

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Central Excise Appeal No.21932 of 2014

(Arising out of Order-in-Original (De-Novo) No. 12/2014 dated
28.02.2014 passed by the Commissioner of Central Excise,
Bangalore.)

**M/s. Trakolly Engineering Pvt.
Ltd.,**

903, 9th Main, 4th Cross, Mico BTM
Layout 2nd Stage,
Bangalore-560 076.

Appellant(s)

VERSUS

**Commissioner of Central
Excise, Customs and Service
Tax, Bangalore-I**

Post Box No.5400, CR Buildings,
Bangalore-560 001.
Karnataka

Respondent(s)

WITH

**1. Central Excise Appeal No.21929 of 2014 (Sri Kapil
Hissaria C/o Tippers and Trailers Pvt. Ltd.)**

(Arising out of Order-in-Original (De-novo) No.13/2014 dated
28.02.2014 passed by the Commissioner of Central Excise,
Bangalore.)

**2. Central Excise Appeal No.21928 of 2014 (Sri.
Ashok Hissaria of M/s. Trakolly Engineering Pvt.
Ltd.)**

(Arising out of Order-in-Original (De-novo) No.12/2014 dated
28.02.2014 passed by the Commissioner of Central Excise,
Bangalore.)

**3. Central Excise Appeal No.21935 of 2014 (M/s.
Tippers and Trailers Pvt. Ltd.)**

(Arising out of Order-in-Original (De-novo) No.13/2014 dated
28.02.2014 passed by the Commissioner of Central Excise,
Bangalore).

APPEARANCE:

Mr. G. Shivadass, Senior Advocate for the Appellants

Mr. Rajiv Kumar Agarwal, Commissioner (AR) for the Respondent

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR PULLELA NAGESWARA RAO,
MEMBER (TECHNICAL)**

Final Order No. 21612 - 21615 /2025

DATE OF HEARING: 07.04.2025

DATE OF DECISION: 06.10.2025

PER : DR. D.M. MISRA

These appeals are filed against respective Orders-in-Original passed by the Commissioner of Central Excise, Bangalore, since involve common issues, are taken up together for hearing and disposal.

2. This is the second round of litigation before this Tribunal. In the earlier round, vide Order dated 25.02.2013, this Tribunal remanded the matters to the adjudicating authority to address the issues including classification and valuation of the 'car carrier trailers'. Consequently, the learned Commissioner has re-adjudicated the case and again confirmed the demands with interest and penalty against the appellant-assessee; imposing personal penalty on the Directors and others. Hence, the present appeals.

3. The facts of the case common to the Appeals are that the appellant are engaged in fabrication of 'car carrier trailers' which are mounted on the duty paid chassis(prime mover) supplied by their customers claiming its classification under Chapter sub-heading 87.04 and exemption under Notifications No.6/2002-CE dated 01.03.2002 and No.6/2006-CE dated 01.03.2006 as applicable during the relevant period. On the basis of intelligence and on further investigation by the DGCEI, it came to the notice of the Department that the fabricated 'car carrier trailer' is classifiable under sub-heading 8716 of Central Excise Tariff Act, 1985 (CETA, for short) and accordingly, the Appellant are not eligible to the benefit of the said Notification; also, the value of the fabricated 'car carrier trailers' is incorrect.

Consequently, show-cause notice was issued to the appellant alleging wrong availment of the benefit of the said notification by mis-classifying their product under Chapter heading 8704 instead of Chapter heading 8716 and clearance of goods without payment of duty and undervaluation by not including the value of all materials, demanding duty of Rs.66,32,331/- (appeal No.E/21932/2014) and Rs.1,51,02,815/- (appeal No.E/21935/2014) on 06.10.2009 and 08.12.2010 respectively with interest and proposal for penalty on the appellant companies and also on Directors.

