CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Customs Appeal No. 20001 of 2022

(Arising out of Order-in-Original No. 925/2021 dated 26.07.2021 passed by the Commissioner of Customs, Bangalore.)

M/s. Ankit Fasteners Pvt Ltd
No. 297, Haragadde Village, Jigani Industrial Estate
Jigani, Hobli, anekal taluk, Bangalore,
Karnataka – 560105. ....**Appellant**

VERSUS

Commissioner of Customs, Bangalore
C R Building, Queens Road, P.B. No. 5400,
Bangalore, Karnataka – 560001. ....**Respondent**

APPEARANCE:

Mr. M. S. Nagaraja, Advocate for the Appellant.
Mr. Maneesh Akhoury, 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 No. 20981 /2026

Date of Hearing: 06.01.2026
Date of Decision: 03.07.2026

PER: P. A. AUGUSTIAN

The issue in the present appeal is regarding classification of the goods imported by the Appellant.

2. The brief facts are the Appellant is engaged in manufacture of 'Aerospace fasteners' and holding Approval Certificate issued by Directorate General of Civil Aviation. Alleging mis-declaration as regards the classification of the goods under Customs Tariff Heading (CTH) 8803 30 00, Show Cause Notice was issued on 21.01.2021 and Adjudication

authority as per the impugned order dated 26.07.2021 re-classified the goods under Customs Tariff Heading (CTH) 81089090 and confirmed demand of differential duty with interest and imposed equal amount of penalty under Section 114A of the Customs Act, 1962. Aggrieved by said order, present appeal is filed.

3. When the appeal came up for hearing, the Learned Counsel for the Appellant submits that Appellant had imported semi-finished fasteners, Rivets, Bolts, Nuts, Pins, head pins and collar under 26 (twenty six) bill of entries during the period from January 2018 to September 2020 and classified the goods as parts of Aircraft under Customs Tariff Heading (CTH) 8803 30 00 and paid Customs Duty (CD) along with IGST as applicable. Since the goods are made of base metals such as Titanium, Nickel, Iron or Steel, a SCN was issued alleging that the goods are classifiable under:-

(i) Customs Tariff Heading (CTH) 8108 9090 attracting BCD @ 10% and IGST @ 18% in terms of Sl. No 291 of Schedule III of Notification No 01/2017 Integrated Tax (Rate) dated 28.6.2017 for goods made out of Titanium;

(ii) Customs Tariff Heading (CTH) 7508 9090 attracting BCD @ Nil and IGST @ 18% in terms of Sl. No. 261 of Schedule III of Notification No. 01/2017 Integrated Tax (Rate) dated 28.6.2017 for goods made out of Nickel;

(iii) Customs Tariff Heading (CTH) 7318 1500, 7318 1600 and 7318 2990 attracting BCD @ 10% and IGST @ 18% in terms of Sl. No. 232 of Schedule III of Notification No. 01/2017 Integrated Tax (Rate) dated 28.6.2017 for goods made out of Iron and Steel.

4. Learned Counsel draws our attention to the photographs of the product imported by the Appellant and submits that each fastener head is marked for identification as per the drawing requirement for traceability which is key requirement of Aerospace Industry. However, the Adjudication authority in the impugned order has not appreciated the nature of products, their sole or exclusive use in the manufacture of

Aeroplanes or use in Aeronautical or Aerospace industries. Further submits that the Adjudication authority has not examined the applicability of Note 3 of Section XVII of the Customs Tariff Act, 1975 and clause B under Section XVII of HSN. Instead, the referred goods are parts of Aircraft including glider and kites and concluded that impugned goods such as Rivets, bolts, nuts or pins and do not find any mention in the inclusive part of Customs Tariff Heading (CTH) 8803 of HSN and hence rejected the classification of the goods under Customs Tariff Heading (CTH) 8803.

