

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, CHENNAI**

Customs Appeal No.41083 of 2015

(Arising out of Order-in-Appeal C. Cus. II No. 286 dated 24.12.2014 passed by the Commissioner of Customs (Appeals – II), Chennai)

M/s. Ford India Pvt. Ltd.

S.P. Kovil Street
Chengalpattu- 603 204.

Appellant

Vs.

Commissioner of Customs

Chennai II Commissionerate
Custom House
No. 60, Rajaji Salai
Chennai – 600001.

Respondent

APPEARANCE:

Shri Rohan Muralidharan, Advocate for the Appellant

Shri M.Selvakumar, Authorized Representative for the Respondent

CORAM

Hon'ble Shri P. Dinesha, Member (Judicial)

Hon'ble Shri M. Ajit Kumar, Member (Technical)

Final Order No. 41213/2024

Date of Hearing : 29.08.2024

Date of Decision: 11.09.2024

Per M. Ajit Kumar,

This appeal is filed against Order in Appeal No. 286 dated 24.12.2014 passed by the Commissioner of Customs (Appeals – II), Chennai.

2. Brief facts of the case are that the appellant filed various Bills of Entry for the clearance of imported goods declared as 'COMPR & CL ASY A/C (Motor vehicle components)' by classifying them under Chapter Headings 8421 9900, 8409 9990 and 8414 9090 which carried BCD at 7.5%, CVD @ 10% and Special Additional Duty (SAD) @ 4%. Subsequent to the clearance, it appeared that the CTHs under which

the goods were classified were not right and the correct classification would be under CTH 84159000. The lower authority after following the due process and a detail analysis of the imported goods classified them under CTH 84159000 as parts of air-conditioning machines and confirmed the demand of differential duties amounting to Rs.2,07,850/-. Aggrieved by the said order, the appellant preferred an appeal before Commissioner (Appeals). The lower appellate authority rejected the appeal filed by the appellant. Hence the present appeal.

3. Shri Rohan Muralidharan, learned Advocate appeared for the appellant and Shri M. Selvakumar, learned Authorized Representative (**AR**) appeared for the respondent.

3.1 The Ld. Advocate for the appellant submitted that the issue in the present case pertains to classification of 'COMPR & CL ASY A/C (Motor vehicle components)' which are compressors imported by the appellant for use in air conditioners fitted in 'B299 New Fiesta Model Car'. He stated that they are not disputing the fact that the subject goods are used in air-conditioners of passenger cars. The primary purpose of the unit is to draw the low-pressure and low-temperature vapor from the evaporator and compress this vapor into high-temperature, high pressure vapor. This action results in the refrigerant having a higher temperature than the surrounding air and enables the condenser to condense the vapor back to liquid. The secondary purpose of the compressor is to circulate or pump the refrigerant through the A/C system under different pressures required for proper operation. The Ld. Counsel submitted that Chapter 84, CTH 8414 covers "Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters".

Hence the subject goods which are 'air compressors' used in car air conditioners are rightly classifiable under CTI 8414 8011. He further stated that the classification claimed by the appellant earlier would not operate as estoppel in case of the impugned BoEs, as it is a settled principle of law that estoppel is not applicable to matters relating to classification. In the Impugned Order, it has been alleged that for falling under CTH 8414, the compressor should be put to use in industrial applications. He stated that, upon perusal of the entries of the CTH 8414, it is evident that the heading is wide enough to include items for domestic purposes, vehicles, industrial applications, etc. It is not restricted only to industrial applications. Further end use of a product is not determinative of the classification of the subject goods. Regarding the Hon'ble Supreme Courts judgment in **Westinghouse Saxby Farmers Limited v. CCE**, 2021 (376) E.L.T. 14 (S.C.), which was referred to by revenue, he stated that unlike Note 3 to Section XVII, Note 2 to Section XVI provides for a specific manner in which parts of machines of Section XVI are to be classified. Moreover, the sections are not in pari materia. He hence submitted that the classification of the subject goods contended by the Appellant under CTI 8414 8011 is correct and the impugned order is not sustainable and may be set aside.