4. The submissions advanced by the learned Sr. Advocate are as follows:

- In the *de novo* order, the learned Commissioner has erroneously classified the activity of fabrication of car carrier trailers under Chapter heading 8716 of the CETA, whereas the said activity is liable to be classified under Chapter heading 8704, based on the nature of the product and the applicable exemption notifications.
- The order relies on the General Rules of Interpretation, which state that "the heading providing the most specific description shall be preferred over headings providing a more general description." The order refers to the explanatory notes under the Harmonized System of Nomenclature (HSN) for heading 8716 (Trailer and semi-trailers; other vehicles, not mechanically propelled; parts thereof), which clarify that the impugned trailers, when coupled with a chassis or prime mover, cannot be considered as a body built on the chassis or as a structure or equipment fitted on the chassis. On the other hand, Chapter Note 5 of Chapter 87 provides as: "*For the purpose of this Chapter, building a body or fabrication or*

mounting or fitting of structures or equipment on the Chassis falling under Heading 8706 shall amount to 'manufacture' of Motor Vehicles". Also, Chapter 8704 specifically covers "Motor-vehicles for transport of goods". In the present case, the car carrier trailers manufactured by the Appellant are used for transportation of goods. Hence, it would be necessary to understand the distinction between the goods classifiable under Chapter 8704 and Chapter 8716.

- The classification of car carrier trailers under Heading 8704 is distinguishable from Heading 8716, primarily due to the integration of the trailer with chassis, thereby constituting a complete motor vehicle. Heading 8716 pertains to *"trailers and semi-trailers; other vehicles, not mechanically propelled; and parts thereof"*, encompassing independent, self-standing trailers that remain separate from the prime mover.
- The car carrier trailers are affixed to chassis, transforming them into integral motor vehicles for goods transport, thus aligning more appropriately with Heading 8704, which governs *"motor vehicles for the transport of goods."*
- Chapter Note 3 to Chapter 87, which unequivocally provides that *"mounting or fitting of a structure or equipment on a chassis falling under Heading 8706 shall amount to the manufacture of a motor vehicle."* Since the car carrier trailers were specifically designed to be coupled with duty-paid chassis, it does not exist as mere trailers but instead formed a composite motor vehicle, thereby warranting classification under Heading 8704 rather than Heading 8716. Additionally, Heading 8716 pertains solely to trailers designed for towing, which are not structurally

integrated into a motor vehicle, whereas the trailers in the present case becomes an indispensable part of the final vehicle upon mounting onto the chassis, further supporting classification under Heading 8704.

- They are engaged in the manufacture of car carrier trailers, which were specifically designed to be coupled with duty-paid motor vehicle chassis (prime movers) which are made available by the principal after procuring from manufacturers such as Tata Motors on payment of duty. The core activity undertaken by the appellant involved fabrication of trailers engineered for the transportation of cars, ensuring optimal weight distribution and manoeuvrability when affixed to a prime mover. These trailers were subsequently mounted and integrated with duty-paid chassis, thereby resulting in a fully assembled motor vehicle intended for goods transportation.
- Thus, the trailers, fitted to or mounted on duty-paid chassis, constitute an integral component of the ultimate motor vehicle. While, theoretically, these trailers may be detached and coupled with an alternative prime mover, such a position is far more complex in practice. Any such attempt would not only be impractical but would also result in gross violations of the provisions of the Indian Motor Vehicles Act, 1988 as well as the Central Motor Vehicles Rules, 1989.
- The fabricated body fitted to duty-paid chassis utilizing the fifth-wheel mechanism, also incorporates the brake light assembly, along with the pneumatic and hydraulic braking systems of the fifth wheel. These systems are not only controlled and operated from the prime mover but also derive power and function through mechanism situated

within the prime mover's cabin, where the driver is positioned.

- The body-building activity undertaken by the Appellant must adhere to the stringent norms prescribed by the Ministry of Road Transport & Highways (Department of Road Transport & Highways), Government of India. The final mounted vehicle i.e. a car carrier is treated as a complete unit, unlike trailers attached to agricultural tractors. In the case of tractors, the trailer serves multiple functions—it can be coupled to the tractor for hauling loads, easily decoupled to attach a tiller for ploughing, fitted with a sprayer for pesticide application, or connected to a small tanker for transporting water.
- It is respectfully submitted that, in accordance with the proviso to Section 43 of the Indian Motor Vehicles Act, which governs temporary registration, where a motor vehicle is registered solely as a chassis without an attached body and remains in a workshop beyond the stipulated period of one month for the purpose of body fabrication or due to unforeseen exigencies beyond the owner's control, the prescribed period of registration may be extended upon remittance of the requisite fees. Such an extension shall be subject to the discretion and approval of the registering authority or any other competent authority as prescribed. The relevant statutory provision is extracted hereinbelow