5. The Learned Counsel further submits that the Adjudicating Authority appears to have not understood the fact that description of the goods indicated under HSN entry 8803 is an inclusive definition. It does not cover each and every part of an aircraft. The very fact that the parts described therein are succeeded with the expression "etc.", indicates that the list of goods indicated therein is not exhaustive and covers other parts which are not specifically listed therein. The principal user test prescribed in Note 3 of Section XVII of the Customs Tariff Act, 1975 is required to be applied. Thus, the finding of the Adjudicating Authority that the impugned parts are not covered under the description of goods mentioned under Chapter Heading 8803 of the HSN Explanatory Note, being erroneous, is not sustainable in law and needs to be rejected.

6. The Learned Counsel submits that the Adjudicating Authority has also referred to the exclusion clause under HSN Note (III) PARTS AND ACCESSORIES of Section XVII, which states - "It should be noted that Chapter 89 makes no provision for parts...". Evidently, the HSN Note (III) under SECTION XVII is applicable to "Vehicles, Aircraft, Vessels, and Associated Transport Equipment" and concluded that the impugned goods are excluded from the purview of "parts and accessories" of aircraft. Further submits that other two findings that the impugned goods are excluded from being classified under Section XVII in terms of Note 2 and that the classification is required to be made under Chapters

73 to 76 and 78 to 81 as may be the case is also unsustainable on facts and in law.

7. Learned Counsel also draws our attention to Note 3 of Section XVII under the HSN Explanatory Notes and Note 3 of Section XVII of the Customs Tariff Act, 1975 are identically worded and the same is extracted below;

> *"3. References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory."*

8. Learned Counsel submits that once the goods are parts for use solely or principally with the Aircraft, it cannot be considered as parts of general use. Learned Counsel further submits that the issue is no more *res integra* and covered by the judgment of the Hon'ble Supreme Court in the matter of **Westinghouse Saxby Farmer Ltd. Vs. CCE, Calcutta – 2021 (376) ELT 14 (SC)**; where it is held that;

> *"36. What is recognized in Note 3 can be called the "suitability for use test" or 'the user test'. While the exclusion under Note 2(f) may be of goods which are capable of being marketed independently as electrical machinery or equipment, for use otherwise than in or as Railway signalling equipment, those parts which are suitable for use solely or principally with an article in Chapter 86 cannot be taken to a different Chapter as the same would negate the very object of group classification. This is made clear by Note 3.*
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> *37. It is conceded by the Revenue that the relays manufactured by the appellant are used solely as part of the railway signalling /traffic control equipment. Therefore, the invocation of Note 2(f) in Section XVII, overlooking the "sole or principal user test" indicated in Note 3, is not justified."*

9. The Learned Counsel also submits that the issue was also considered by the Hon'ble Supreme Court in the matter of **M/s. G.S Auto International Ltd Vs. CCE, Chandigarh – [2003 (152) ELT 3 (SC)]** and it is held that**;**

> *"25. Note 3 says that references in Chapters 86 to 88 to 'parts' or 'accessories' do not apply to parts or accessories which are not suitable for use solely or primarily with the articles of those chapters and that a part or accessory which answers to a description in two or more headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part of accessory.*
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> *26. A conjoint reading of the Notes, referred to above, would show that the expression "parts of general use" throughout the Schedule, means, inter alia, articles of Heading No. 73.18 and similar articles of other base metal; and the expression 'part and accessories' in Chapter Heading 87.08 does not apply to parts or accessories which are not suitable for use solely or primarily with articles of Chapter Heading 87.08 which pertains to parts and accessories of motor vehicles of Chapter Heading Nos. 87.01 to 87.05. For the purposes of classification under Chapter Heading 87.08, the test to be applied is: whether the goods are suitable for use solely or primarily with articles of Chapter Heading Nos. 87.01 to 87.05; if the answer is in the affirmative, the goods will be classifiable under Chapter Heading 87.08, but if the answer is in the negative, they would have to be classified under Chapter Heading No. 73.18. Having regard to the finding that the goods in question cannot but be regarded as parts of automobiles, it has to be held that they are suitable for use primarily with articles of Chapter Heading Nos. 87.01 to 87.05. It follows that the goods in question cannot be treated as falling under Chapter Heading No. 73.18 and that they can properly be classified under Chapter Heading No. 87.08 of the Central Excise Tariff Act, 1985."*