3.2 The Ld. AR stated that it is not disputed that the imported goods i.e. 'COMPR & CL ASY A/C (Motor vehicle components)' are compressor and are parts used in car air-conditioners. A plain reading of Heading 8414 shows that the goods cover under the said CTH are of a kind used in vacuum pumps, gas compressor, ventilating filters, in Industrial fans and of gas compressors. Thus, the primary function of the goods under

this CTH is to make the industrial machines cool and the compressor should be put to use in Industrial applications. On the contrary, under heading CTH 8415 9000 there is a specific entry i.e., parts of air-conditioning machines for use in the motor vehicles. In as much as the impugned parts are admittedly used in car air-conditioners whose main function is to control temperature/changing temperature and humidity, the most appropriate classification of the impugned goods. would be under CTH 8415 9000. Moreover, as per the explanatory note to sub-heading 841590 of HSN, "the components of air-conditioning machines, if presented as separate elements are classified in accordance with the provisions of Note (2)(a) to Section XVI whether or not they are designed for building into a self-contained unit". Therefore, the imported items being car air conditioning compressor, they are rightly classifiable under CTH 8415 9000. He further placed reliance on the ratio of the judgment of the Hon'ble Supreme Court in **Westinghouse Saxby Farmer** (Supra) and averred that the 'predominant use' or 'sole/ principal' use test would have to be given importance going by which the compressors which are parts used in automobile air conditioning machines merit to be classified under CTH 8415 9000. He hence prayed that the impugned Order-in-Appeal may be upheld in its entirety.

4. We have carefully gone through the appeal and have heard the rival parties. We find that the following issues arise for our consideration.

A) Whether the imported compressors are to be classified under CTH 8415 9000 (revenue) or CTH 8414 8011 (appellant).

B) Whether the classification of the impugned goods claimed by the Appellant earlier under a different CTH would operate as an estoppel.

c) Whether the 'predominant use' or 'sole/principal' use test stated in *Westinghouse Saxby Farmers* (supra) will be applicable to the present case.

We shall take up the issues sequentially.

5. Whether the imported compressors are to be classified under CTH 8415 9000 (revenue) or CTH 8414 8011 (appellant).

5.1 The contesting parties do not dispute the fact that the impugned compressors are parts used in air-conditioners of passenger cars. It would be useful at this stage to reproduce the competing classification headings preferred by the rival parties. CTH 8415 preferred by revenue states as under;

8415	Air-conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated		
8415 10	-	Window or wall types, self-contained or "split system"	
8415 10 10	--	Split system	" 10%
8415 10 90	---	Other	" 10%
8415 20	-	Of a kind used for persons in motor vehicles	
8415 20 10	---	For buses	" 10%
8415 20 90	---	Other	" 10%
	-	Other	" 10%
8415 81	--	Incorporating a refrigerating unit and a valve for reversal of the cooling or heat cycle (reversible heat pumps)	
8415 81 10	-	Split air-conditioner two tonnes and above	" 10%
8415 81 90	---	Other	" 10%
8415 82	--	Other, incorporating a refrigerant unit	
8415 82 10	---	Split air-conditioner two tonnes and above	" 10%
8415 82 90	---	Other	" 10%
8415 83	--	Not incorporating a refrigerating unit	
8415 83 10	---	Split air-conditioner two tonnes and above	" 10%
8415 83 90	---	Other	" 10%
8415 90 00	-	Parts	Kg. 10%

The heading preferred by the appellant states as under;

8414		Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters; gas-tight biological safety cabinets, whether or not fitted with filters		
841480	-	Other :		
	---	Gas compressors:	"	10%
84148011	----	Of a kind used in air-conditioning equipment	u	7.5%
84148019	----	Other	u	7.5%
84148020	---	Free-piston generators for gas turbine	u	7.5%
84148030	---	Turbo charger	u	7.5%
84148090	---	Other	u	7.5%
841490	-	Parts :		
	---	Of air or vacuum pumps and compressors:		
84149011	----	Of gas compressors of a kind used in refrigerating and air conditioning appliances and machinery	kg.	7.5%
84149012	----	Of bicycle pumps	kg.	10%
84149019	----	Other	kg.	7.5%
84149020	---	Of free piston generators	kg.	7.5%
84149030	---	Of electric fans	kg.	10%
84149040	---	Of Industrial fans, blowers	kg.	7.5%
84149090	---	Other	kg.	7.5%

5.2 It is seen that Heading 8415 covers Air-conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated. While 8414 covers Air or vacuum pumps; air or other gas compressors and fans etc. and parts thereof. Hence compressors used in car air conditioning units are reasonably classifiable under two competing headings and recourse to Section or Chapter Notes would be necessary to determine the classification.

5.3 Note 2 to Section XVI reads as under.

"2.- Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of

heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules:

- (a) **Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings;**
- (b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. ²[However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517, and parts which are suitable for use solely or principally with the goods of heading 8524 are to be classified in heading 8529];
- (c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8485 or 8548. (emphasis added)

Note 2 deals with three categories of parts i) parts which are goods ii) other parts suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading and iii) all other parts.

