal filed by respondent before appellate authority with

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consequential benefits, set aside the Order-in-Original dated 24.01.2025 issued by proper officer.

1.18 Being aggrieved by the said Order-in-Appeal, the Department has preferred the present second appeal before the Tribunal, mainly challenging the Classification under Entry 52B, stating that Hyundai Creta, Alcazar and Tucson satisfy the conditions of Entry 52B and are liable to Compensation Cess at 22%. Accordingly, payment of cess at 20% resulted in short-payment of revenue, justifying action under Section 74 with interest and penalty, and the Revenue seeks restoration of the Order-in-Original.

2. Grounds of Appeal:

2.1 The Order-in-Appeal No. NOI-CGST-NOIDA-02-APPL-249-2025-26 dated 21.07.2025, passed by the Additional Commissioner (Appeals), Central GST, Noida, in the case of M/s Natasha Automobiles Private Limited, 4th KM Stone, Rampur Road, C.B. Ganj, Bareilly, Uttar Pradesh-243005 (GSTIN: 09AAACN2900R2Z6), has been examined and is found to be illegal, improper, erroneous, and unsustainable both on facts and in law, on the following, amongst other, grounds.

2.2 The principal issue involved in the present appeal is whether motor vehicles falling under HSN 8703, namely Creta 1.6, Alcazar 2.0 and Tucson 2.0, are classifiable under Entry 52A (attracting Compensation Cess @20%) or Entry 52B (attracting Compensation Cess @22%) of Notification No. 05/2017-Compensation Cess (Rate). Entry 52B applies to motor vehicles popularly known as Sports Utility Vehicles (SUVs) which simultaneously satisfy the following four conditions:

(1) engine capacity exceeding 1500 cc;
(ii) length exceeding 4000 mm,
(iii) popularly known as an SUV; and
(iv) ground clearance of 170 mm or more.

2.3 The statement of Shri Avadesh Kumar Gupta, Accounts Manager and Authorized Signatory of the respondent taxpayer, to the effect that GNT and Compensation Cess were discharged strictly in accordance with invoices issued by M/s Hyundai Motor India Ltd., and that no SUV satisfying the parameters prescribed under Entry 52B was sold, is self-serving and unsupported by objective evidence.

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2.4 For classification under Entry 52B, fulfilment of all four conditions cumulatively is mandatory. In the present case, there is no dispute with respect to the engine capacity and length of the vehicles. The dispute has been restricted only to the issues of (1) ground clearance being 170 mm or more, and (ii) whether the vehicles are "popularly known as SUVs".

2.5 The vehicles Creta, Alcazar and Tucson are undeniably and universally recognized as SUVs in common parlance. The manufacturer itself consistently markets, advertises, and represents these models as SUVs in brochures, advertisements, press releases, and other promotional material available in the public domain. Therefore, the condition of being "popularly known as SUVs" stands conclusively satisfied.

2.6 With regard to ground clearance, the manufacturer, through its own press releases and publicly available specifications, has declared the ground clearance of the said vehicles to be more than 170 mm. Information disseminated in the public domain for influencing consumer purchasing decisions carries greater evidentiary value and reliability than selective documents produced subsequently by the taxpayer during investigation. Accordingly, the condition relating to ground clearance is also fulfilled, and the vehicles squarely fall under Entry 52B, attracting Compensation Cess @22.

2.7 The reliance placed by the taxpayer on the ruling of the Maharashtra Appellate Authority for Advance Ruling dated 20.09.2019 is misconceived, as the said ruling is binding only on the applicant concerned and the jurisdictional officers of that State, and has no precedential value in the State of Uttar Pradesh.

