

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

Customs Appeal No.40314 of 2024

(All appeals arising out of Order in Original No. 105017/2024 dated 9.2.2024 passed by the Commissioner of Customs, Chennai)

M/s. Daebu Automotive Seat India Pvt. Ltd. Appellant

492, Mannur Village
Valarpuram Post Office,
Sriperumbudur Taluk
Kancheerpuram – 602 105.

Vs.

Commissioner of Customs

Respondent

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

With

- (i) Customs Appeal No.40315 of 2024 (Anish Joseph)
- (ii) Customs Appeal No. 40316 of 2024 (Hong Yeol Yoon)
- (iii) Customs Appeal No. 40317 of 2024 (V. Karthick)
- (iv) Customs Appeal No. 40318 of 2024 (L.Manikandan)
- (v) Customs Appeal No. 40319 of 2024 (M. David Edward)

APPEARANCE:

Shri Hari Radhakrishnan, Advocate for the Appellant
Shri P. Narasimha Rao, Commissioner (AR) for the Respondent

CORAM

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

FINAL ORDER NOS. 40785-40790/2025

Date of Hearing : 06.02.2025

Date of Decision: 01.08.2025

Per M. Ajit Kumar,

These appeals filed by the appellant M/s. Daebu Automotive Seat India Pvt. Ltd. (**DAS**), are against common Order-in-Original No.105017/2024 dated 9.2.2024 passed by the Commissioner of Customs, Chennai (impugned order).

2. Brief facts of the case are that the appellants are importers of essential parts of 'Track Assembly' from their overseas supplier DAS Corporation, Korea by availing 'nil' rate of Basic Customs Duty (**BCD**) under Sl. No. 961 of Notification No. 152/2009-Cus dated 31.12.2009 as amended. The impugned goods are used for both the front seats (driver & co-driver) of a car. On investigation, it appeared to the officers of DRI, Pune Zonal Unit that the importer-appellant mis-declared the goods as parts of seats falling under Tariff Item (**CTI**) 9401 9000. After due process of law, the Ld. Adjudicating Authority rejected the classification under CTI 9401 9000 adopted by the importer and reclassified the goods under CTI 8708 9900 denying the exemption benefit under Notification No. 152/2009-Cus dated 31.12.2009. The Ld. Commissioner also confirmed the differential duty and confiscated the impugned goods but allowed its redemption on payment of fine. Penalty equal to duty was imposed apart from imposing penalty under sec. 114AA of the Customs Act, 1962 (**CA 1962**) on the appellant-company and on the managerial persons/employees of the appellant-company under sec. 112(a) and 114A of the CA 1962. Hence these appeals.

3. Shri Hari Radhakrishnan, Ld. Advocate appeared for the appellants and Shri P. Narasimha Rao, Ld. Commissioner (AR) appeared for the respondent.

3.1 Shri Hari Radhakrishnan, the Ld. Advocate for the appellants has in his averments submitted the following for our consideration;

(A) Subject goods are 'parts of Car Seats and not 'accessories' of motor vehicles.

- (B) Export Commissionerate of the same Custom House has held the goods to be classifiable under CTH 9401
- (C) Decision of the Hon'ble Supreme Court in **Commissioner vs. Insulation Electrical Pvt. Ltd.** [2008 (224) ELT 512 (S.C.)], is not applicable in view of the changed tariff headings and the non-identical nature of the goods.
- (D) Several US Rulings support the classification under CTH 9401
- (E) Non-applicability of Advance Rulings in the appellant's case
- (F) Allegation of tampering of COO did not affect the CTH
- (G) No Estoppel in law for matters of Classification
- (H) Extended period of limitation is not invokable
- (I) Redemption fine not imposable when goods not available for confiscation
- (J) No Penalty imposable in case of interpretation and classification matters

The Ld. Advocate has further on 06.02.2025 submitted a written summary of the arguments and counter to the points raised by revenue, as permitted by the Bench. These averments will be taken up in detail while discussing the issues involved.