10. Learned Counsel further submits that the issue was also considered by this Tribunal in the matter of **M/s. Dynamatic Technologies Ltd Vs. CC, Airport and Air Cargo Complex** and as

per **Final Order No. 21410/2025 dated 11.09.2025**, following the ratio of judgment of the Hon'ble Supreme Court in the matter of **Westinghouse Saxby Farmer Ltd. (supra),** it is held that;

> *"2. Briefly the facts are that the appellant had imported products namely Aluminium Bushes Flanges, Aluminium Fitting, Bolts, Grommet and various other products claiming classification under CTH 8803 9000 of the Customs Tariff. The Revenue alleging that the above products were articles of iron and steel and aluminium rejected the classification under CTH 8803 9000 and reclassified the same under CTH 7616 9990, 7318 1500, 7320 9090, 8108 9090 and 8207 9090. Accordingly confirmed the demand of Rs.2,05,53,718/- under Section 28(8) along with interest and imposed penalty under Section 117 of the Customs Act, 1962. Aggrieved by this order the appellant is in appeal before us.*
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> *……...................................*
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> *.......................................*
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> *8. In view of the above, a part suitable for solely or principally with the articles of CTH 88 (aircraft) which is not disputed cannot be classified under CTH 73, 76 or 82 as parts of general use. Therefore, we find that the impugned products are rightly classifiable under CTH 8803. We also find that the Bills of Entry placed on record show that the appellant had described the products as tools, bolts, washers, aluminium tube assembly, aluminium bushes, flanges etc. and classified them under CTH 8803. Since, the appellant had correctly described the products and the classification is also upheld, the question of penalty does not arise."*

11. Learned Authorized Representative (AR) for the Revenue reiterated the finding in the impugned order and also draws our attention to the Chapter Note 2 under Section XV related to base metals and articles of base metals specifically stated that;

> 2. Throughout the Nomenclature the expression "parts of general use" means;

(a) Articles of heading 73.07, 73.12, 73.15, 73.17 or 73.18 and similar articles of other base metal, other than articles specially designed for use exclusively in implants in medical, surgical, dental or veterinary sciences (heading 90.21);

(b) Springs and leaves for springs, of base metal, other than clock or watch springs (heading 91.14); and

(c) Articles of headings 83.01, 83.02, 83.08, 83.10 and frames and mirrors, of base metal, of heading 83.06.

In Chapter 73 to 86 and 78 to 82, (but not included 73.15) reference to parts of goods do not include references to parts of general use as defined above."

12. Learned Authorized Representative (AR) further submitted that the goods imported by the Appellant are made out of base metals and are for general purpose.

13. Learned AR submits that in the judgment of the Hon'ble Supreme Court in the matter of **Westinghouse Saxby Farmer Ltd. Vs. CCE, Calcutta (Supra)**, the issue regarding Chapter Note 2 was not discussed and only consideration is regarding Chapter Note 3. However, the issue was considered in the matter of **CCE, Delhi Vs. Uni Products India Ltd. - 2020 (372) ELT 465 (SC),** wherein it is held that:-

> *"21. In the case of A.P. State Electricity Board v. Collector of Central Excise, Hyderabad ((1994) 2 SCC 428 = 1994 (70) ELT 3 (S.C.)], the marketability test has been applied, which is, in a way, a corollary to the "popular meaning" test. In this case it has been held;*
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> > *10. It would be evident from the facts and ratio of the above decisions that the goods in each case were found to be not marketable. Whether it is refined oil (non-deodorised) concerned in Delhi Cloth and General Mills or kiln gas in South Bihar Sugar Mills or aluminium cans with rough uneven surface in Union Carbide or PVC films in Bhor Industries or hydrolysate in Ambalal Sarabhai the finding in each case on the basis of the material before the Court was that the articles in question*