2.8 The Appellate Authority has erroneously relied upon certifies issued by the Automotive Research Association of India (ARAI), which cannot be relied upon for the following reasons:

1. the term "ground clearance" is not defined under the Motor Vehicles Act, 1988 or the Central Motor Vehicles Rules, 1989;

it. Rules 124 and 126 of the Central Motor Vehicles Rules, 1989 empower ARAI try certify vehicle prototypes only for ensuring compliance with safety standards, as these rules fall under the chapter titled "Safety Devices";

ii. Notification No. 411(F) dated 09.02.2016 prescribing IS 94.35:2004 for measurement of minimum ground clearance was issued under Section 110(1)(k) of the Motor Vehicles Act, 1988 solely for safety-related purposes;

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iv. And ARAI certificates explicitly state that the measurements are undertaken only for compliance with the Central Motor Vehicles Rules, 1989, and not for taxation or classification under any fiscal stature.

2.9 Hence, the minimum ground clearance certified by ARAI is relevant only for safety standards and cannot be adopted for determining the applicable rate of Compensation Less under the GNT law.

2.10 That Section 2 of the Motor Vehicles Act, 1988, which contains statutory definitions, does not define the term "ground clearance".

2.11 Similarly, Rule 2 of the Central Motor Vehicles Rules, 1989 does not define the term "ground clearance".

2.12 In the absence of any statutory definition of "ground clearance" under the Motor Vehicles Act or the Central Motor Vehicles Rules, certificates issued by ARAI/other technical agencies for safety compliance purposes are irrelevant for classification under the GST (Compensation to States) Act, 2017.

2.13 The Hon'ble Supreme Court, in Leisure land Pvt. Lal. [1996 (84) ELT A49], upheld the settled principle that definitions under one enactment cannot be mechanically imported into another enactment unless both statutes are allied and cognate. The objectives and scheme of the Motor Vehicles Act and fiscal statutes such as the Central Excise Tariff Act/GST law are fundamentally different.

2.14 In view of the above judicial principle, the provisions of a taxing statute must be strictly construed, and no words can be added or substituted by implication. Therefore, the taxpayer's attempt to interpret the expression "ground clearance of 170 mm and above" as "ground clearance of 170 mm and above in fully laden condition" is legally untenable and impermissible.

2.15 The amendment to Entry 52B vide Notification No. 03/2023-Compensation Cess (Rate) dated 26.07.2023 was based on the recommendations of the 50th GST Council Meeting, which sought to clarify and expand the scope of Entry 52B.

2.16 Accordingly, Entry 52B was substituted to include all utility vehicles by whatever name called, and an Explanation was inserted to clarify that "ground clearance" means ground clearance in un-laden condition.

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2.17 The said notification brought about two changes:

(1) inclusion of various categories of utility vehicles; and

(ii) clarification of the meaning of "ground clearance" as un-laden ground clearance.

2.18 Further, CBIC Circular No. 247/04/2025-GST dated 14.02.2025 clarified that the amendment carried out vide Notification No. 03/2023 would apply prospectively from 26.07.2023,

2.19 Thus, prior to 26.07.2025, Entry 525 as it stood earlier continued to apply, and vehicles satisfying the parameters therein were chargeable to Compensation Cess@22%.

2.20 The said Circular does not state that, prior to 26.07.2023, ground clearance was required to he measured in the fully laden condition. Hence, the taxpayer's interpretation lacks legal basis.

2.21 The taxpayer deliberately charged a lower rate of cess to gain undue competitive advantage, thereby evading legitimate Government revenue and violating the self-assessment obligations under Section 59 of the CGST Act, 2017.

2.22 The taxpayer also contravened Sections 8 and 9 of the GST (Compensation to States) Act, 2017 read with Section 13 of the CGST Act, 2017, by failing to levy, collect, and correctly pay Compensation Cess and by issuing invoices with correct tax rates in violation of Section 31 of the CGST Act, 2017, invocation of the extended period under Section 74 is therefore fully justified.

2.23 It is evident from records that during the period from 11.09.2017 to 14.05.2124, the taxpayer supplied goods valuing Rs. 12,83,19,765/- which were liable to Compensation Cess 22%, but discharged cess only (20%, resulting in short-payment of Compensation Cess amounting to 2%, recoverable under Section 74 of the CGST Act. 2017 read with Section 11 of the GST (Compensation to States) Act, 2017, along with applicable interest and penalty.

