Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

CUSTOMS Appeal No. 10921 of 2021-DB

[Arising out of Order-in-Original/Appeal No AHD-CUSTM-000-APP-349-351-20-21 dated 23.10.2020 passed by Commissioner of CUSTOMS-AHMEDABAD]

FORD INDIA PVT LTD ...**Appellant**
Revenue Survey No 6 Village North Kotpura Taluka Sanad
Ahmedabad
Gujarat-382170

VERSUS

C.C.-AHMEDABAD ...**Respondent**
Custom House,
Near All India Radio Navrangpura,
Ahmedabad,
Gujarat

WITH

i. **Customs Appeal No. 10922 of 2021 (Ford India Pvt Ltd)**
ii. **Customs Appeal No. 10923 of 2021 (Ford India Pvt Ltd)**
iii. **Customs Appeal No. 10868 of 2022 (Ford India Pvt Ltd)**

APPEARANCE:
Shri Manish Jain, Advocate for the Appellant
Shri Sanjay Kumar, Superintendent (Authorized representative) for the Respondent

CORAM: **HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR**
HON'BLE MEMBER (TECHNICAL), MR. RAJU

Final Order No. A/ 12641-12644 /2023

DATE OF HEARING:04.10.2023
DATE OF DECISION:22.11.2023

RAJU

These appeals have been filed by M/s. Ford India Pvt Ltd against change of classification of the goods imported by the appellant.

2. Learned Counsel for the appellant pointed out that they have imported various items which are undisputedly used in manufacture of motor vehicles by them. The appellant had sought classification of these items under various chapters like 73, 83, 84, 85 and 96, however revenue has classified the said goods under the heading 8708. The learned Counsel argued that in the earlier order in their own case, the matter has been remanded in their own case relying on the decision of Tribunal in the case of M/s. Suzuki Motor Gujarat Pvt Ltd vide Final orders No. A/10665/2022 dated 07.06.2022. He pointed out that in the aforesaid decision a criteria has been laid down for examining the classification based on the observations in the HSN/Sections/chapter notes of the custom tariff. He pointed out that the criteria laid down in the impugned order for deciding classification does not correspond to the criteria laid down by the Tribunal in the aforesaid decision. It is noticed that the impugned order does not take note of the HSN explanatory note in Section XVII relating to parts and accessories.

In view of above, the learned Counsel sought remand of the matter back to the Adjudicating Authority for consideration in the light of the aforesaid decision of the Tribunal laying down criteria for the classification.

3. Learned AR relied on the impugned order.

4. We have considered the rival submissions. We find that Tribunal in the earlier order No. A/10665/2022 dated 07.06.2022, has observed as follows:

> *"04. Heard both the sides and perused the records. The issue to be decided is whether the Controlled Assembly CVT imported by the appellant is classifiable under CTH 9032 and other items imported are classifiable under CTH 7318 as declared by the appellant or under CTH 8708 as parts and accessories of motor vehicles of heading 8701 to 8705 as assessed by the Customs.*
>
> *4.1 We noticed that the HSN explanatory notes in respect of Tariff items 8708 provided as under:*

> *"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)."*
>
> *As per above notes, both the conditions prescribed under Clauses (i) and (ii) need to be fulfilled for classifying parts and accessories of motor vehicle.*

4.2 We also find that part (III) PARTS AND ACCESSORIES of the HSN Explanatory Notes to Section XVII, provides as under: "It should, however be noted that these heading 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 chapter 86 to 88 (see paragraphs (B) below) and*
>
> *(c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (c) below.*

In view of above provisions, it is clear that for classification of goods under chapter heading 8708 i.e. parts and accessories of Motor Vehicles above conditions require to be satisfied.

4.3 The Commissioner (Appeals) while deciding the classification of the disputed goods, in question, under heading 8708, has not given any finding as to whether all the above conditions which are very important for deciding the classification of goods, satisfy / comply in respect of the disputed goods. The Commissioner (Appeals) findings are silent on this vital aspect of the above provisions.

4.4 Further, we also find that Learned Commissioner (Appeals) in impugned order not given his finding related to classification of goods individually item wise. Whereas Appellant produced the list of 14 items imported vide above Bills of Entry.

4.5 In view of our above observation, we find that the lower authorities have not examined the legal aspects properly to come to conclusion for correct classification of the goods in *question. Hence in our considered view the matter needs to be remitted back to the Commissioner (Appeals).*

05. We, therefore, set aside the impugned order and remand the matter for to the Commissioner (Appeals0. The appeal is allowed by way of remand to the Commissioner (Appeals).”

4.1 It is noticed that the said order takes note of the HSN Explanatory notes part (III) which lays down the criteria for classification of parts and accessories. A perusal of the impugned order shows that the impugned order does not take notice of this explanatory note. The criteria laid down by the impugned order does not correspond to the criteria laid down in the HSN Explanatory note.

5. In view of above, the impugned order is set aside and matter is remanded to the Adjudicating Authority for fresh adjudication after taking note of the aforesaid Tribunal order and the criteria for classification made therein. Appeals are allowed by way of remand.

(Pronounced in the open Court on 22.11.2023)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

PALAK