*43. Temporary registration.—(1) Notwithstanding anything contained in section 40 the owner of a motor vehicle may apply to any registering authority or other prescribed authority to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark.
(2) A registration made under this section shall*

be valid only for a period not exceeding one month, and shall not be renewable: Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted 1 [with a body or any unforeseen circumstances beyond the control of the owner], the period may, on payment of such fees, if any, as may be prescribed, be extended by such further per

- It can be inferred that upon the Prime Mover being delivered to the appellant's premises, it is initially accorded temporary registration. Subsequent to the completion of the body-building process on the duty-paid chassis, the vehicle undergoes inspection by the relevant Regional Transport Office (RTO) authorities. Upon due verification and compliance with the requisite statutory norms, the vehicle is thereafter granted permanent registration in accordance with the applicable regulatory framework.
- While the said car carrier is granted permanent registration by the Regional Transport Office (RTO), it is mandatorily required to comply with the provisions of the Central Motor Vehicle Rules, particularly Rules 47, 49, and 97. These provisions prescribe the regulatory framework governing the requisite inspections and approvals that a prime mover, when coupled with a trailer specifically, a car carrier in the present case—must successfully undergo to obtain permanent registration. Upon fulfilment of these statutory requirements, the vehicle is assigned a registration number, which must be duly affixed at the front of the prime mover and at the rear of the car carrier in accordance with the prescribed legal norms.
- The body building activity undertaken by the Appellant is in compliance with Rules 93 and 95 of the Central Motor Vehicles Rules, 1989 is mandatory. The Appellant is

required to issue a certificate to the Prime Mover owner for the purpose of permanent registration. The built vehicle must conform to specified dimensional norms, including limits on overall width (not exceeding 2.6 metres for standard vehicles and 3 metres for construction equipment vehicles), overall length (ranging from 6.5 to 25 metres depending on the vehicle type), and overall height (generally up to 3.8 metres, with exceptions). No part of the load may extend beyond the prescribed limits. Tyres must comply with applicable AIS/BIS standards, with specified ply ratings and load-bearing capacities. In cases where axle loads exceed 10.2 tonnes, special permission from the relevant transport authority is required. The Appellant must ensure compliance with these technical and regulatory parameters prior to certification.

- The exemption from excise duty on body-building activities for trucks was first introduced in the Union Budget 1990-91, wherein the then Hon'ble Finance Minister, in the interest of administrative simplification, proposed that the incidence of excise duty on truck body-building activities—largely undertaken in the unorganized sector—be shifted to motor vehicle chassis. This policy shift was intended to streamline taxation and regulatory compliance while ensuring a more structured approach to duty imposition within the sector.
- At the time of its initial introduction, the said Note was confined in its application solely to Headings 97.01 and 87.05. However, the scope of the Note was subsequently expanded by way of amendment to encompass the entirety of Chapter 87, thereby extending its applicability to all classifications falling thereunder.

- The amendment was further implemented through Notification No. 6/2002 dated 01.03.2002. Under Entry No. 212 of the said notification, an exemption from the payment of Central Excise Duty was accorded to motor vehicles intended for the transport of goods, except those specifically designed for the transportation of compressed or liquefied gases, falling under Heading 87.04. This exemption was contingent upon the condition that such vehicles were manufactured using chassis falling under Heading 87.06, on which excise duty had already been discharged, and further, that no CENVAT credit was availed on the said chassis or any other inputs utilized in the manufacturing process under Rule 3 or Rule 11 of the CENVAT Credit Rules.
- It's a settled principle of law that the goods must be assessed in the form they are presented at the time of clearance. Reliance in this regard, reliance is placed on the following cases-
 - Pioneer Embroideries Ltd. v. Commissioner of Customs, Mumbai- 2015(322) ELT 602 (SC)
 - Voltas Limited v. Commissioner of C.Ex. Mumbai- 2005 (179) ELT 578 (Tri-Mum)
 - Commissioner of C.Ex. Hyderabad v. Sanghi Polyesters Ltd. – 2003(155) E.L.T 381 (Tri-Bang) affirmed in 2015(320) E.L.T. A332 (SC)
 - Commissioner of Central Excise, Salem v. Madhan Agro Industries (India) Pvt. Ltd.- (2024) 25 Centax 269 (SC)
- In accordance with the provisions of the Central Excise Act, goods are to be assessed in the condition in which they are cleared from the factory premises, which, in the present case, would be the premises of the Appellant. The impugned goods, upon clearance from the Appellant's premises, are to be classified as Motor Vehicles and not as trailers, as erroneously construed by the Respondent.