2.24 While the Adjudicating Authority rightly confirmed the demand vide Order-in Original dated 24.01.2025, the Additional Commissioner (Appeals) erred in law and on facts in setting aside the said order. The Impugned Orders-in-Appeal is therefore liable to be quashed and set aside.

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3. Respondent Reply:

3.1 The Respondent submits that the Revenue has challenged Order-in-Appeal No. **NOI-CGST-NOIDA-02-APPL-249-2025-26 dated 21.07.2025**, although the same is a detailed and reasoned order passed after considering the SCN, Order-in-Original, documentary and technical evidence, relevant notifications, CBIC Circular No. 247/04/2025-GST and the Bombay High Court judgment in *Mercedes-Benz India Pvt. Ltd. v. Union of India*. According to the Respondent, the Revenue has merely reiterated its original case without identifying any specific factual or legal error in the findings of the Commissioner (Appeals).

3.2 The principal dispute concerns Entry 52B and the requirement of "ground clearance of 170 mm and above." Prior to 26.07.2023, the entry did not expressly require measurement in the unladen condition. Notification No. 03/2023 dated 26.07.2023 subsequently introduced an Explanation specifically providing for measurement in unladen condition. CBIC Circular No. 247/04/2025-GST clarified that this amendment applies on or after 26.07.2023. The Respondent therefore contends that the unladen criterion cannot be applied retrospectively.

3.3 The Respondent disputes the Revenue's contention that the CBIC Circular does not require laden measurement for the earlier period. Reliance is placed on *Mercedes-Benz India Pvt. Ltd. v. Union of India*, W.P. No. 5208 of 2025, decided on 29.04.2025, wherein, according to the submission, the Bombay High Court treated the unladen-condition amendment as prospective and held that for the earlier period ground clearance was to be considered in **laden condition**. The Respondent submits that the Revenue has shown no distinguishing feature warranting a different conclusion.

3.4 The Respondent submits that the Commissioner (Appeals) did not import the provisions of the Motor Vehicles Act or Rules into GST law. The ARAI certificates were relied upon only as technical evidence regarding the actual physical specifications and minimum ground clearance of the vehicles. The Revenue produced no contrary ARAI certificate, independent physical measurement, or other technical evidence establishing laden ground clearance of 170 mm or more.

3.5 According to the Respondent, the pre-26.07.2023 demand could survive only if the Department established that the vehicles had ground clearance of 170 mm or above in the legally relevant condition. The Department mainly relied upon manufacturer press releases/public-domain material showing unladen specifications, but did not establish laden ground clearance. Since the Respondent produced technical certificates showing laden

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clearance below 170 mm, the burden was upon the Revenue to rebut them with cogent evidence.

3.6 The Respondent points out that the Revenue itself acknowledges ARAI/technical documents showing ground clearance below 170 mm in laden condition. The real attempt of the Revenue is therefore to replace the laden measurement with an unladen measurement. Since the unladen criterion was expressly introduced only by the subsequent amendment, the Respondent contends that the Revenue has failed to establish differential cess liability for the earlier period.

3.7 Even if Creta, Alcazar and Tucson are accepted as being popularly known as SUVs, the Respondent submits that this alone cannot attract Entry 52B. The statutory requirements are cumulative, and therefore the prescribed ground-clearance condition must also be independently satisfied. Failure to establish the requisite ground clearance cannot be cured merely by establishing the SUV character of the vehicles.

3.8 For the post-amendment period, the Commissioner (Appeals) found that only two clearances, dated 12.02.2024 and 14.03.2024, had taken place. Compensation Cess at 22% had already been discharged on these clearances, and these transactions were also not included in the taxable value adopted in the SCN for differential liability. Therefore, according to the Respondent, no unpaid differential cess survives for the post-26.07.2023 period.

3.9 The Respondent submits that the Revenue's reliance on *Lesureland Pvt. Ltd.* is misplaced because the Respondent is not importing a statutory definition from the Motor Vehicles law into GST law. ARAI certification has been relied upon merely as technical evidence of vehicle specifications. Further, according to the Respondent, the Revenue has cited no authority establishing that the expression "ground clearance" under the pre-amendment Entry 52B necessarily meant unladen ground clearance. Pasted text.