5.4 Revenue is of the view that as per the HSN notes to chapter 841590, the components of air conditioning machines, if presented as separate elements are to be classified in their respective headings in accordance with the provisions of Note 2(a) to Section XVI whether or not they are designed for building into a self-contained units i.e. air conditioning machine. Hence compressor in this case, which are parts imported and presented as separate elements are in all cases to be classified in their respective headings i.e. CTH 8415 9000 as "parts" of air-conditioning machines of a kind used for persons in motor vehicles.

5.5 The appellant is also of the opinion that only those parts which are not classifiable under Section Note 2(a) will be classified in terms of Note 2(b) and Note 2(c). They however aver that the impugned air compressors are also a kind of a gas compressor. Heading 8414 itself

reads as "Air Compressors and other Gas Compressors" which clearly indicates that an air compressor is also a kind of gas compressor. The appellant draws attention to HSN Explanatory Notes to Section XVI which reads as follows:

*"(II) PARTS
(Section Note 2)*

In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines subject, of course to the exclusions mentioned in Part (I) above. Separate headings are, however, provided for:

.....

The above rules do not apply to parts which in themselves constitute an article covered by a heading of this Section (other than 84.87 and 85.48); these are in all cases classified in their own appropriate heading even if specifically designed to work as part of a specific machine. This applies to:

(1) Pumps and compressors (headings 84.13 and 84.14)

(2) Filtering machinery and apparatus of heading 84.21.

.....

(emphasis added)

Hence the subject goods, being Air Compressors used for Car Air Conditioning Equipment, are rightly classifiable under its respective heading CTI 8414 8011 as gas compressors of a kind used in air-conditioning equipment as per Note 2(a) to Section XVII of CTA, 1985.

5.6 One of the first and the foremost rule of construction is that of literal construction. Statutory authorities are bound by the mandate of the Legislature. They would not be justified in so straining the language of the statutory provision as to ascribe a meaning to words which is not warranted by the words employed by the Legislature. In **Preeti Chandra Vs Directorate of Enforcement** [(2023) 386 ELT 422; (2023) 6 TMI 650 (Delhi)], it was held that it is a settled principle of interpretation that while interpreting a statute and/or a Section, the

Courts are not to substitute or add or subtract words from the Section. The same would be amounting to supplanting the intention of the Legislature.

5.7 There is nothing shown by revenue in the description of goods under CTH 8414 i.e. 'Air Or Vacuum Pumps, Air Or Other Gas Compressors And Fans; Ventilating Or Recycling Hoods Incorporating A Fan, Whether Or Not Fitted With Filters; Gas-tight Biological Safety Cabinets, whether or not fitted with filters.' to suggest that the heading is limited to goods of industrial use. It is true that CTH 8415 9000 covers "parts of air-conditioning machines for use in the motor vehicles" in general, but a specific part of an air conditioner can always be classified separately as provided in the Section / Chapter Notes.

5.8 In **Santhosh Maize & Industries Ltd. Vs State of Tamil Nadu** [(2023) 385 ELT 814 / (2023) 7 TMI 191 (Supreme Court)], it was held that law is well settled that if in any statutory rule or statutory notification two expressions are used one in general words and the other in special terms under the rules of interpretation, it has to be understood that the special terms were not meant to be included in the general expression; alternatively, it can be said that where a statute contains both a general provision as well as a specific provision, the latter must prevail.

5.9 Further the Customs Tariff is based on Harmonized System of Nomenclature ("HSN") and the explanatory notes thereto. Therefore, HSN along with the explanatory notes provide a safe guide for interpretation of an Entry. The Hon'ble Supreme Court in its judgment in **Commissioner of Customs and Central Excise, Amritsar**

(Punjab) Vs. D.L. Steels etc. [2022 SCC Online SC 863] stated as under;

“9. The Harmonised System of Nomenclature, developed by the World Customs Organisation, has been adopted in India by way of the Customs Tariff Act, 1975, though there are certain entries in the Schedules to this Act which have not been assigned HSN codes. The Harmonised System is governed by the International Convention on Harmonised Commodity Description and Coding System, which was adopted in 1983, and enforced in January, 1988. This multipurpose international product nomenclature harmonises description, classification, and coding of goods. While the primary objective of the HSN is to facilitate and aid trade, the Code is also extensively used by governments, international organisations, and the private sector for other diverse purposes like internal taxes, monitoring import tariffs, quota controls, rules of origin, transport statistics, freight tariffs, compilation of national accounts, and economic research and analysis. In the present times, given the widespread adoption of the Harmonised System by over 200 countries, it would be extremely difficult to deal with an international trade issue involving commodities, without adverting to the Harmonised System. The Code is the bedrock of custom controls and procedures. The HSN consists of over 5000 commodities groups, which are structured into 21 Sections and 97 Chapters, which are further divided into four and six digit sub-headings. Many custom administrations, like India, use an eight or more digit commodity coding system, with the first six digits being the HSN code.”

