

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

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 61583 of 2018

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-1354-18 dated 29.06.2018 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s J C B L Limited, Unit-II

Ambala Chandigarh Highway,
Satarpur (Lalru), Mohali,
Punjab-140501

.....Appellant

VERSUS

**Commissioner of Central Excise,
Goods & Service Tax, Chandigarh-I**

Central Revenue Building, Plot No.19,
Sector-17C, Chandigarh-160017

.....Respondent

APPEARANCE:

Ms. Krati Singh and Ms. Khushbu Sood, Advocates for the Appellant
Shri Narinder Singh, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 61673/2025

DATE OF HEARING: 10.11.2025

DATE OF DECISION: 14.11.2025

P. ANJANI KUMAR:

The issue involved in the instant case is about the classification and valuation of Bullet Proof Special Purpose Vehicle manufactured/ fabricated, on the chassis supplied by their customers, and cleared by the appellants i.e. M/s JCBL Ltd., Unit-III.

2. Brief facts of the case are that the appellants were classifying the impugned vehicles under CETH 8705 9000 and were availing exemption under Notification No.12/2012. Revenue disputes the classification and seeks to classify the impugned vehicles under CETH 8710 0000 and to value the goods in terms of Rule 10A of the Central Excise Valuation Rules, 2000; in this backdrop, a show cause notice dated 18.07.2014 was issued to the appellants demanding differential duty of Rs.17,70,893, for the period 01.08.2013 to 30.04.2014, along with interest and penalty; the proposals in the show cause notice were confirmed by OIO dated 29.06.2018 which are upheld by the impugned order in appeal dated 29.01.2016. Hence, this appeal.

2. Ms. Krati Singh, learned Counsel for the appellants, submits that the impugned case stands settled in their favour in the appellant's own case by the Tribunal, vide 2019 (4) TMI 176 and 2023 (12) TMI 475; the Tribunal held that the vehicle merits classification under CETA 8705 9000 and the appellants also are eligible for the exemption; she submits that no appeal has been filed and the orders have attained finality.

3. Learned Counsel further submits that the primary purpose of the impugned vehicles is patrolling, surveillance and ensuring safety and are designed for special purposes rather than transport of passengers. She relies on M/s Bharji Fabricators – 2020 (1) TMI 942 wherein it was held that Special Purpose Light Armoured Vehicles meant for Police use, providing protection against bullets and grenades are classifiable under CETA 8705; even the HSN under

8705 specified that the vehicles under that Heading are those which are not primarily designed for transport of persons; further, HSN Notes under 8710 exclude cars and lorries of conventional type, armoured or equipped with removal armour from its scope; the classification adopted by the appellants is substantiated by the certificate given by Vehicles Research Development Establishment (VRDE); it has been held in the following cases that VRDE certificate is a reliable document for classification. She relies on the following cases:

- Commissioner of Central Excise, Gurgaon-II v. Metaltech Motor Bodies Pvt. Ltd. - 2023 (11) TMI 413 - CESTAT Chandigarh
- Bharij Fabricators v. CCE & ST, Chandigarh-II (Supra)
- Mann Tourist Transport Service (P) Ltd. v. CC (I), Nhava Sheva -2015 (319) E.L.T. 153 (Tri. - Mum.)
- Bajaj Auto Ltd. v. CCE. 2006 (202) E.L.T. 831 (Tri. Mumbai) affirmed by the Hon'ble Supreme Court in 2015 (325) E.L.T. 465 (S.C.)

4. Learned Counsel further submits that the appellant uses the chassis supplied by M/s Tata Motors Ltd. on payment of duty; the appellant independently procures various raw materials, the cost of which is about 60 to 70% of the value of the vehicle; thus, it cannot be said that the appellant is working on job work basis; the agreement between the appellant and M/s Tata Motors Ltd. is for sale of chassis and not of job-work; accordingly, Rule 10A of Central Excise Valuation Rules has no application; the valuation of the impugned vehicles was correctly arrived by the appellants under Section 4 of the Central Excise Act read with Rule 6 of Valuation Rules. She further submits that the expression "on behalf of" used in

Rule 10A contemplates a tripartite agreement between a job-worker, principal manufacturer and the customer; in this case, only two parties exist; therefore, Rule 10A is not applicable as explained by Circular F.No. 132/111/2007-CX.4 dated 18.07.2007. Learned Counsel also submits that in case the duty is confirmed on the appellants, they would be eligible for cum-tax benefit and CENVAT credit. She also submits that when demand is not sustainable, the question of interest and penalty does not arise; moreover, the appellant being regular manufacturer cannot be alleged to have *mens rea* and also the issue is of classification; as such, penalty under Section 11AC cannot be imposed. She relies on the following cases:

