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

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REGIONAL BENCH – COURT NO. 1

**Excise Appeal No. 57511 Of 2013**

[Arising out of OIA No. 248/CE/Appl/Ldh/2012 dt. 03.04.2013 passed by the Commissioner (Appeals) of Customs & Central Excise, Chandigarh-I]

**M/s Avon Cycles Ltd.** : **Appellant (s)**
G.T. Road, Dhandari kalan,
Ludhiana

Vs

**Commissioner of Central Excise-Ludhiana** : **Respondent (s)**
ICD GFRL. G.T. Road, Sahnewal Ludhiana-Punjab

**with**
**Excise Appeal No. 57512 Of 2013**

[Arising out of OIA No. 74/ST/Appl/Ldh/2013 dt. 06.02.2013 passed by the Commissioner (Appeals) of Customs & Central Excise, Chandigarh-I]

**M/s Avon Cycles Ltd.** : **Appellant (s)**
G.T. Road, Dhandari kalan,
Ludhiana

Vs

**Commissioner of Central Excise-Ludhiana** : **Respondent (s)**
ICD GFRL. G.T. Road, Sahnewal Ludhiana-Punjab

APPEARANCE:
Ms. Kanika Malhotra, Advocate for the Appellant
Shri Ravinder Jangu, Authorised Representative for the Respondent

**CORAM : HON'BLE Mr. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER No. 60021-60022/2024**

Date of Hearing:22.01.2024

Date of Decision:22.01.2024

***Per : P. Anjani Kumar***

The appellant, M/s Avon Cycles Ltd import E-bike in CKD condition and also parts thereof; they assemble the E-bike and cleared them availing exemption under Notification No. 25/2008-CE dated
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29.04.2008, as amended by Notification No. 6/2006-CE dated 01.03.2006; two show cause notices dated 04.03.2010 and 25.01.2011 were issued to the appellants demanded automobile cess as applicable only E-bikes cleared by them, as the assembling of E-bikes amounts to manufacture; the demand raised in the show cause notices was confirmed by the orders-in-original and were upheld by the appellate authority; hence, these appeals.

2. Ms. Kanika Malhotra, Learned Counsel for the appellants submits that the issue is no longer res-integra having been decided by this Bench in the case of Hero Cycles Ltd., vide Final Order No. 60707 of 2023 dated 11.12.2023. She submits that impugned show cause notices are also barred by limitation and as there was no suppression etc. with intent to evade payment of duty on the part of the appellant. She also relies on the following:-

i) CST vs. Naresh Kumar & Co. Pvt. Ltd. – 2022 (67) GSTL 324 (Cal)
ii) Uniworth Textiles Ltd. vs. CCE 2013 (228) ELT 161 (SC)
iii) Cosmic Dye Chemical vs. CCE 1995 (75) ELT 721 (SC)
iv) Nizam Sugar Factory vs. CCE 2006 (197) ELT 465 (SC)
v) CCE vs. Tata Motors Ltd. 2016 (336) ELT 268 (Jhar.)
vi) CBEC Circular No. 41/88 dt. 31.08.1988

3. Shri Ravinder Jangu, Authorized Representative for the Department reiterates the findings of OIO and OIA.

4. Heard both sides and perused the records of the case.

5. I find that this Bench vide Final Order dated 11.12.2023 held as follows:-

> "7. After considering the submissions of both the parties and perusal of the material on record, I find that the appellant imported E-bike in

CKD condition and E-Bike parts falling under heading 8711 & 8714 respectively. The appellant assembled E-Bike imported in CKDcondition and cleared the same without payment of duty as E-bike were exempt vide notification No. 25/2008-CE dated 29.04.2008. Further, I find that E-bike imported in CKD condition after assembling were cleared without payment of duty as the goods were imported and cleared fall under the same sub-heading and processes undertaken does not amount to manufacture as per section 2(f) of the Central Excise Act being no new/distinct product came into existence. Further, I find that the classification at the time of importation and at the time of clearance for home consumption are the same. Further, I find that the appellant has paid the automobile cess at the time of custom clearance which is reflected in the Bill of entry 531 dated 11.07.2008 produced at page 33 of the appeal paperbook showing payment of automobile cess on E-Bike in CKD condition. Therefore, I hold that the appellant is not required to pay automobile cess because he has already paid the same at the time of import which has been shown in the Bill of entry 531 dated 11.07.2008.

8. Further, I find that the entire information regarding the clearance of E-bike were reflected in ER-1 return submitted to the department periodically and the department never raised any objection regarding non deposit of automobile cess which clearlyshows that automobile cess were paid as per concurrence of the department. Further, I find that entire demand in this case is time barred because for the period September, 2006 to September, 2008 show cause notice was issued on 19.11.2010 which is beyond the normal period of limitation. The department has invoked the extended period of limitation without showing that the ingredients for invoking the extended period of limitation is present in the case."

6. In view of the above, we find that the impugned orders are legally sustainable and are liable to be set-aside. Accordingly, allow both the appeals with consequential relief, if any, as per law.

*(Operative part of the order pronounced in the open Court)*

**(P. ANJANI KUMAR)**
MEMBER (TECHNICAL)

*G.Y.*