- The final outcome of the manufacturing activity, namely, the construction of a body on a duty-paid chassis, constitutes a motor vehicle rather than a trailer. Accordingly, the Appellant has rightfully availed the exemption provided under Notification No. 6/2002-CE dated 01.03.2002, which grants a nil rate of duty to motor vehicles designed for the transport of goods (excluding those specifically intended for the conveyance of compressed or liquefied gases) falling under Heading 87.04, provided they are manufactured using chassis classified under Heading 87.06 on which excise duty has been duly discharged.

- The *de novo* order relies on the decision of the Hon'ble Tribunal in *Mithusha Vessels & Engineering Pvt. Ltd. v. Commissioner of Central Excise, Mumbai-III* [1999 (114) E.L.T. 239 (Tri.-Bom)]. The learned Commissioner has erroneously sought to equate the Appellant's activities with the manufacture of oil tankers intended for the transportation of hazardous and explosive substances such as LPG and ethylene oxide—commodities expressly excluded from the purview of exemption under Notification No. 6/2006-CE. The fabrication of such specialized tankers is akin to the construction of tractor-trailers, necessitating the integrated manufacture of both the tanker and its chassis, given the imperative structural reinforcements required to endure the dynamic forces exerted by fluid movement during acceleration and braking, considerations that are not accounted for by the original truck manufacturer. In stark contrast, the Appellant, operating in the capacity of a job-worker, exclusively fabricates trailers and containers mounted upon duty-paid truck chassis, specifically designed and deployed for the transportation of

automobiles. As per Serial No. 212 of Notification No. 6/2002-CE dated 01.03.2002, such goods are squarely eligible for exemption at a nil rate of duty, thereby entitling the Appellant to the benefit of the claimed exemption. Similar view has been taken by various Tribunals and High Courts some of the said judgements are listed below :

- a. Dharshan Singh Pavitar Singh and Others v Union of India and Others 1988(34) ELT 631(P&H)
- b. M/s Commercial Engineering & Body Builders Co. Ltd v CCE & ST Bhopal (Appeal No. 51052 & 53142/2014)
- c. Disha Engineers v Commissioner of Central Excise , Ahmedabad -I (2023) 4 Centax 305 (Tri-Ahmd)
- d. Sri Krishan Urja Project Ltd v Commissioner of C. Ex, jaipur 2017 (6) GSTL 327 (Tri.- Del)

- The present case is squarely covered by ruling of the Hon'ble Tribunal in Shri Krishna Urja Project Ltd. v. Commissioner of C. Ex., Jaipur [2017 (6) G.S.T.L. 327 (Tri.-Del.)], wherein the Tribunal expressly distinguished the decision in Mithusha Vessels & Engineering Pvt. Ltd. v. Commissioner of Central Excise, Mumbai-III, [1999 (114) E.L.T. 239 (Tri.-Bom.)], and categorically held that car carrier trailers do not fall within the ambit of Heading 8716, as they do not operate as independent, self-propelled trailers, but rather form an integral and inseparable component of a motor vehicle when affixed to duty-paid chassis.
- The Heading 8716 pertains to "*trailers and semi-trailers; other vehicles, not mechanically propelled*" and the same is applicable only to standalone transport units that remain distinct from the prime mover. Conversely, the Appellant's trailers, upon being mounted onto a duty-paid chassis, transform into complete motor vehicles for the transportation of goods, thereby warranting classification under Heading 8704. The Hon'ble Tribunal in the aforesaid decision has further relied upon Chapter Note 3 to Chapter

87, which stipulates that "*mounting or fitting of a structure on a chassis under Heading 8706 constitutes the manufacture of a motor vehicle,*" thereby affirming that the process undertaken by the Appellant squarely qualifies as the manufacture of a motor vehicle and consequently upheld the Appellant's eligibility for exemption under Entry No. 212 of Notification No. 6/2002-CE, on the ground that the chassis utilized were duty-paid and no CENVAT credit was availed on inputs or capital goods, thus entitling the Appellant to a 'nil' rate of duty. The aforesaid view of the Tribunal is squarely applicable to the facts of the present case and it is hence submitted that the demand in the present proceedings is liable to be set aside.