5.10 The Hon'ble Supreme Court in the case of **O.K.Play (India) Ltd. Vs CCE, Delhi** [2005 (180) ELT 300 (SC)], held that the scheme of the Central Excise Tariff [which is equally applicable to the Customs Tariff] is based on Harmonized System of Nomenclature and the explanatory notes thereto. Therefore, HSN **along with** the explanatory notes provide a safe guide for interpretation of an Entry. This being so we find force in classifying the impugned goods based on the HSN Explanatory Notes to Section XVI, extracted above. It is also seen that HSN Explanatory Notes to CTH 8414 states that “Compressors, air pumps, fans, blowers, etc., specifically constructed for use with other machines remain classified in this heading and not as parts of such

other machines." The impugned goods are hence correctly classifiable under CTH 8414 8011 of the Customs Tariff Act, 1975.

6. Whether the classification of the impugned goods claimed by the Appellant earlier under different CTH would operate as an estoppel.

6.1 We find that the issue is no longer res integra. There is no estoppel in Law against a party in taxation matters. In this regard, reliance is placed on the case of **Dunlop India Ltd. v. Union of India**, [1975 (10) TMI 94 - SUPREME COURT], wherein it was held:

"40. At one stage Mr. Sanghi pointed out that in certain Bill of Entry of Dunlop India Limited, their Agents, Messrs Mackinnon, Mackenzie & Co., Private Ltd., gave the I.C.T. Item No. 87 with regard to the imported V.P. Latex. This, according to Mr. Sanghi, clearly shows how the appellants themselves have understood the matter. There is, however, no estoppel in law against a party in a taxation matter. In order to clear the goods for the Customs, the appellant Agents may have given the classification in accordance with the wishes of the authorities or they may even be under some misapprehension. But when law allows them the right to ask for refund on a proper appraisement and which they actually applied for, we do not attach any significance to this aspect of the matter pointed out by counsel. The question is of general importance and must be decided on its merits."

(emphasis added)

7. Whether the 'predominant use' or 'sole or principal' use test stated in Westinghouse Saxby Farmers (supra) will be applicable to the present case.

7.1 Revenue states that in Westinghouse Saxby Farmers (supra), the Hon'ble Supreme Court has applied the "sole or principal use" test as the exclusive test to determine whether an article should be classified as a "part of accessory" under Section XVII. Applying the same ratio to the facts of this case the impugned goods, which are undisputedly parts of car air conditioners, must be classified applying the "sole or

principal use” test under the specific entry "parts of air-conditioning machines for use in the motor vehicles" as per heading CTH 8415 9000.

7.2 The appellant on the other hand is of the view that the decision of the Supreme Court in *Westinghouse Saxby Farmers* dealt with the interpretation of Section Notes to Section XVII of the Central Excise Tariff Act whereas the present case is with respect to interpretation of Section Notes to Section XVI of the Customs Tariff Act. Notes to Section XVII are not *pari materia* to Notes to Section XVI. Therefore, the ratio of *Westinghouse Saxby* will not apply to present case.

7.3 We find force in the averments of the appellant. The Hon'ble Supreme Court in *Westinghouse Saxby Farmers* held that 'relays' are classifiable as parts of 'railway signalling equipment' under Heading 8608 of the Central Excise Tariff, by applying the 'sole or principal use' test of Section Note 3 in precedence over Note 2(f) *ibid* of Section XVII. However, the impugned issue pertains to the classification of goods under Section XVI. When the two Section Notes are not in *pari materia*, then decision rendered with reference to one Section Note of the Schedule to the Central Excise Tariff Act, cannot be applied with reference to the provisions of another Section Note of the schedule to the Customs Tariff Act. In **Hari Khemu Gawali Vs Deputy Commissioner of Police, Bombay** and another [AIR 1956 SC 559], a **Constitution Bench** of the Apex Court stated:

"It has been repeatedly said by this Court that it is not safe to pronounce on the provisions of one Act with reference to decisions dealing with other Acts which may not be in *pari materia*."

Hence the ratio of the judgment of the Hon'ble Supreme Court in Westinghouse Saxby Farmers would not be applicable in deciding the issue in this case.

8. For the reasons discussed we find that revenue has not been able to establish its case and the impugned order merits to be set aside.

9. We set aside the impugned order and allow the appeal. The appellant is eligible for consequential relief as per law, if any. The appeal is disposed of accordingly.

(Order pronounced in open court on 11.09.2024)

(M. AJIT KUMAR)
Member (Technical)

(P. DINESHA)
Member (Judicial)