- M/s Nandan Auto Tech Ltd. – 2024 (5) TMI 666-P & H High Court.
- Khyber Industries (P) Ltd. – 2023 (9) TMI 291-CESTAT Chandigarh.
- Consolidated Coin Company Pvt. Ltd. – 2024 (10) TMI 320-CESTAT Chandigarh.
- Indian Oil Corporation Ltd. – 2022 (6) TMI 609-CESTAT Ahmedabad.

5. Learned Authorized Representative for the Department reiterates the findings of the impugned order and submits that the very specification of the vehicle is Bullet Proof Troop Carrier on Tata-713 LPTA, 4x4; the purchase orders of M/s Tata Motors Ltd. describe the vehicle as Light Armoured Troop Carrier; from the above, it is apparent that the impugned vehicle is bullet-proof and is a troop carrier. Learned Authorized Representative takes us through the Tariff and HSN Notes and submits that Explanatory Notes to Chapter Heading 8710 deal with tanks and other armoured fighting vehicles,

motorized whether or not fitted with weapons and parts of such vehicles. He also submits that as per Cambridge Dictionary, Armoured means – “protected by stronger covering or using military vehicles, protected by storm covering” and that as per Collins Dictionary, Armoured vehicles are fitted with hard metal covering in order to protect them from gunfire and other missiles; in the instant case, the vehicle manufactured by the appellant is bullet-proof and the same gives protection against small arms as per the general description given in the specification of the vehicle issued by VRDE; therefore, the impugned vehicles fall under the Heading of “Armoured Vehicles”, which is a specific entry.

6. Learned Authorized Representative further submits that the impugned vehicles are excluded from 87.05 as the Heading covers vehicles other than those principally designed for the transport of persons or goods; the impugned vehicle being specially designed to carry the troops for anti-insurgency, anti-riot duties; they cannot be classified under 87.05; specifically, armoured fighting vehicles, motorized (Heading 87.10) are excluded from 87.05 and are included under 87.10. He submits that the impugned vehicles being bullet-proof troop carriers cannot be covered under 87.05 and are classifiable under 87.10, as per Entry (E) of HSN Explanatory Notes, which is for armoured personnel carriers.

7. Learned Authorized Representative distinguishes the judgment of this Bench in the appellant’s own case – 2019 (367) ELT 283 (Tri. Chan.) stating that the Bench has drawn the conclusion that the vehicles are classifiable under 87.05 on the basis of Exclusion Clause

mentioned in HSN Explanatory Notes to Chapter Heading 87.10; the impugned vehicles are not cars or lorries of conventional type; even if vehicles are excluded from 87.10, they cannot fall under 87.05 as 87.05 specifically excludes vehicles designed for transport of persons or goods. He distinguishes also the case of Bajaj Auto Ltd. – 2006 (202) ELT 831 (Tri.).

8. On the issue of valuation, learned Authorized Representative submits that the impugned vehicles are not sold by the appellants but are returned to the Regional Sales Depots of M/s Tata Motors Ltd after completion of the work; therefore, the provisions of Rule 10A are applicable as held in the following cases:

- HMM Infra Ltd. – 2016 (339) ELT A54 (SC) and 2016 (339) E.L.T. A54 (S.C.)
- AUDI AUTOMOBILES-2010(249) ELT 124
- SITA SINGH & SONS P. LTD.-2016 (337) E.L.T. 441 (Tri. - Chan.); 2018(361) ELT.888; 208(362) ELT.778; 2020(374) ELT.131
- HMM COACHES LTD.-2016(339) ELT.152 (Tri. Del.)