- The learned Commissioner has erroneously applied Section 11A(3)(ii)(B) of the Central Excise Act instead of Section 11A(3)(ii)(C). The provisions of Sections 11A(3)(iiA) and 11A(3)(iiB) are applicable solely to assesseees registered under Central Excise who have either failed to file the requisite return or have filed the return without remitting the appropriate duty. The impugned order further relies on documentary evidence, including job workers' bills and Form 3 returns filed with the Sales Tax authorities, which indicate that all invoices pertain solely to painting/fabrication labour charges, without any reference to material procurement. The Appellant submitted extensive documentation, including job work charge invoices, VAT returns, and income tax returns, demonstrating Akash Fabricators' mode of operation, all of which were overlooked by the Commissioner, who instead relied on judicial precedents that are factually distinguishable.
- The Appellant submits that Akash Fabricators outsourced its operations entirely, received materials from

transporters, and charged only labour fees. Further, the Sales Tax authorities had undertaken verification of business premises while allotting the registration numbers. Hence, the impugned order clubbing Akash Fabricators' turnover with that of the Appellant is erroneous, as it disregards compelling evidence and relies on judicial precedents that are factually distinguishable. Further, in the case of Navrang Art Printers, (supra), the assessee therein was involved activities conducted within the same unit, whereas in the present case, such an allegation remains unsubstantiated. Accordingly, the clubbing of turnover is unjustified and liable to be set aside.

- The Appellant further submits that the record unequivocally substantiates that Akash Fabricators functioned as an independent entity, engaged in fabrication activities exclusively through third-party job workers, without any operational nexus to the Appellant. The department has neither refuted the Appellant's assertion that the alleged manufacturing was conducted externally nor reconciled the glaring impracticality of the purported quantum of production within the spatial and logistical constraints of the Appellant's factory premises. Further, the omission of a distinct show cause notice to Akash Fabricators constitutes a fatal procedural infirmity, standing in direct contravention of established judicial precedents that mandate such due process before effecting the clubbing of turnover. The findings of the adjudicating authority are based on assumptions rather than concrete evidence. The impugned order fails to consider factual and legal principles, making its conclusions legally unsound. Therefore, the unjustified clubbing of turnover, lacking merit and due process, ought to be set aside entirely.

- The Show Cause Notice, having been issued on 07.10.2009, encompasses a period extending beyond the statutorily prescribed five-year limitation. Consequently, any turnover attributable to clearances effected up to September 2004 falls outside the permissible period for demand and is liable to be excluded. Even in the hypothetical scenario wherein Clause 11A(3)(ii)(B) of the Central Excise Act, 1944, is deemed applicable, the due date for filing the return corresponding to September 2004 was 10.10.2004. In the absence of compliance with the conditions stipulated under Notification No. 8/2003-CE, any turnover up to August 2004 cannot be reckoned within the ambit of the Show Cause Notice. Therefore, any demand seeking to include turnover beyond the legally prescribed limitation period is *ex facie* unsustainable and merits exclusion from consideration.
- The impugned *de novo* order suffers from fundamental infirmities in failing to acknowledge the erroneous duplication of invoices while computing the taxable value. It is submitted that the vehicle and chassis numbers are unique identifiers corresponding to a specific vehicle, and as a matter of record, multiple vehicles cannot bear identical registration numbers. Notwithstanding the fact that the invoices accurately reflect the respective vehicle numbers, the Respondent has demonstrably failed to take cognizance of the same while arriving at the assessed value.
- The learned Commissioner has failed to discern the duplication of invoices, particularly in relation to invoice Nos. 131/04 dated 04.11.2004 and 139/04 dated 03.11.2004, which cumulatively account for an amount of ₹13,90,000. Additionally, invoices bearing serial numbers 122 and 145, dated 26.09.2004 and 29.09.2004,

respectively, pertain to a period that falls beyond the statutorily prescribed five-year limitation and, therefore, ought to have been excluded from computation. The Respondent has erroneously proceeded to determine the taxable value by taking into account the value of work performed on the same vehicle multiple times, despite the fact that the vehicle and chassis numbers remained identical an aspect explicitly brought to the Respondent’s attention during the course of the personal hearing.