3.2 The Learned Commissioner (Authorised Representative), Shri P. Narasimha Rao, appearing on behalf of the respondent, submitted that the goods imported by DAS India do not qualify as essential components of seats but are instead considered adjuncts affixed to the floor of motor vehicles, serving as the base upon which seats are mounted. He asserted that the seats are fully functional without the track assembly in question, and therefore, such assemblies cannot be categorized as "parts of seat" nor classified under Chapter heading 9401. In support of his contention, he referred to the Supreme Court's

judgment in ***Insulation Electrical*** (supra). Furthermore, it was argued that the impugned goods should be classified under CTI 8708 9900 and are subject to the merit rate of Customs Duty (15% BCD). The benefit of Notification No. 152/2009-Cus dated 31.12.2009, relating to imports from the Republic of Korea under the Preferential Treatment Agreement between India and Korea, as self-assessed by DAS India under CTI 94019900, is not applicable since the Certificate of Origin does not specify CTI 8708 9900 for these goods. Additionally, he contended that the appellant altered the descriptions of the goods in the copy of the Certificate of Origin submitted to Customs and omitted the accurate description in the original document. The appellant was fully aware of the purpose and nature of the imported and manufactured goods, as established by the binding decision of the Advance Ruling Authority (AAR). Nevertheless, the Noticee allegedly misclassified the goods deliberately, thereby making them liable for demand, interest under the extended period, and the imposition of penalties. In supplementary submissions dated 10/02/2025, the Learned Commissioner (AR) reiterated the points as outlined previously and in the impugned order, and prayed that the appeal be dismissed.

4. We have heard the rival parties and have carefully gone through the facts of the case, the appeal memorandum along with the submissions made by the parties and the judgments cited by them. We find that two major issues are involved in the appeal:

- (A) Whether the subject goods are 'parts of Car Seats' falling under CTI 9401 9000 (Appellant) or are 'accessories' of motor vehicles coming under CTI 8708 9900 (Revenue).

- (B) Whether the Appellant has classified the goods by fraud and deliberately suppressing facts and hence demand is liable under the extended period; the goods are liable for confiscation, and the importer and other appellants are liable to penalty.

The issues are discussed in detail below.

5. **Whether the subject goods are 'parts of Car Seats' falling under CTI 9401 9900 (Appellant) or are 'accessories' of motor vehicles coming under CTI 8708 9900 (Revenue).**

5.1 We find that a detailed write up of the manufacture and assembly of 'Track Assembly' is given in the OIO. Unfortunately, it is not based on the actual process followed by the appellant but from an 'Open Source'. The Hon'ble Apex Court in **Hewlett Packard India Sales Pvt. Ltd. Vs Commissioner of Customs (Import), Nhava Sheva** [CIVIL APPEAL NO 5373 OF 2019, Dated 17/01/2023] cautioned against the use of internet material as under;

"14. At the outset, we must note that the adjudicating authorities while coming to their respective conclusions, especially the Commissioner of Customs (Appeal) have extensively referred to online sources such as **Wikipedia** to support their conclusion. While we expressly acknowledge the utility of these platforms which provide free access to knowledge across the globe, but we must also sound a note of caution against using such sources for legal dispute resolution. We say so for the reason that these sources, despite being a treasure trove of knowledge, are based on a crowdsourced and user generated editing model that is not completely dependable in terms of academic veracity and can promote misleading information as has been noted by this court on previous occasions also. The courts and adjudicating authorities should rather make an endeavor to persuade the counsels to place reliance on more reliable and authentic sources."

(emphasis added)

The Hon'ble Court in the case of **Sterlite Industries (India) Ltd. Vs Commissioner of Customs, Chennai** [2007 (210) E.L.T. 180 (S.C.)] had held that classifications matters should be decided after examining the product catalogue / literature. We fail to understand why such

reliable evidence was not collected and relied upon, instead of relying on open sources. We however find that the process of manufacture and use of the impugned goods has been narrated in the statements taken from factory officials. While it would not be as accurate as the Company's product literature, the same has to be relied upon to understand the facts in issue.

5.2 The appellant makes about 50 varieties of track assembly including manual track assembly and power track assembly. The impugned order does not distinguish between the different types of track assembly.