3.10 The Respondent submits that the dispute is essentially an interpretational dispute concerning the applicable rate of Compensation Cess and measurement of ground clearance. Cess at 20% was regularly discharged and the supplies were disclosed in statutory records. There was no allegation of clandestine clearance, unaccounted sales, fictitious transactions or falsification of quantities. Therefore, according to the Respondent, fraud, wilful misstatement or suppression with intent to evade tax required for invoking Section 74 has not been established.

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3.11 The Respondent accepts its obligation of self-assessment under Section 59 but submits that an incorrect or disputed self-assessment does not automatically amount to fraud or suppression. Independent ingredients of Section 74 must still be proved. Otherwise, according to the submission, the statutory distinction between Sections 73 and 74 would lose significance.

3.12 The Revenue referred to Sections 8 and 9 of the Compensation to States Act read with Section 13 of the CGST Act. The Respondent points out that Section 13 relates to the time of supply of services, whereas the present dispute concerns supply of motor vehicles, i.e., goods. It is therefore submitted that Section 13 cannot support the demand in the present matter.

3.13 The Respondent submits that once the principal differential Compensation Cess demand fails, consequential interest and penalties also cannot survive. It is further contended that neither Section 74 nor Section 122 penalty can independently be sustained merely because the Department disagrees with the rate/classification adopted by the Respondent. Pasted text

3.14 According to the Respondent, the Commissioner (Appeals) examined Entry 52A/52B, Notification No. 03/2023, CBIC Circular No. 247/04/2025-GST, the *Mercedes-Benz* judgment, ARAI certificates, laden/unladen measurements, Departmental data and post-26.07.2023 transactions before concluding that no further Compensation Cess was payable. The Revenue has allegedly failed to demonstrate perversity, lack of evidence, or any material legal error in those findings. Pasted text

4. Discussion And Findings

4.1 We have carefully and meticulously examined the Order-in-Appeal dated 21.07.2025, the Order-in-Original dated 24.01.2025, the Show Cause Notice, the grounds raised by the department, the reply filed by the respondent, and the other material available on record.

4.2 The principal issue for determination is whether the taxpayer correctly discharged Compensation Cess at the rate of 20% or was liable to pay Cess at the rate of 22% under the relevant entry of Notification No. 05/2017-Compensation Cess (Rate) dated 11.09.2017, and whether the differential amount is recoverable along with interest and penalty under Section 74 of the CGST Act, 2017, read with Section 11 of the Goods and Services Tax (Compensation to States) Act, 2017.

4.3 The record shows that the Department alleged payment of Compensation Cess at 20% instead of 22% on the disputed vehicles and raised differential cess of ₹25,66,695.

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4.4 We find that the taxpayer supplied Hyundai Creta, Hyundai Alcazar and Hyundai Tucson vehicles falling under Heading 8703. The relevant entry prescribing the higher rate of Compensation Cess applies where the vehicle satisfies the specified conditions relating to engine capacity exceeding 1500 cc, length exceeding 4000 mm, ground clearance of at least the prescribed threshold, and being popularly known as an SUV. The taxpayer has contended that all these conditions must be satisfied cumulatively and that its vehicles do not fulfil the prescribed ground-clearance requirement.

4.5 However, the taxpayer's contention that the vehicles are not covered by the higher rate cannot be accepted merely on the basis of its own classification or the rate of Cess charged by the manufacturer.

4.6 Entry 52A applies to motor vehicles having engine capacity exceeding 1,500 cc, except vehicles covered by Entry 52B. In simple terms, if a motor vehicle has an engine capacity exceeding 1,500 cc but does not fall within the category of vehicles specified under Entry 52B, the applicable compensation cess rate under Entry 52A is 20%, whereas Entry 52B prescribed Compensation Cess at 22% for motor vehicles exceeding 1500 cc popularly known as SUVs, including utility vehicles. The Explanation referred to vehicles exceeding 4000 mm in length and having ground clearance of 170 mm and above.

