CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH : AHMEDABAD

REGIONAL BENCH - COURT NO. 3

CUSTOMS Appeal No. 10363 of 2020-DB

[Arising out of Order-in-Original/Appeal No JMN-CUSTM-000-APP-189-19-20 dated 18.12.2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD]

FORD INDIA PRIVATE LIMITED .... **Appellant**
Village North Kotapura, Post Sanand
Ahmedabad, Gujarat-382170

VERSUS

Commissioner of Customs, Jamnagar (Prev.) .... **Respondent**
Sharda House...Bedi Bandar Road,
Opp. Panchavati, Jamnagar, Gujarat

WITH

CUSTOMS Appeal No. 10364 of 2020-DB

[Arising out of Order-in-Original/Appeal No JMN-CUSTM-000-APP-190-19-20 dated 18.12.2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD]

FORD INDIA PRIVATE LIMITED .... **Appellant**
Village North Kotapura, Post Sanand
Ahmedabad, Gujarat-382170

VERSUS

Commissioner of Customs, Jamnagar (Prev.) .... **Respondent**
Sharda House...Bedi Bandar Road,
Opp. Panchavati, Jamnagar, Gujarat

AND

CUSTOMS Appeal No. 10365 of 2020-DB

[Arising out of Order-in-Original/Appeal No JMN-CUSTM-000-APP-188-19-20 dated 18.12.2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD]

FORD INDIA PRIVATE LIMITED .... **Appellant**
Village North Kotapura, Post Sanand
Ahmedabad, Gujarat-382170

VERSUS

Commissioner of Customs, Jamnagar (Prev.) .... **Respondent**
Sharda House...Bedi Bandar Road,
Opp. Panchavati, Jamnagar, Gujarat

APPEARANCE :

Shri Manish Jain, Advocate for the Appellant
Shri AR Kanani, Superintendent for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. C.L. MAHAR, MEMBER (TECHNICAL)

DATE OF HEARING : 26.09.2023
DATE OF DECISION: 09.10.2023

FINAL ORDER NO. 12218-12220/2023

C.L. MAHAR :

The facts in brief are that the appellants have imported consignment of goods described as 'Transfer Door Color Strip' and 'Transfer Rear Door Color Strip' classifying the same under Customs Tariff Heading 39199090 and claiming the benefit of concessional rate of duty under Notification No. 57/2017-Cus dated 30.06.2017 as amended by Notification No. 22/2018-Cus dated 02.02.2018 under serial No. 9 of the said notification.

2. The benefit of concessional rate of basic customs duty as per Notification No. 57/2017-Cus as amended, was denied to the appellant on the ground that the notification provides concessional rate of duty only to goods that are meant to be used with cellular phones and other electronic goods and whereas the impugned consignment was used in motor vehicle namely Cars. The proper officer vide orders-in-original dated 11.12.2018 adjudicated the matter wherein the assessment of the subject bills of entry was finalized denying them the benefit of Notification No. 57/2017-Cus. The appeal made by the appellant before Commissioner (Appeals) also did not succeed and therefore they are before us against the above mentioned orders-in-appeal.

3. Heard both the sides.

4. The only issue which needs to be answered by us is whether the subject goods namely 'Transfer Door Color Strip' and 'Transfer Rear Door Color Strip' which are classifiable under CTH 39199090 are entitled for the concessional rate of basic customs duty in terms of Notification No. 57/2017-Cus dated 30.06.2017 (as amended). Before proceeding further in the matter it will be proper to have a glance at Customs Tariff which provides classification of the impugned goods:-

Tariff Item	Description	Rate of duty
3919	Self-adhesive plates, sheets, film, foil, tape, Strip and other flat shapes, of plastics, whether or not in rolls	
3919 10 00	- In rolls of width not exceeding 20 cm	10%
3919 90	- Other:	10%
3919 90 10	--- Plastic stickers, whether or not printed, embossed, and or impregnated	10%
3919 90 20	--- Cellulose adhesive tape Other	10%
3919 90 90	--- Other	15%

5. The subject goods were classified by the appellant under tariff sub heading 3919 90 90 as mentioned above. As per the tariff, the said goods falling under tariff item under 39199090 attracted tariff rate of basic customs duty at the rate of 15% and IGST at the rate of 18%. The notification 57/2017-Cus dated 30.09.2017 as amended by Notification No. 22/2018-Cus dated 02.02.2018 prescribing effective rate of basic customs duty on the specified goods is as follows:

S. No.	Chapter or Heading or Sub-heading or tariff item	Description of goods	Standard rate	Condition No.
(1)	**(2)**	**(3)**	**(4)**	**(5)**
9.	3919 90 90	**All goods other than** the following parts or sub-parts or accessories of cellular mobile phones, namely: - (i) Heat Dissipation Sticker Battery Cover (ii) Sticker-Battery Slot (iii) Protective Film for main Lens (iv) Mylar for LCD FPC (v) Film-Front Flash	10%	-

6. So far as classification of the said goods is concerned, there is no dispute with regard to classification of the said goods under CTH 39199090. The Revenue has also accepted the classification of the said goods under said heading. The only dispute is that department is of the view that in Serial No.9 of the said Notification No. 57/2017-Cus dated 30.06.2017 as amended is available only for goods meant for use in manufacture of cellular mobile goods and other electronic goods and since the said consignment is

meant for used in automobiles namely Cars, the same is not available to them.

7. On a glance of above entry at Serial No. 9 of Notification No. 57/2017-Cus dated 30.06.2017, as reproduced in the preceding Para above, in our view, is meant for all goods which are classified under Chapter sub-heading 39199090, except the items which are specifically excluded in serial No. 9 which are following parts or parts of cellular mobile namely:-

(i) Heat Dissipation Sticker Battery Cover
(ii) Sticker-Battery Slot
(iii) Protective Film for main Lens
(iv) Mylar for LCD FPC
(v) Film-Front Flash

8. We are of the opinion that except the above mentioned items which are also classifiable under CTH 39199090 all other goods will attract concessional rate of basic customs duty as provided in the said notification. The denial of the benefit of notification by the lower authorities is without any logic and arbitrary in its application. We hold that the subject goods which are classifiable under Chapter sub heading 39199090 are entitled for the benefit of concessional rate of basic customs duty under Notification No. 57/2017-Cus dated 30.06.2017 and accordingly we hold that impugned orders-in-appeal as well as orders-in-original are without any merit and therefore, we set-aside the same.

9. Accordingly, the appeals are allowed.

(Pronounced in the open court on 09.10.2023*)*

(Somesh Arora)
Member (Judicial)

(C L Mahar)
Member (Technical)

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