Description and use of impugned goods as per OIO

6. The relevant portion of the statement dated 24.02.2022 of Shri D. Suresh, Production Manager, DAS reproduced from para 8.2.1 (a) (b) & (c) of the impugned order, which gives a common narration of the use of the impugned goods, is extracted here under;

“Further statement dated 24.02.2022 of Shri. D. Suresh, Production Manager, DAS India, was recorded under Section 108 of the Customs Act, 1962 wherein he inter alia, stated that -

a. DAS India is into manufacturing of seat accessories mechanism for Motor Vehicles such as **different types of Track Assembly and its components/parts such as Lock Assembly, Cushion Panel, base assembly, etc.** They are mainly supplying their products to M/s. Hyundai Transys Lear Automotive India Pvt. Ltd., (HTL) Chennai, who, in turn, manufacture automotive Car Seats and supply to Hyundai Motor India Pvt. Ltd. or KIA Motors. They also supply to other domestic Customers such as M/s. Daechang India Seat Company Pvt. Ltd., M/s. MSKH Seating Systems India Pvt. Ltd and M/s. TM Automotive Seating Systems Pvt. Ltd., etc. Their overseas customers are various related subsidiaries of DAS Group in countries such as Brazil, Turkey, Czech Republic, etc. Supply to their overseas customers as well as domestic customers such as M/s. Hyundai Motors, KIA Motors, Daechang India etc. is looked after from their Chennai Plant whereas supplies to MSKH Seating Systems & TM Automotive Seating Systems Pvt. Ltd is looked after from their Pune plant.

b. Various Mechanical Machines, Hydraulic Press Machines & SCADA Machines are used for making press parts like rail assembly,

base assembly, cushion panel set bracket for manual track assembly. The base welding, pipe welding and cushion frame welding is done with the help of arc robowelding machine. The major raw material used is Mild Steel (CR) coil of various thickness and sizes. In addition, other raw materials are procured from overseas as well as from domestic suppliers such as Track lever, Base plate, Base assembly etc.

c. Step by Step manufacturing process of Track Assembly includes:

(i) Inward of Raw Material, viz., Coils and Sheet which are imported as well as procured locally from Hyundai Steel Company Ltd.

(ii) After receiving the CR Sheet, the next process known as Stamping is done in-house for manufacturing the Rail Assembly and Cushion Frame Assembly using hydraulic press machines. As per the specific design, these sheet metals are taken up for cutting, processing into pipes and metal parts suitable for making components like Rail and Base Assembly, Set-Bracket Assembly, Cushion Panel, etc. ED coating is done in case of Rail Assembly. The other components are subjected to welding process.

(iii) In welding process, they use robotic arc welding method for welding Side Base Plate sub assembly along with Cushion Frame Assembly; then pipe-squeezing and finally base frame welding is done. The welding process is done in all those fittings which are to be kept fixed. Riveting process is also done in those products which perform the function of moving.