4.7 Under the original wording introduced by Notification No. 05/2017, dated 11.09.2017, Entry 52B covered:

- Motor vehicles with engine capacity exceeding 1,500 cc;
- Vehicles popularly known as Sports Utility Vehicles (SUVs), including utility vehicles; and
- Under the accompanying explanation, vehicles having a length exceeding 4,000 mm and ground clearance of 170 mm or above.

4.8 Notification No. 03/2023–Compensation Cess (Rate), dated 26.07.2023, amended Entry 52B. The revised entry expressly covered utility vehicles, by whatever name called, including SUVs, Multi Utility Vehicles (MUVs), Multi-purpose Vehicles (MPVs) and Cross-Over Utility Vehicles (XUVs), subject to the prescribed criteria:

- Engine capacity exceeding 1,500 cc;
- Length exceeding 4,000 mm; and

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- Ground clearance of 170 mm or above, with ground clearance expressly defined as clearance in the unladen condition.

4.9 The notification dated 26 July 2023 amended Entry 52B and inserted an express explanation that:

"Ground Clearance means ground clearance in unladen condition."

4.10 The original entry did not contain this express definition; it was inserted by the 2023 amendment.

4.11 The amendment introduced an express statutory rule for measuring ground clearance in the unladen condition.

4.12 Paragraphs 5.2 and 5.3 of the circular 247/04/2025-GST dated 14 February 2025 discuss the original Entry 52B and the amendment made by Notification No. 03/2023–Compensation Cess (Rate). Paragraph 5.3 records that the amended entry includes the explanation defining ground clearance as unladen clearance. Paragraph 5.4 then states:

"the amendment carried out vide notification No. 03/2023-Compensation Cess (Rate) dated 26.07.2023 will apply on or after 26.7.2023."

4.13 The circular expressly clarifies that the amendment applies on or after 26 July 2023. It does not, in those words, separately declare that every pre-amendment vehicle must be measured in the laden condition.

4.14 The respondent relied on CBEC Circular No. 972/06/2013-CX dated 24.07.2013 has been considered. The said circular was issued in the context of Central Excise duty under Notification No. 12/2013-CE and clarified the treatment of certain sedan cars which, despite satisfying the prescribed numerical parameters, were not popularly known as SUVs in common and trade parlance. However, the present dispute concerns the levy of compensation cess under the applicable GST notification, and the classification of the vehicles must be determined in accordance with the specific language of Entry 52A or Entry 52B governing the relevant period. The circular cannot, by itself, establish that the vehicles supplied by the appellant are eligible for the lower rate of compensation cess. Such eligibility must be determined on the basis of the applicable statutory entry, the prescribed technical criteria and the evidence relating to the disputed models and variants

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4.15 Indeed, CBEC Circular No. 972/06/2013-CX dated 24.07.2013, issued under the corresponding Central Excise regime, had clarified that the higher rate applied where the vehicle was popularly known as an SUV and the other prescribed parameters relating to engine capacity, length and ground clearance were satisfied. GST Council materials also record this position.

4.16 In the present case, there is no substantial dispute regarding engine capacity exceeding 1500 cc or the prescribed length. The controversy essentially concerns (i) whether the vehicles were popularly known as SUVs, and (ii) whether their ground clearance satisfied the statutory requirement.

4.17 On the first issue, we find substance in the Revenue's contention. Creta, Alcazar and Tucson were represented and marketed by the manufacturer itself as SUVs. Manufacturer's brochures, press releases, advertisements and specifications constitute relevant evidence for determining how a product is understood in commercial and common parlance.

4.18 The expression used in the pre-amendment Entry 52B is "popularly known as Sports Utility Vehicles (SUVs)". Therefore, commercial identity and the manner in which the manufacturer presents the product to consumers are directly relevant.

4.19 Consequently, the respondent cannot successfully contend that the disputed models are outside Entry 52B merely because some technical document employs a different description. On the material placed on record, the Creta, Alcazar and Tucson satisfy the condition of being popularly known as SUVs. The original adjudicating authority had reached the same factual conclusion.

