

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

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60329 of 2017

[Arising out of Order-in-Appeal No. 218/CE/Appl-II/Delhi/2016 dated 08.08.2016 passed by the Commissioner (Appeals-II), C.E., Delhi, at Gurgaon]

Commissioner of Central Excise, Goods & Service Tax, Gurugram Appellant
GST Bhawan, Plot No. 35-37, Sector 32,
Gurugram, Haryana-122001

VERSUS

M/s Asti Electronics P Ltd Respondent
Plot No. 399, Sector-8, IMT Manesar,
Gurugram, Haryana-122050

APPEARANCE:

Mr. Anurag Kumar & Ms. Amita Gupta, Authorized Representatives for the
Appellant
None for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60466/2026

DATE OF HEARING: 02.04.2026
DATE OF DECISION: 28.07.2026

S. S. GARG :

The present appeal filed by the Revenue is directed against the impugned Order-in-Appeal dated 08.08.2026 passed by the Commissioner (Appeals) vide which the learned Commissioner (Appeals) has allowed the appeal of the Respondent-Assessee.

2. Briefly stated facts of the present case are that the Respondent M/s Asti Electronics P. Ltd. are engaged in the manufacture of excisable goods i.e. electronic items assembly (PCB assembly, ECU assembly, Panel assembly, CTRL & sensor assembly obstruction) and have classified the same under Tariff Heading 85423900 of the Central Excise Tariff Act, 1985. The Respondent removed the said goods on payment of duty in respect of the goods cleared for export. After the export of the goods, the Respondent filed refund claim of Rs.2,55,28,675/- under Rule 18 of the Central Excise Rules, 2002. The Range Officers were satisfied with the factum of the export of the goods on payment of duty and found it eligible for the refund but it was rejected by the Divisional Officer on the ground that the goods were actually part of grass cutting machine appropriately classifiable under Tariff Heading 84339000 attracting NIL rate of duty as per the said entry itself. Since, no duty was payable on the export goods, hence refund appeared to be inadmissible, therefore, the refund claim filed by the Respondent was rejected vide the Order-in-Original dated 26.02.2016. Aggrieved by the said Order-in-Original, the Respondent filed an appeal before the Commissioner (Appeals), who vide the impugned Order-in-Appeal dated 08.08.2016, allowed the appeal of the Respondent by holding that rejection of the refund on the ground of chargeability of the goods to NIL rate of duty was immaterial because in the provision of Rule 18 read with Notification No. 19/2004-CE (NT) dated 06.09.2014, there is reference of refund of "duty paid" on the exported goods and not the reference of refund of "duty payable" on the exported goods. Since the goods were

exported on payment of duty, which is undisputed, the Respondent were eligible for refund along with interest under Section 11B of the Central Excise Act, 1944. Being aggrieved by the said Order-in-Appeal, the Revenue has preferred the present appeal.

3. Heard the learned Departmental Representative for the Appellant; no one appeared for the Respondent, though the Respondent has filed the written submission which has been taken on record.

4. The learned Departmental Representative, appearing on behalf of the Appellant-Revenue, submits that the impugned Order-in-Appeal is not sustainable in law as the same has been passed without properly appreciating the facts & the law. He further submits that in the absence of show cause notice challenging the classification, the Commissioner (Appeals) ought not to have decided the issue of classification but should have remanded the case to the Original Authority for deciding the issue of classification after calling upon the Respondent to explain the show cause notice. He further submits that the Commissioner (Appeals) has ignored Chapter Note 8 of Chapter 85 and has not discussed as to how the impugned goods are not classable elsewhere in Chapter 84 i.e. has not discussed at all other headings of Chapter 84 including Heading No. 8487.

5. On the other hand, the Respondent-Assessee has filed their written submission wherein it is submitted that the Commissioner (Appeals) has allowed their appeal after considering all the relevant material/documents like purchase orders with export invoices,

certificate dated 08.07.2016 issued by the foreign buyer and pictures/diagrams showing the use of impugned goods in finished robotic machine (memo) manufactured by the foreign buyer M/s Honda France. It is also submitted that the Commissioner (Appeals) has allowed the rebate of Rs.2,55,28,675/- to them and also accepted the proposed classification of the impugned goods as parts of industrial robots falling under CTH 84799090 of the first schedule to CETA, 1985.

6. We have considered the submission of the learned Departmental Representative and the written submission of the Respondent and have also perused the impugned Order-in-Appeal.

7. We note that the only ground on which the department has challenged the impugned order is that in the absence of show cause notice changing the classification, the Commissioner (Appeals) should not have decided the issue of classification but should have remanded the matter back to the Original Authority for deciding the issue of classification.

8. We find that the Original Authority, after examining the documents and after giving the opportunity of personal hearing to the Respondent-Assessee, has explained the issue of classification and has also changed the classification under CTH 84339000 instead of parts of industrial robots under CTH 84799090 as claimed by the Respondent. We find that once the Original Authority has decided the classification and the Commissioner (Appeals), after considering the relevant material/documents, has accepted the classification as

claimed by the Respondent, therefore, under these circumstances, there was no need of issue a fresh show cause notice to challenge the classification of the impugned goods, because the Original Authority changed the classification after thorough examination/inquiry by calling upon the Respondent to explain the classification of the impugned goods.

9. In view of the above discussion, we are of the considered view that there is no infirmity in the impugned Order-in-Appeal passed by the learned Commissioner (Appeals) and therefore, we uphold the same by dismissing the appeal of the Revenue.

(Order pronounced in the court on 28.07.2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)