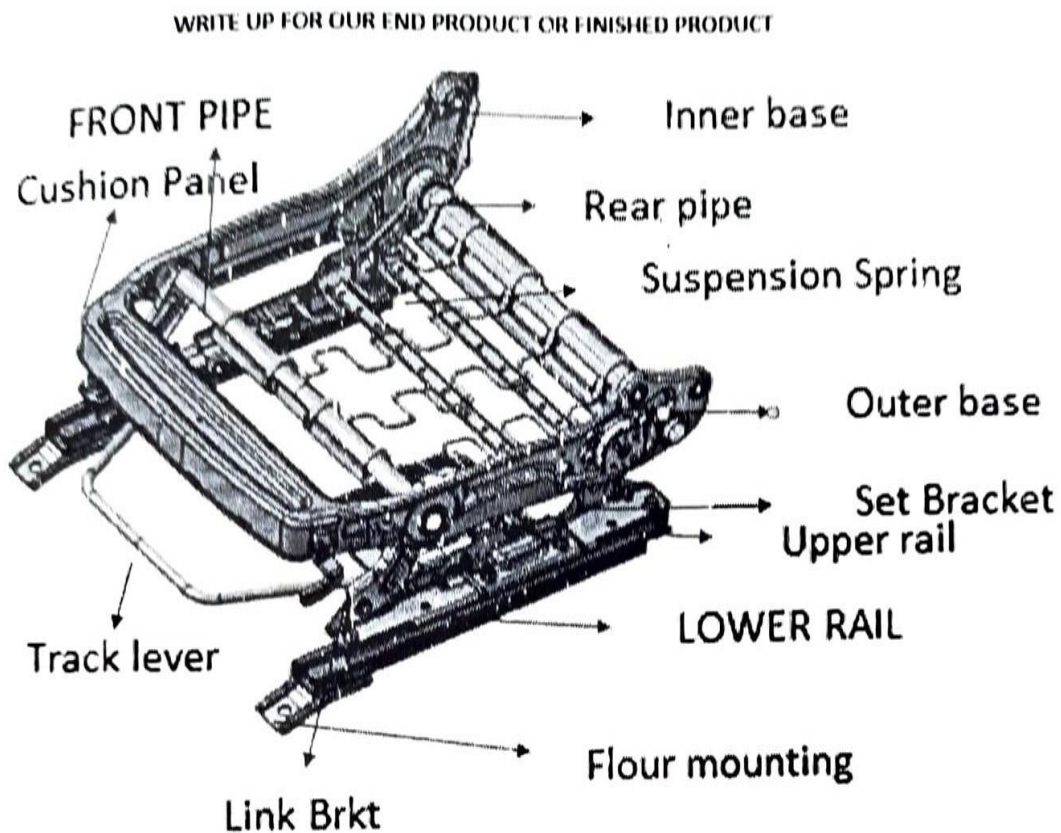
(iv) In link squeezing process, the lock bolt squeezing is done in conveyor assembly line and pipe squeezing is done as a separate sub assembly line. Here the process of riveting of link bracket assembly and rail and floor mounting assembly is done. The Sub Assembly process and ED coating (painting) is done correspondingly. Finally, the components are sent to the conveyor assembly belt and are sent to the finished goods store and are ready for dispatch.” (emphasis added)

The manufacturing process shows that the impugned goods are used in different types of assemblies manufactured by the appellant which are then fitted together. The question is whether the ‘Track Assembly’, is a part of the car seat or a part / accessory of a motor car.

6.1 The following diagrammatic representations / pictures show the track assembly and view of the car seat, which are a part of the impugned order. It helps give a better understanding of the use of the impugned goods as described in the statement above, on the principle

that a part of a part is a part of the whole, whether it be an accessory or a car seat. Para 8.6.1 of the OIO gives the pictorial representation with name of parts, of one of the 'track assembly' manufactured by the appellant along with the use of the various part which is given below.

Figure 1



- (1) The **cushion panel** gives the support to the thigh portion of the seat.
- (2) **Inner and Outer base** is used to hold the cushion frame.
- (3) **Suspension** is used to give a spring support to the seat.
- (4) **Set bracket** joins the base and the rail assembly used for raising (adjusting the height).
- (5) **Upper rail** is used for to and from movement of the cushion frame.
- (6) **Lower Rail** is fixed to the floor of the vehicle to give stability to the rail.

(7) **Floor bracket** is attached to the floor of the vehicle.

Figure 2 - Rail Assembly (Para 13.2.10.1 of Impugned order)



Figure 3 - Parts of car seat (Para 24 of impugned order)



Shows the parts of a car seat incorporating the rail assembly and the track assembly

6.2 As per the statement given by Shri L. Manikandan, DGM dated 22.10.2021, about 55% of their total sales is to Hyundai Transys and Daechang Seating Systems, 30% to overseas customers (as export) and remaining 15% is to OEMs of Indian Automobile Companies/

customers. It further gives the major items used in the manufacturing of track assembly and their functions as under;

iv. Major items used in the manufacturing of Track Assembly and their functions are as under:-

a. **Rail Assembly** – It is mounted at the car floor. It allows the seat to move front and backwards.

b. **Lock Assembly** – It is fitted in rail assembly to stop the extra movement of rail

c. **Set bracket** – It is bridge between rail assembly and cushion frame assembly. This assembly is bolted with the rail assembly.

d. **Base Assembly** – It is the wall of cushion frame used for strengthen the structure

e. **Cushion Panel** – It is part of the Cushion Frame Assembly to give it a bridge support

f. **Link Assembly** - It is used to lift the seat upwards and downwards correlated with the height adjuster's functions.

g. **Cross Member Bracket Assembly** - It is used as bridge of the Cushion Frame Assembly.

h. **Height Adjuster** (Pumping Device Assembly) - is used in link assembly to lift the seat up and down.

i. **Spring Assembly** - is the top floor portion of the Cushion for carrying the passenger's load.