➤ All invoices were duly raised in respect of work completed, and the allegations in the Show Cause Notice to the effect that the work was undertaken in the absence of corresponding invoices are wholly misconceived. The issuance of invoices was either contemporaneous with or subsequent to the completion of the work, thereby negating the assumption underpinning the Show Cause Notice.

5. *Per contra*, the learned AR for the Revenue has reiterated the findings of learned Commissioner.

6. Heard both sides and perused the records.

7. The principal question involved in the present appeals is: whether the appellants are entitled to the benefit of the Notifications No.06/2002-CE dated 01.03.2002 and No.06/2006-CE dated 01.03.2006 as applicable during the relevant period.

8. The relevant entry of the said Notifications read as follows:-

Notification No.6/2002-CE dated 01.03.2002					
S. No.	Chapter or heading No. or sub-	Description of goods	Rate under the First Sch-	Rate under the Second Sch-	Co-ndi-tion No.

heading No.			edule	ed-ule	
(1)	(2)	(3)	(4)	(5)	(6)
212	87	(i) Motor vehicles principally designed for the transport of more than six persons, excluding the driver, including station wagons;	Nil	Nil	52
		(ii) Motor vehicles for the transport of goods (other than those specially designed for the transport of compressed or liquified gases), falling under heading No. 87.04; and			
		(iii) three wheeled motor vehicles			

Condition No. 52.

If manufactured out of chassis falling under heading No.87.06 on which duty of excise has been paid and no credit of duty paid on such chassis and other inputs used in the manufacture of such vehicle has been taken under rule 3 or rule 11 of the CENVAT Credit Rules, 2002:

Provided that this exemption is not applicable to a manufacturer of said vehicles-

- (a) who is manufacturing such vehicle on a chassis supplied by a chassis manufacturer, the ownership of which remains vested in the chassis manufacturer or the sale of the vehicle so manufactured is made by such chassis manufacturer on his account; and
- (b) who is manufacturing chassis and using such chassis for further manufacture of such vehicle.

NOTIFICATION NO.6/2006-CE dated 01.03.2006

S. No.	Chapter or heading or sub-heading or tariff item of the First Schedule	Description of excisable goods	Rate	Condition No.
(1)	(2)	(3)	(4)	(5)
39.	87	(i) Motor vehicles principally designed for the transport of more than six persons, excluding the driver, including station wagons; and (ii) Motor vehicles for the transport of goods (other than those specially designed for the transport of compressed or liquefied gases), falling under heading 8704; and (iii) three wheeled motor vehicles	Nil	9

Condition No. 9

If manufactured out of chassis falling under heading No.87.06 on which duty of excise has been paid and no credit of duty paid on such chassis and other inputs used in the manufacture of such vehicle has been taken under rule 3 or rule 11 of the CENVAT Credit Rules, 2002:

Provided that this exemption is not applicable to a manufacturer of said vehicles-

- (a) who is manufacturing such vehicle on a chassis supplied by a chassis manufacturer, the ownership of which remains vested in the chassis manufacturer or the sale of the vehicle so manufactured is made by such chassis manufacturer on his account; and
- (b) who is manufacturing chassis and using such chassis for further manufacture of such vehicle.

[Notification No. 6/2006-C.E., dated 1-3-2006]

9. The contention of the appellant is that they received duty paid chassis classifiable under Chapter heading 8706 on which the designed and fabricated trailer meant for transportation of goods is mounted; the description of the goods manufactured is called as 'car carrier trailers'; hence eligible to the benefit of the above notifications. The Revenue's allegation on the other hand is that since there is a specific entry for the trailers under Chapter heading 8716 and the appellant fabricated only trailer, the goods are classifiable under Chapter heading 8716; accordingly, not eligible to the benefit of the said notifications. In support, Revenue has referred to the judgment of the Tribunal in the case of Mithusha Vessels & Engineering Pvt. Ltd. Vs. CCE, Mumbai-III [1999(114) ELT 239 (Tri. Bom.)].