4.20 Establishing that the vehicles are SUVs, however, is not by itself sufficient. The prescribed ground-clearance requirement must independently be satisfied.

4.21 The Revenue relied upon Hyundai's publicly declared specifications showing ground clearance above 170 mm. The respondent relied principally upon ARAI-related technical material indicating lower minimum ground clearance in the laden condition.

4.22 The manufacturer's own technical specifications and publicly issued product literature cannot be discarded as irrelevant. These specifications originate from the manufacturer of the vehicles and are intended to communicate the physical characteristics of the vehicle to purchasers.

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4.23 Where the taxing entry itself employs an expression based partly upon the commercial identity of the product "popularly known as" an SUV manufacturer literature has significant evidentiary relevance.

4.24 In this way, the Commissioner (Appeals) ought not to have rejected the manufacturer's specifications merely because ARAI documents were also available. The evidentiary conflict was required to be resolved by examining what each measurement represented, the loading condition under which it was taken and its relevance to the particular statutory period.

4.25 We also find that the Commissioner (Appeals) placed considerable reliance upon ARAI certification. The Revenue contends that ARAI certification under the Motor Vehicles Act, 1988 and Central Motor Vehicles Rules, 1989 is primarily for prototype approval and regulatory compliance and cannot, by itself, determine the rate of Compensation Cess.

4.26 This contention is partly justified. The ultimate classification has to be determined from the language of the Compensation Cess notification, and not merely from the classification or terminology used under another enactment.

4.27 At the same time, an ARAI certificate cannot be treated as irrelevant merely because it was issued under the Motor Vehicles regulatory framework. It remains relevant technical evidence concerning the physical specifications of the vehicle. The distinction is that the certificate may prove a physical measurement, but the legal consequence of that measurement must still be determined under the Compensation Cess notification.

4.28 Therefore, the proper approach is neither to treat ARAI certification as conclusive of tax classification nor to reject it altogether. It must be weighed against the manufacturer's specifications and other technical evidence.

4.29 Notification No. 03/2023-Compensation Cess (Rate) dated 26.07.2023 was issued following the recommendations of the 50th GST Council meeting. Entry 52B was substituted so as to cover specified utility vehicles by whatever name called, and an Explanation was introduced providing that "ground clearance" means ground clearance in unladen condition.

4.30 This amendment is significant because the earlier Entry 52B did not expressly employ the words "laden" or "unladen". The introduction of an express definition therefore removed the ambiguity for the subsequent period.

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4.31 CBIC Circular No. 247/04/2025-GST dated 14.02.2025 specifically considered this issue. It records that following the 50th GST Council meeting, Notification No. 03/2023 substituted Entry 52B and added an Explanation that ground clearance means ground clearance in unladen condition.

4.32 Most importantly, the Board clarified that the amendment carried out through Notification No. 03/2023 "will apply on or after 26.7.2023."

4.33 Therefore, Revenue is correct to the limited extent that the Circular itself does not expressly use the words that pre-26.07.2023 ground clearance "shall be measured in laden condition".

4.34, The judgment of the Hon'ble Bombay High Court in Mercedes-Benz India operates merely as a persuasive authority; it has no binding precedential value before this Bench in the State of Uttar Pradesh. Similarly, under Section 103(1) of the CGST Act, 2017, the Advance Ruling in Tata Motors Limited by the Maharashtra AAAR is legally binding exclusively upon that specific applicant and its jurisdictional officers. As settled by the **Hon'ble Supreme Court in State of Orissa v. M.D. Illyas (2006),** a judicial decision is only a precedent for what it explicitly decides on its own unique facts and cannot be mechanically transposed to mandate a tax exemption or lower classification here.".

4.35. The decisions in Mercedes-Benz and Tata Motors erroneously assume that because the pre-amendment Entry 52B was silent on loading conditions, the term 'laden condition' must be read into the statute to benefit the taxpayer. We strongly dissents. As settled by the Constitution Bench of the Hon'ble Supreme Court in Commissioner of Customs v. Dilip Kumar & Co. (2018), any ambiguity or claim of a lower rate within a specific classification entry must be construed strictly against the assessee. The default manufactured state of a motor vehicle delivered from a factory floor is its unladen state. In the absence of explicit legislative words directing a 'laden' measurement, the standard unladen structural clearance is the only legally sustainable baseline under a strict literal construction."