> *were not marketable and were not known to the market as such. The marketability' is thus essentially a question of fact to be decided on the facts of each case. There can be no generalisation. The fact that the goods are not in fact marketed is of no relevance. So long as the goods are marketable, they are goods for the purposes of Section 3. It is also not necessary that the goods in question should be generally available in the market. Even if the goods are available from only one source or from a specified market, it makes no difference so long as they are available for purchasers. Now, in the appeals before us, the fact that in Kerala these poles are manufactured by independent contractors who sell them to Kerala State Electricity Board itself shows that such poles do have a market. Even if there is only one purchaser of these articles, it must still be said that there is a market for these articles. The marketability of articles does not depend upon the number of purchasers nor is the market confined to the territorial limits of this country. The appellant's own case before the excise authorities and the CEGAT was that these poles are manufactured by independent contractors from whom it purchased them. This plea itself-though not pressed before us is adequate to demolish the case of the appellant. In our opinion, therefore, the conclusion arrived at by the Tribunal is unobjectionable."*

22. Emphasis on technical meaning has been highlighted in the case of Commissioner of Central Excise v Wockhadt Life Sciences Limited (2012) 5 SCC 585 2012 (277) ELT. 299 (S.C.)] for resolving classification related disputes of goods. In this case, it has been held that a commodity cannot be classified in a residuary entry if there is a specific entry, even if the specific entry requires the product to be understood in a technical sense.

23. "The common parlance test", "marketability test", "popular meaning test" are all tools for interpretation to arrive at a decision on proper classification of a tariff entry. These tests, however, would be required to be applied if a particular tariff entry is capable of

> *being classified in more than one heads. So far as subject-dispute is concerned, we have already referred to Chapter Note 1 of Chapter 57. This note stipulates that carpets and other floor coverings would mean floor coverings in which textile materials serve as the exposed surface of the Article when in use. This feature of the car mats has not really been rejected by the revenue authorities as untrue in the order of the Commissioner, before whom assertion to that effect was made by the respondent.*

13.1. Similarly, the issue was considered by the Hon'ble Supreme Court in the matter of **CCE, Aurangabad Vs. Videocon Industries Ltd. – 2023 (384) ELT 628 (SC)** and as per the finding, it is held that:-

> *28. It is, therefore, clear that when goods are excluded from a particular chapter, the "pull in" through a note has to be narrowly construed, as otherwise, the basis of exclusion would be defeated, and the earlier note (of exclusion) rendered redundant. Finally, Secure Meters (supra) is decisive on the question that LCDs are not articles provided "more specifically in other headings", i.e., other than 90.13. Furthermore, the fact that LCDs could be used for purposes other than television sets or audio sets is also concluded because, in that decision, its use in meters was in issue. This Court held, pertinently, as follows:*
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> > *"17. Keeping in mind the aforesaid nature of product in question, we revert to the tariff entries. It cannot be disputed that LCDs are specifically provided in Tariff Item 9013. The only condition is that such LCDs should not constitute "articles" provided more specifically in other headings. In the present case, it is also not in dispute that LCDs imported by the appellant did not constitute any such "article" which is more specifically provided in other headings. On the contrary, the Revenue wants to include in the same chapter i.e. Chapter 90, though under Entry 9028.90.10 as "parts and accessories". The only reason for including the goods under Chapter Heading 9028 is that the LCDs were to be used in the electricity supply meters. However, Entry 9028 does not pertain to LCDs but gas, liquid, etc. and includes electricity*