10. It is not in dispute that the appellants were receiving duty paid chassis falling under Chapter sub-heading 8706 and thereafter fabricating the body of the car carrier trailer which is mounted on the fifth wheel of the prime mover for the purpose of easy manoeuvring during the course of transit. The car carrier trailer could be detached from the fifth wheel/axle which is mounted on the prime mover in case of necessity. It is the Revenue's argument that since the fabricated trailer could be detached, it cannot be called as vehicle meant for transportation

of goods; hence classifiable under Chapter heading 8716 and not entitled to the benefit of the notification.

11. The appellant has heavily relied upon the Chapter Note 5 of Chapter 87, which reads as follows:-

"For the purpose of this Chapter, building a body or fabrication or mounting or fitting of structures or equipment on the Chassis falling under Heading 8706 shall amount to 'manufacture of Motor Vehicles'"

12. The appellant not only fabricates the trailer but also undertakes mounting of the said trailer on the prime mover supplied by their customers in accordance with the rules and regulations prescribed under the Motor Vehicles Act, 1988. While according registration of such vehicles by the RTO authorities, the total design of the trailer along with prime movers are taken into account in approving/allowing the Vehicle for its movement on the road. Therefore, it cannot be said that the appellant are manufacturing only the car carrier trailers in their premises; on the contrary, they manufacture the motor vehicle for transport of goods classifiable under CSH 8704, as by a fiction in Chapter Note 5 of Chapter 87, the activity of 'mounting' of the fabricated body on the chassis results into manufacture. Besides, the prime mover and the fabricated car carrier trailer which is mounted on the fifth wheel are having common electricity source, brake system, one RTO registration affixed on the prime mover and the same number on the mounted car carrier trailer which indicate that the prime mover with mounted car carrier trailer on its fifth wheel becomes a complete motor vehicle meant for transportation of goods on road; hence, correctly classifiable under Chapter sub-heading 8704 of CETA, 1985. What is manufactured and cleared from the factory is the whole vehicle (prime mover mounted with car carrier trailer) meant for transportation of cars, thus relevant for the purpose of classification of the product in view of the principle laid down by the Hon'ble Supreme Court in a series of

cases that in determining the classification of the product, the condition in which the goods are cleared after being manufactured is the decisive factor.

13. We find that this issue has been addressed by this Tribunal in the case of Sri Krishna Urja Project Ltd. Vs. CCE, Jaipur [2017(6) GSTL 327 (Tri. Del.)], wherein distinguishing the judgment of the Mumbai Bench in *Mithusha Vessels & Engineering Pvt. Ltd.'s case(supra)*, it is observed as under:-

4. We have heard both the sides and perused the appeal records. The appellants are engaged in the manufacture of car carrier trailers. These are long container shaped box structures with multiple wheels, front portion of which is coupled on the motor vehicle chassis which enables the prime moving motor vehicle to pull the carrier. The coupling is made in such a manner the prime mover can turn in an angle separately for giving direction for the attached trailer carrier. We have perused the photographs of the prime mover chassis, car carrier trailer and fully integrated motor vehicle intended for transport of cars in such trailers. It is apparent that the front portion weight of the car carrier trailer is borne by the prime moving chassis. The coupling and mounting is done in such a manner for distribution of weight as well as manoeuvrability of the long motor vehicle. We have perused the impugned order which justified the denial of exemption to the appellant under the above said notification. We note that the reasoning given by the original authority is that the body is not mounted on the duty paid chassis as it is done in the case of bus etc. It was also noted that different prime movers can be coupled with another trailer. We find the reasoning as not appealing. First of all, it is not the condition in the notification that the goods manufactured and mounted/fitted on the chassis should be non-detachable. It is a fact that car carrier trailer are huge box like structures and are designed to a particular use. Accordingly, the coupling, mounting or linking with the prime mover motor chassis will have to be according to the nature and feasibility of transport in the highways. We note that the trailer shares the weight on the rear wheels of the prime mover, in the front portion. It was noted in the impugned order that car carrier trailer manufactured by the appellant is "coupled to" fifth wheel of prime movers and not mounted on it and thus they are not involved in manufacturing of any new motor vehicle. Factually, we find that the said observation does not reflect the true nature of the integration of the trailer with the prime mover. As already noted, different types of bodies are built for transport of goods depending on the nature of goods to be transported. Some lorries have open platform for transport of steel rods, sheets etc. Others will have closed box type body for transport of cement etc. Yet another type like tank is for gases and liquids. In the present case, the transportation is for cars to be carried by these trailers. Accordingly, the design and integration is specific. We do not see that to claim the exemption under the notification the body built should be inseparably attached to the said chassis. No such meaning can be attributed to the notification entry. The mounting or fitting mentioned in the notification thus covers the scope of