9. Heard both sides and perused the records of the case. We find that the issue is no longer res integra having been decided by this Bench in the appellant's own case wherein periodical show cause notices were issued to the appellant and this Bench in the case pertaining to previous period vide 2019 (4) TMI 176 held as follows:

12. On-going through the certificate issued by VRDE and tender documents placed on record, we find that it show that these documents show that the requirement of Border Security Force is for light armoured troop carrier and as per the certificated issued Vehicle Research Development Establishment that the vehicles manufactured by the appellants are special purpose armoured vehicle. The certificate is having acceptability in light of the decision of

this Tribunal in the case of Mann Tourist Transport Service (P) Ltd. (supra) wherein this Tribunal has observed as under-

5.1 In the remand order dated 7-10-2010, this Tribunal had clearly directed the Revenue to get the vehicle examined and obtain expert opinion from agencies such ARAI/VRDE with regard to the seating capacity and determined the classification issue. When the said order was passed, the vehicle was very in the possession of the department and they could have got necessary examination/verification done, which they failed to do. Even after the Apex Court decision, before allowing release of the vehicle, the said action could have been undertaken. This shows gross negligence and complete disregard on the part of the department to the directions given by this Tribunal. Thus, the entire blame for the inaction lies squarely on the department.

5.2 In the letter dated 19-11-2012, ARAI has not given any opinion on the seating capacity of the impugned vehicle They have merely observed that the vehicle was originally designed for seating 5 persons. However, they advised the department to verify from the concerned vehicle manufacturer about the type approval certificate issued from country of origin for the above vehicle with modified seating capacity. This direction has also not been complied with. As regards ARAI observation that – “under provisions of Motor Vehicles Act, any modification/alteration to the original vehicle are not permitted under Section 52 of the Motor Vehicles Act”, this observation is quite irrelevant as the modification has been undertaken abroad before importation and the Indian Motor Vehicle Act does not have any extra-territorial jurisdiction. It is well settled position in law that imported goods have to be assessed to duty in the form in which they are presented. In the facts of the present case, the vehicle as imported has been presented with a seating capacity of

12. Further, the regional transport authorities at Delhi has registered the vehicle as having a seating capacity of 10. The certificate of fitness and the tourist permit for the vehicle issued by the RTO authorities at Delhi also confirm this fact. In this factual scenario, the decisions of the Hon’ble High Court of Kerala in K. Jayachandran v. Regional Transport Officer, Trichur & others in W.P.28702 of 2007 and the decision of this Tribunal in the Mahindra & Mahindra case (cited supra) become relevant and applicable.”

13. Further, in the case of Bajaj Auto Ltd.(supra) wherein Hon’ble Supreme Court has observed as under:-

“4. The Tribunal found that the Commissioner while relying upon the earlier decision of the Tribunal ignored the fact that on the first occasion, when the matter was remanded, the Tribunal itself had observed

that the new tariff did find the meaning of the tractor and also that positive evidence would be necessary to make them depart from its earlier view. It further found that the Revenue had not disputed that it is immaterial whether vehicle in question comprising of hauling unit and semi-trailer is cleared together or separately which is clear from Chapter Note 2. Discussion on this aspect runs as follows :-

"It is not disputed by the Revenue that vehicle in question comprise of hauling unit and semi-trailer, it is immaterial whether they are cleared together or separately as it is also emphasized in the Chapter Note 2 that they may or may not contain subsidiary provision for the transport of goods....."

Explanatory notes to this chapter heading further state that articulated motor lorry with semi-trailer, tractors coupled to semi trailers, the hauling unit is classifiable under Heading 8701. In the present appeal the vehicle in question is nothing but articulated motor vehicle as per the definition of articulated motor vehicle given in the automotive dictionary. This view also find supports from two opinions of VRDE and VRIA which were sought by the department after forwarding then certificates issued by CMVR and were obtained at the department's own instance. All these clearly establish that vehicle in question is "tractor" and not LMV. The emphasis on non-use for agriculture purpose is totally misplaced as Heading 8401 includes all kings of tractors including road tractors for semi-trailers. The sole use of the goods is to haul another trailer. It has no pay load capacity of its own and is therefore not capable of transporting any goods on its own. These facts are also not disputed by the department. As rightly said by learned advocate Shri Hidaytulla that once the definition of tractor is given in the statute, we cannot go by meaning in common parlance. We are fully in agreement with the view taken by the tribunal in the case of Volvo India Pvt. Ltd. where identical goods were held to be classifiable under Chapter Heading 87.01 and not under Heading 84.04."

14. In that circumstance, we hold that the vehicle is special purpose armoured vehicle are certified by the VRDE and the certificate given by the VRDE is applicable to the facts of this case.