V. In case of Power Track Assembly, additional items such as -

a. **Motor Assembly** - It is used to move the seat front and back, up and down and tilt the Cushion/link assembly by electric power.

- b. **Blower Assembly** - This throws air from the bottom of the seat for comfort of the passenger or driver.
- c. **Gear Assembly** - It is fitted inside the rail assembly and driven by motor assembly to control the front back movement of Cushion assembly.
- d. **Slide cable Assembly** - It is used to join the Motor Assembly and Gear Assembly.

He stated that cushion assembly is a part of cushion frame assembly which is one of the essential sub-assemblies of track assembly.

Customs Tariff Heading

7. It would at this stage be profitable to extract the description of the goods as appearing in the competing tariff headings as preferred by the rival parties.

Appellant

9401 SEATS (OTHER THAN THOSE OF HEADING 9402), WHETHER OR NOT CONVERTIBLE INTO BEDS, AND PARTS THEREOF

- 9401 10 00 - Seats of a kind used for aircraft
- 9401 20 00 - Seats of a kind used for motor vehicles
- 9401 30 00 - Swivel seats and variable height adjustment
- 9401 40 00 - Seats other than garden seats or camping equipment, convertible into beds
 - Seats of cane, osier, bamboo or similar materials:
- 9401 51 00 -- Of bamboo or rattan
- 9401 59 00 - Other
 - Other seats, with wooden frames :
- 9401 61 00 - Upholstered
- 9401 69 00 - Other
 - Other seats, with metal frames :
- 9401 71 00 - Upholstered
- 9401 79 00 - Other
- 9401 80 00 - Other seats
- 9401 90 00 - Parts

The appellant has submitted that HSN Explanatory Notes to Chapter 94 states that "The heading also covers identifiable parts of chairs or other seats, such as backs, bottoms and arm-rests (whether or not

upholstered with straw or cane, stuffed or sprung) and spiral springs assembled for seat upholstery.”

Revenue

8708 PARTS AND ACCESSORIES OF THE MOTOR VEHICLES OF HEADINGS 8701 TO 8705

8708 10	-	Bumpers and parts thereof :
8708 10 10	---	For tractors
8708 10 90	---	Other
	--	Other parts and accessories of bodies (including cabs) :
8708 21 00	--	Safety seat belts
8708 29 00	--	Other
8708 30 00	-	Brakes and servo-brakes; parts thereof
8708 40 00	-	Gear boxes and parts thereof
8708 50 00	-	Drive-axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof
8708 70 00	-	Road wheels and parts and accessories thereof
8708 80 00	-	Suspension systems and parts thereof (including shock absorbers)
	-	Other parts and accessories:
8708 91 00	-	Radiators and parts thereof -
8708 92 00	-	Silencers (mufflers) and exhaust pipes; parts thereof
8708 93 00	--	Clutches and parts thereof
8708 94 00	--	Steering wheels, steering columns and steering boxes; parts thereof
8708 95 00	--	Safety airbags with inflator system; parts thereof
<u>8708 99 00</u>	--	<u>Other</u>

Definition of 'parts' and 'accessories'

8. In the light of the submission of parties, the question arises as to what are 'parts' and 'accessories'. The Hon'ble Supreme Court in **Commissioner Of Customs, New Delhi Vs C-Net Communication (I) Pvt.** [2007 AIR SCW 6208, 2007 (12) SCC 72] extensively quoted from the Canadian Tribunal decision in **York Barbell Company Limited Vs Canada** [(DMNRCE), AP-90-161, [1991] CITT No 43] which listed the following criteria as being relevant in determining whether a product is a part:

- (1) the product is essential to the operation of another product;
- (2) the product is a necessary and integral component of the other product;
- (3) the product is installed in the other product; and
- (4) common trade usage and practice.

