

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

REGIONAL BENCH - COURT NO. 2

Central Excise Appeal No. 21755 of 2018

(Arising out of Order-in-Appeal No. 291/2018 CT dated 01.08.2018 passed by
the Commissioner of Central Tax (Appeals – II), Bangalore.)

M/s. Kongovi Electronics Private Limited

(now Known as M/s. Kongovi Private Ltd.)

Unit 1, No. 377, 10th Cross, 4th Phase,

Peenya Industrial Area,

Bangalore – 560 058.

.....**Appellant(s)**

VERSUS

The Commissioner of Central Tax

TTMC, BMTC Building, 4th Floor,

Above BMTC Bus Stand,

Domlur,

Bengaluru – 560 071.

.....**Respondent(s)**

WITH

**(i) Central Excise Appeal No. 21756 of 2018 (M/s. Kongovi
Electronics Pvt. Ltd.**

(Arising out of Order-in-Appeal No. 292/2018 CT dated 01.08.2018 passed by the
Commissioner of Central Tax (Appeals – II), Bangalore.)

**(ii) Central Excise Appeal No. 20912 of 2019 (M/s. Kongovi
Electronics Pvt. Ltd.**

(Arising out of Order-in-Appeal No. 110/2019 CT dated 01.07.2019 passed by the
Commissioner of Central Tax (Appeals – II), Bangalore.)

**(iii) Central Excise Appeal No. 20487 of 2021 (M/s. Kongovi
Private Limited)**

(Arising out of Order-in-Appeal No. 162 & 163/2020-21-CT dated 23.02.2021 passed
by the Commissioner of Central Tax (Appeals – II), Bangalore.)

**(iv) Central Excise Appeal No. 20488 of 2021 (M/s. Kongovi
Private Limited)**

(Arising out of Order-in-Appeal No. 162 & 163/2020-21-CT dated 23.02.2021 passed
by the Commissioner of Central Tax (Appeals – II), Bangalore.)

Appearance:

Mr. Rishab J and Ms. Dhanyatha. R, Advocates for the Appellant.

Mr. M. Sreekanth, Authorized Representative (AR) for the Respondent

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)

HON'BLE MR. PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

Final Order Nos. 21861-21865 /2025

Date of Hearing: 21.08.2025

Date of Decision: 21.11.2025

Per: P.A. Augustian

These 5(five) appeals were filed against the respective Orders-in-Appeals passed by Commissioner of Central Tax (Appeals-II), Bangalore.

2. The issue in the present appeals is regarding method of valuation, for inclusion of amortized value of the moulds into the assessable value of goods cleared by the Appellant to the original equipment manufacturers (OEMs) who supplied the moulds to the Appellant under job work challans.

3. The Appellant is engaged in the manufacture of parts and accessories of vehicles like Grills, Door handles, etc. During course of Audit conducted on the records of the Appellant, it is observed that molds are supplied free of cost to the Appellant by their customers M/s. T.G Kirloskar Automotive Pvt Ltd, M/s Motherson Automotive Technologies, etc., to manufacture parts and accessories of motor vehicles. It was further observed during audit, that the value of the mould has not been included for arriving at the transaction value as per Rule 4 of Central Excise Act, 1944. Accordingly show cause notice was issued and Adjudication authority re-determined the assessable value of the goods by including the value of the mould excluding duty to be amortized in terms of Section 4(1)(b) of Central Excise Act, 1944 read with Rule 6 of Central Excise Valuation (Determination of Price of

Excisable Goods) Rules, 2000 and confirmed the demand and also imposed penalties under Section 11AC of the Central Excise Act, 1944. Aggrieved by the said order, Appeal was filed before the Commissioner (Appeals) and Commissioner (Appeals) as per the impugned order upheld the order issued by the Adjudication authority. Aggrieved by said order, present appeal is filed before this Tribunal. The Respondent also issued show cause notices (SCNs) to the appellant for the subsequent periods which were adjudicated and the demands were confirmed along with interest and imposed penalties and on appeal the Appellate Authority upheld the orders of the Adjudicating Authority, against which 4 (four) appeals were filed before this Tribunal. The details of the appeals and the impugned orders are listed below:-

Sl. No.	Appeal No.	Unit	Period	Impugned Order	Duty Demand
1	E/21755/2018	Unit - I	December 2015 to November 2016	OIA No. 291/2018 (01.08.2018)	10,27,184/-
2	E/21756/2018	Unit - III	December 2015 to November 2016	OIA No. 292/2018 (01.08.2018)	81,14,807/-
3	E/20912/2019	Unit - I	April 2013 to November 2015	OIA No. 110/2019 (01.07.2019)	17,69,728/-
4	E/20487/2021	Unit - I	December 2016 to June 2017	OIA Nos. 162&163/2020-CT (22.02.2021)	4,14,190/-
5	E/20488/2021	Unit - III	December 2016 to June 2017	OIA Nos. 162&163/2020-CT (22.02.2021)	1,92,786/-

4. When the appeals came up for hearing, the Learned Counsel for the Appellant submits that the impugned orders confirming the demand is prima facie unsustainable, since all the inter unit movement of manufactured excisable goods are carried out by the Appellant upon payment of central excise duty calculated at 110% of the cost of production in terms of Section 8 of the Central Excise Valuation (Determination of Price of Excisable Goods), Rules 2000. All the units

are working under CENVAT Scheme and consequentially duty paid at any one unit is availed as credit by the receiving unit. Further Appellant were supplying automotive trims from units to various customers and Appellant has no direct commercial relationship with the said automotive manufacturers who are the original equipment manufacturers (OEMs) receiving the goods from the Appellant. The moulds and dies required for manufacture of these goods are supplied by the Automobile manufacture under the cover of job work challans.