the activity carried out by the appellant in the manufacture of car trailers and their integration with the prime movers (duty paid chassis).

5. We also note that the fully manufactured motor vehicle, in the present case duty paid chassis with the car carrier trailer mounted/attached with the same, is covered by entry No. 212 of Notification No. 6/2002. The original authority relied on the decision of the Tribunal in *Mithusha Vessels & Engineers P. Limited v. CCE, Mumbai-III* - [1999 \(114\) E.L.T. 239](#) (Tribunal) to hold that the appellants are not eligible for exemption available to the whole vehicle. We note that the said decision of the Tribunal was examining the classification of tow away trailer. In the said case, the appellant fitted tank on to a frame which does not contain the engine and hence not a chassis. We find that the context of the Tribunal's decision is not applicable to the facts of the present case. The Tribunal in the said case was examining the scope of Tariff Heading 8716. In the present case, the classification of the trailer manufactured by the appellant is not disputed. It is only with reference to the captive consumption of the said items the claim for exemption is in dispute.

6. We also noted that the Id. AR relied on the decision of the Tribunal in *Heat Weld v. CCE* - [1992 \(57\) E.L.T. 432](#) (Tri.) and *Mithusha Vessels & Engineers P. Limited v. CCE, Mumbai-III* - [1999 \(114\) E.L.T. 239](#) (Tribunal) and in *CCE, New Delhi v. Eicher Tractors* - [2001 \(127\) E.L.T. 846](#) (Tri.-Del.). We note all these cases dealt with classification of tankers/LPG tanks or eligibility of plough lamp for exemption as part of tractor. None of these cases are on the point in dispute in the present appeal. We have also referred to the commonly understood meaning of "mounting". Among other things it means to fasten an apparatus in position. As discussed above coupling/mounting of car trailer on the chassis will fall within the scope of mounting or fitting of the structure on the chassis.

14. Similar opinion has been expressed later in the case of *Disha Engineers Vs. CCE, Ahmedabad-I* [(2023) 4 Centax 305 (Tri. Ahmd.)].

15. Further, reading the aforementioned notifications, we find that the exemption is allowed to vehicles classifiable under Chapter 87; it should be a motor vehicle for the transportation of goods falling under Chapter sub-heading 8704, other than designed for transport of compressed or liquefied gasses. The condition appended to the said Notification stipulates that the motor vehicles for the transport of goods falling under Chapter 8704 be manufactured out of chassis falling under Chapter 87.06 on which duty of excise has been paid and no cenvat credit availed on such duty paid chassis. In the present case, the

appellant received the duty paid chassis, designed and fabricated the car carrier trailer taking into consideration the technical parameters of the chassis (prime mover), on which it is to be mounted; the resultant product is a motor vehicle meant for transportation of goods. The classification of the mounted trailer on the prime mover is a complete vehicle designed for transportation of goods. It is in this condition cleared from the factory of the Appellant which is relevant for the purpose of the said Notification. It is not the case of the Revenue that the Appellants only fabricate/ built the car carrier trailer and it is cleared from their factory without being mounted on the fifth wheel of the prime mover. Therefore, following the aforesaid judgments, we do not find merit in the impugned orders denying the benefit of the Notifications No.6/2002-CE dated 01.03.2002 and No.6/2006-CE dated 01.03.2006. Once the appellants are held to be eligible to the benefit of the said exemption notifications, the other ancillary issues raised like under valuation and clearance of goods without payment of duty become academic and hence not delved into. Thus, the impugned orders are devoid of merit; accordingly set aside and the appeals are allowed, with consequential relief.

16. Appeals are disposed of accordingly.

(Order was pronounced in Open Court on 06.10.2025)

(D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

Raja...