> *supply meters as well. Merely because these LCDs are to be used as parts in the said electricity supply meters, can it be said that they are to be included in Entry 9028? Here, Note 2 of this Chapter Notes becomes important since LCDs are used in the electricity supply meters only as parts thereof. Note 2(a) stipulates that parts and accessories which are goods included in the heading of the said chapter ie. Chapter 90, are to be classified in their respective headings. Going by the plain reading of Note 2(a) it is clear that LCDs, which are goods and are used as parts in the final product mentioned in Chapter 90, namely, electricity supply meters, are to be classified in its respective heading. Respective heading, which is specifically provided is 9013.*
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> *18. It was sought to be argued by Ms. Kiran Suri that as per Note 2(b), when these LCDs are used solely for particular instrument, namely, electricity supply meter, it has to be classified with the said meter and, therefore, Chapter Entry 9028 would get attracted. However, this argument loses sight of the fact that Note 2(b) relates to "other parts and accessories", namely, it would apply to those parts and accessories for which Note 2(a) is inapplicable. Once we find that in the present case Note 2(a) squarely applies, the irresistible conclusion is that the goods will be classified in Tariff Item 9013, which is the specific heading for these goods.*

29. In view of the above decisions and the foregoing reasoning, the CESTAT's reasoning and conclusions, in both cases, that the LCD sets were under Chapter 90, Entry 9013.8010, is sound and unexceptionable. Consequently, the appeals have to fail and are dismissed, without order on costs."

14. Learned AR relied on the following decisions;

i. Intel Design Systems (India) Pvt Ltd. Vs. CCE – 2008 (223) ELT 135 (SC)

ii. **Secure Meters Ltd. Vs. CC, New Delhi – 2015 (319) ELT 565 (SC)**

iii. **CCE, Nagpur Vs. Simplex Mills Co. Ltd. – 2005 (181) ELT 345 (SC)**

iv. **CCE Vs. Delton Cables Ltd. – 2005 (181) ELT 373 (SC)**

15. Heard both sides and perused the records.

16. We find that basically the investigation commenced alleging that the goods imported by the Appellant are made out of base metals and since they are for general use, the classification adopted by the Appellant is unsustainable. However, on perusal of the documents, we find that when enquires were made regarding the technical details, the Appellant had submitted approval certificate, drawings and details of the parts. Further as per the statement recorded from the Associate Manager which is reproduced in the show cause notice as under:-

> "4.1 A Statement of Shri. Sanjeet Kashyap, Associate Manager (Exim) of M/s. Ankit Fasteners Pvt Ltd., Bangalore, whose submissions or depositions are binding on the Company, was recorded on 25.11.2020, wherein, he has inter alia stated as under, that:
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> i. The Company is into manufacturing of aerospace fasteners and the Company is certified by the International Regulatory authorities for aviation such as DGCA, NADCAP; that, all manufacturing facilities are installed in-house; that, their main customers are HAL, ISRO, Airbus, GE Aviation; that, they import raw material and semi-finished fasteners; that, the main metals they import are Titanium, Nickel alloys and Special Steels and the majority they import are from Western Europe or USA.
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> ii. The items imported i.e., fasteners, are made from aviation grade titanium and nickel alloy with unique thread features such as 'J' threads, which are unique to the aviation industry, which prevents use of these parts in normal commercial applications;

that, further, the parts have a very high strength to weight ratio, thereby qualifying for flight application; that, the parts, when imported, undergo special proprietary coating developed by the Company which provides surface protection for application in high altitude and space environment; that, the fasteners are inspected and certified by a third party designated by the end-customer and the said approval is based on batch-qualification which ensures traceability of the parts through the supply chain".

17. Thus, once it is specifically stated that they had imported fasteners in semi-finished condition which have acquired the attributes of a complete / finished part except for a specialised coating which the appellant undertakes and that they are used exclusively in the Aviation Industries, in the absence any evidence regarding general use of the parts, the finding given by the Adjudication Authority adopting the classification other than the classification declared by the appellant is unsustainable. Further we find that the issue was considered by the Hon'ble Supreme Court in the matter of **Westinghouse Saxby Farmer Ltd. Vs. CCE, Calcutta (Supra)** and following the ratio of the same, the classification adopted by the Appellant is sustainable. Therefore, impugned order reclassifying the goods and demand of differential duty along with interest and imposition of penalties is unsustainable and liable to be set aside.

18. Accordingly, the impugned order is set aside and the Appeal is allowed with consequential relief, if any, in accordance with law.

(Order was pronounced in Court on 03.07.2026)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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