15. In the light of that, we have to examine tariff heading 8705 which is applicable to special purpose vehicle. Admittedly, the vehicle in question is a special purpose vehicle, therefore, the same have merited classification under tariff heading 8705 90 00. We have also examined HSN Explanatory Notes to chapter 87.10 it excludes cars and lorries of the conventional type, armoured or equipped with subsidiary removable armour which will cover under

headings 87.02 to 87.05 as applicable. Therefore, it is clear that 87.10 covers tanks and other armoured fighting vehicles in the HSN. Therefore, light armoured bulletproof vehicles are specifically excluded from classification under tariff heading 87.10. The bulletproof vehicles manufactured by the appellants are light armoured bulletproof vehicles is not disputed. The feature of the bullet proof SPV indicates that these provide protection to the troops sitting inside the vehicles, against bullet/hand grenades. It also had provision for holes on the roof and the sides, through which the troops inside the vehicle can retaliate. Thus, primary purpose of the said vehicle was patrolling, surveillance and security of the forces inside the vehicle while being stationed at the battlefield. Therefore, the SPVs are designed and manufactured for special purpose and use . These are not principally designed for the transport of passengers or goods and hence, are not excluded from the purview of heading 8705. The main purpose is to ensure the safety of the occupants inside the vehicle for which, the vehicle is made bulletproof. Therefore, the bulletproof SPVs deserve to be classified under chapter heading 8705. We also find that HSN Explanatory Notes to chapter heading 8705 provides that primary purpose of a vehicle of this heading is not the transport of persons or goods. These bulletproof special purpose vehicles are primarily designed for rendition of defence/policing services and not for the transportation of persons or goods and hence, merit classification under tariff item 8705 90 00. In view of this, we hold that merit classification of the goods is under chapter heading 8705 90 00.

16. As the goods are classifiable under chapter heading 8705 90 00. Therefore, the appellants are entitled for the benefit under Serial No.50 of exemption notification No6/03-CE dt.1.3.2003.

10. We also find that for the subsequent period this Bench vide Final Order No.60704-60705/2023 dated 11.12.2023 held as follows:

6. Heard both sides and perused the records of the case. We are of the considered opinion that the issue is no longer res integra having been decided by this Bench in their own case. We also find strength from the decision of this Bench in the case of Metaltech Motor Bodies Pvt. Ltd. (supra). We find that in the above cases, the special purpose nature of the vehicles was considered and the fact that VRDE has certified

the vehicles to be special purpose vehicles is also taken into account. Therefore, we are of the considered opinion that the issue stands decided squarely in favour of the appellants. We hold that the impugned vehicles are classifiable under CETH 8705 0000 and thus, eligible for exemption. As the duty is not payable on the impugned goods, discussion on the valuation of the same is of no consequence. We also find that when duty is not demandable, the case for imposition of penalty does not arise.

11. In view of the above, we find that the issue is squarely covered in favour of the appellants. It is not on record as to whether the Revenue has filed any appeal against the above orders. Revenue has not placed on record any Stay granted in this regard. Therefore, we find that there are no reasons to deviate from the stand taken by this Bench not once but twice. We have taken note of the argument put forth by learned Authorized Representative for the Revenue and are of the considered opinion the same has been addressed in the cases cited above. Learned Authorized Representative submits that the impugned vehicles fall under 87.10 as Entry (E) of the HSN Explanatory Notes covers Armoured Personnel Carriers. However, we are in agreement with the learned Counsel for the appellant's argument that unless the vehicles fall under the main Heading 87.10 and are tanks and other armoured fighting vehicles, motorized, whether or not fitted with weapons and parts of such vehicles, the inclusive clause under (E) is not applicable. Understandably, the impugned vehicles cannot be classified along with tanks and other armoured fighting vehicles just because they are armoured and satisfy the dictionary meaning of the word "armoured". Applying the

principle of *noscitur a sociis*, the impugned vehicles cannot be grouped with tanks and other armoured fighting vehicles.

12. We further find that learned Authorized Representative submits that the certificate given by VRDE cannot determine the classification of the impugned vehicles. We find that this issue also has been set to rest by the decision of this Bench in the case of Metal Tech Motor Bodies Pvt. Ltd. (*supra*). In view of the same, we find that the argument of the learned Authorized Representative cannot be accepted. We find that the issue is squarely covered in favour of the appellants. Since, the issue of classification of the vehicles is decided in favour of the appellants and as the impugned vehicles are eligible for the exemption claimed, we find that the issue of valuation becomes redundant. Therefore, we do not find it necessary to give findings on the same. Therefore, we do not have any hesitation, whatsoever, to hold that the impugned order is not sustainable. Accordingly, we set aside the same and allow the appeal.

(Order pronounced in the open court on 14/11/2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)