4.36. The Hon'ble Supreme Court has consistently held (in Leisureland Pvt. Ltd.) that in a taxing statute, there is no room for intendment, equity, or presumption; no words can be added or read into the text by implication. By judicially inserting the phrase "fully laden condition," the cited rulings effectively rewrote an executive notification. Where the legislature deliberately chose not to introduce limiting words, it is legally impermissible for courts or taxpayers to augment the text to facilitate a lower tax rate.

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4.37. CBIC Circular No. 247/04/2025-GST does not validate the 'laden condition' standard for the historical period. Paragraph 5.4 clarifies that the formal introduction of the 'unladen condition' explanation via Notification No. 03/2023 applies prospectively. However, this prospective timeline does not imply that an opposite standard ('laden condition') was legally mandated prior to that date. The 2023 amendment was purely clarificatory and declaratory of the natural trade configuration, enacted specifically to prevent taxpayers from utilizing self-serving laden calculations to bypass the higher cess bracket. Because the Circular is silent on mandating a laden standard for the past, the pre-amendment entry must be applied on its plain language, which naturally aligns with the vehicle's unladen delivery state. Furthermore, we are of the view that the vehicles are being sold in an unladen condition, irrespective of whether the sales occurred pre- or post-issuance of CBIC Circular No. 247/04/2025-GST.

4.38. The rulings in Mercedes-Benz and Tata Motors incorrectly treat regulatory safety compliance certificates issued by technical agencies (ARAI) as conclusive proof for tariff classification. ARAI prototype testing is conducted strictly for vehicular safety and public protection under the Central Motor Vehicles Rules, 1989.

4.39. In contrast, the GST Compensation Cess Notification levies tax based on the commercial character of the product specifically targeting vehicles 'popularly known as Sports Utility Vehicles (SUVs)'. When a manufacturer markets and represents its vehicles in public brochures as premium SUVs exceeding the 170 mm threshold, that commercial representation establishes the product's identity under tax law. Product nomenclature for revenue purposes cannot be controlled by specialized safety testing parameters engineered for road transport. Consequently, we hold that the foundational reasoning of the Mercedes-Benz and Tata Motors decisions is irreconcilable with the rules of strict statutory interpretation governing fiscal classifications, and we explicitly reject their application to the present factual matrix.".

4.40. We find from the statement and documents referred to in the Show Cause Notice that the taxpayer discharged Compensation Cess at 20% on the disputed supplies, whereas the Department determined that the applicable rate was 22%. The taxpayer's explanation that it followed the rate reflected in the manufacturer's purchase invoices does not, by itself, absolve it of its independent statutory responsibility to determine the correct tax liability on its outward supplies.

4.41. Accordingly, to the extent that the Department establishes the applicability of the higher rate to the relevant supplies, the differential Compensation Cess is recoverable. The demand of

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₹25,66,695/- on the taxable value of approximately ₹12,83,19,765/- is, therefore, liable to be sustained.

4.42. In the present matter, the Department has alleged that the taxpayer charged a lower rate to reduce its tax liability and that the discrepancy came to light only after investigation. These allegations must, however, be supported by evidence establishing the requisite intent

4.43. We find that the Department has rightly established that the differential Compensation Cess was short-paid by reason of suppression of facts with intent to evade tax.

Order

i. In view of the foregoing discussions and findings, the Order-in-Appeal No. dated 21.07.2025 passed by the First Appellate Authority is hereby quashed and set aside.

ii. Consequentially, the presentAppeal filed by the Revenue **is Allowed.** The Order-in-Original dated 24.01.2025 confirming the differential Compensation Cess demand is fully restored.

(Santosh Kumar Srivastava)

(Arvind Kumar) 21/10/26.

Dated: 21.10.2026

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