5. The Learned Counsel further submits that the issue is settled in favor of the Appellant as per the judgment of Hon'ble Supreme Court in the matter of **M/s International Auto Ltd. Vs. Commissioner of Central Excise, Bihar [(2005 (183) E.L.T 239 (SC)]**. In Appellant's own case on the very same issue for the period from June 2011 to November 2015, following the ratio of the said judgment of the Hon'ble Supreme Court, this Tribunal as per the Final Order No. 20037/2025 dated 10.01.2025 in Appeal No. E/20536/2017 set aside the demand. The Learned Counsel further submits that in present case, the original equipment manufacturer supplied the moulds to the Appellant under job work challan. Since the mould belongs to the automobile manufacture, Appellant cannot be asked to include the value of such moulds. Rule 6 of Central Excise Valuation (Determination of Price of Excisable Goods), Rules, 2000 if applicable is only to original equipment manufacturers and not to the Appellant.

6. The Learned Authorized Representative (AR) for the Revenue reiterated the finding in the impugned order. He further submitted that; the Appellant has mainly relied upon the Hon'ble Supreme Court judgement in the case of International Auto Limited Vs. CC, Kanpur-2005 (183) ELT 239 SC, while contesting the issue; In terms of Rule 6 (ii) of the Central Excise Valuation Rules, 2000, the value of tools, dies, **moulds**, drawings, blue prints, technical maps and charts and similar items used in the production of such goods, has to be added to the transaction value and appropriate duties have to be paid; in the present case, it is not disputed, that the appellants have got the moulds

required for their manufacture, free of cost from the customer; If the appellants would have manufactured or bought the moulds required for the completion of the manufacture of their finished goods, they would have incurred costs and necessarily charged the customer; in the present case, since the moulds are supplied free of cost, the value of the moulds should be apportioned and included in the transaction value in terms of Section 4 (1) (b) of the Central Excise Act, 1944 read with Rule 6 of the Central Excise Valuation Rules, 2000; as regards, the Hon'ble Supreme Court judgement in the case of International Auto Limited Vs. CC, Kanpur 2005 (183) ELT 239 SC, relied upon by the appellants, it is submitted that the issue involved in the said case related to the period 1993 and the valuation rules applicable at the relevant period was Central Excise (Valuation) Rules, 1975; the present cases are related to the period 2015 to 2017 and hence both the Valuation Rules of 1975 and the Hon'ble Supreme Court Judgement in the case of M/s. International Auto Ltd Vs. CC, Kanpur, are not applicable; apart from the above, it can be seen that Hon'ble Supreme Court has considered the issue under Rule 57 F (2) of the Central Excise Rules, 1944 and hence the judgement is not applicable in the present case.

7. Heard both sides and perused the records.

8. We find that the issue is covered by this Tribunal in Appellant's own case for previous period, wherein it is held that:-

"17. We find that as regards Larger Bench decision relied by the Revenue in the matter of M/s Mutual Industries Ltd. (supra), though the issue was amortization of mould, it was specific to the issue that whether the proportion of such inclusion need to be made even when after successive income tax depreciation, cost of the mould became zero. On that issue, it is held that cost of such mould has to be included in such value. However, the Larger Bench decision is not relevant considering the facts and circumstances of present case. As regards reliance on the M/s Bhor Industries Ltd., the customer of the appellant supplied

'Dies and tools' to the job worker without amortizing the cost of the same. However, in Appellant's case, adjudication authority admits that the original equipment manufacturers (OEMS) being the customers of the Appellant have amortized the cost of the mould supplied by them and hence the above judgment cannot be applied to the facts of the present case. As regarding the applicability of the judgment of the Hon'ble Supreme Court in the matter of M/s. International Auto parts, we find that the Hon'ble Apex Court judgment under Rule 57F(2) of Central Excise Rules, 1994 is Pari Materia with the Rule 4(5)(b) of the Cenvat Credit Rules, 2004 as per the decision of the Tribunal in the matter of M/s Essar Steels Ltd. Vs. CC, Raipur. Even we find force in the submission of the appellant that as regards reliance of the Revenue in the matter of M/s. Thermax Babcock & Wilcox Ltd. Vs. Commissioner of C. Ex., Pune-1 2018 (364) E.L.T 945 (Tri.-LB) 2017-VIL-1033-CESTAT-MUM-CE-LB, these decisions are confined to the scope of CENVAT credit and the Hon'ble Tribunal has not provided any finding with regard to manufacture, manufacturer and payment of duty on the manufactured goods including amortization of the value of inputs referred in the decisions. Further, as regarding the reliance on the decisions of the Larger Bench in the matter of M/s. Mutual Industries Ltd. Vs. Collector of Central Excise, Mumbai - 2000 (117) E.L.T. 578 (Tribunal) - 2000-VIL-14-CESTAT-DEL-CE, the movement of mould were neither undertaken under the job work challan nor the job worker amortize the value of the free issue material. However, in the present case, movement of mould from OEMs to the appellant was under job work challan and further the value of the mould in the present case is amortized, while clearing the final product, which includes the intermediate product manufactured and supplied by the appellant.

18. In the facts and circumstances in the case, it is a clear case that the ratio of the Judgment of Hon'ble Supreme Court in M/s. International Auto (supra) is squarely applicable to the

appellant case. Consequently, the impugned order confirming the demand along with the interest and imposition of penalty is unsustainable”.

9. In view above discussion, following the ratio of the above decision and the judgment of the Hon’ble Supreme Court in the matter of **M/s. International Auto Ltd.** (supra) impugned orders are liable to be set aside.

10. Accordingly, the impugned orders are set aside, and appeals are allowed with consequential relief, if any, in accordance with law.

(Order pronounced in open court on 21.11.2025)

(P.A.Augustian)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

Hr/Sasi