8.1 In **Deputy Commissioner Vs Union Carbide India Ltd.** [(1976) 38 STC 198 (KER)], the Kerala High Court after referring to some of the leading decisions of the Allahabad High Court held as follows :

“The principle which can be drawn from the above decisions appears to be that a thing is a part of the other only if the other is incomplete without it. A thing is an accessory of the other only if the thing is not essential for the other but only adds to its convenience or effectiveness.”

(emphasis added)

8.2 In **M/s. Annapurna Carbon Industries Co. Vs State of Andhra Pradesh**, (1976) 2 SCC 273.], wherein the Apex Court held that an accessory would mean an object or a device that is not essential in itself but that adds to the beauty or convenience or effectiveness of something else or is supplementary or secondary to something of greater or primary importance, which assists in operating or controlling the said good, and thus serves as its accessory.

8.3 In **Pragati Silicons Pvt Ltd Vs Comm. Of Central Excise, Delhi** [2007 (211) ELT 534 (SC)], the Hon’ble Supreme court stated that,

“part is an element of a sub-assembly, not normally useful by itself and not amenable to further disassembly for maintenance purpose. In common parlance parts are used in the manufacture of the final product and without which the final product cannot be conceived of.”

8.4 The Hon'ble Karnataka High Court in the case of **Supreme Motors Vs State of Karnataka** [1987 (27) ELT 409 (Kar)] while analyzing the meaning of the word 'accessory' observed that:

"accessory is the supplementary or secondary to something of greater or primary importance' 'additional', 'any of several mechanical devices that assist in operating or controlling the tone resources of an organ'. 'Accessories' are not necessarily confined to particular machines for which they may serve as aids. The same item may be an accessory of more than one kind of instrument."

Revenue's submissions

9. As per revenue the goods imported by DAS India are not essential parts of seats and they are basically adjuncts affixed on the floor of the motor vehicle, on which the seats are mounted. Thus, it is clear that the track assembly and seat are individual, independent products. Hence from a bare reading of the competing entries in the customs tariff it appears that chapter heading 9401 covers only seats of a kind used for motor vehicles and parts thereof. So only items which constitute specific parts of a seat such as backs, bottoms, arm rest etc. can be termed as parts of seats. Whereas chapter heading 8708 covers parts and accessories of the motor vehicles which are not specifically mentioned elsewhere in the nomenclature. In view of the above the product track assembly would be appropriately classifiable under chapter heading 8708 subject to satisfying the fulfilment of all the 3 conditions mentioned in Section XVII, under the heading 'Parts and Accessories'. Paras 15.2 to 15.4 which give the crux of the departments view on the classification of the impugned goods are reproduced below;

"15.2 It is apparent that the goods have been improperly imported by DAS India as parts of seats under Customs tariff item 94019900. The goods Rail Assembly, Lock assembly, Set bracket, base assembly, cushion panel, link assembly, cross member bracket assembly, pump assembly (also known as height adjuster), spring

assembly, cross member bracket assembly etc. used in the manufacture of track assembly have been classified under CTI 94019900 which does not cover accessories of motor vehicles. It is apparent that the crucial facts relating to the functionality of the sub-assemblies and parts of track assembly having a direct bearing on the Basic Customs duty (BCD) liability of the said goods have been suppressed from Customs in declarations filed by the importer. The claim of the importer about the goods being parts of automobile seats of sub-heading 94019900 appears to be without basis and made with the sole intention of evading the BCD liable on the said products. The mis-declaration, mis-classification and suppression of the relevant facts, on the part of the importer appears to be in violation of the provisions of Section 17 and Section 46 the Customs Act, 1962.

15.3 The goods Rail Assembly, Lock assembly, Set bracket, base assembly, cushion panel, link assembly, cross member bracket assembly, assembly (also known as height adjuster), spring assembly, cross member bracket assembly etc. falls under CT 87089900 and liable to merit rate of Customs duty (15% BCD) as the benefit of Notification No. 152/2009-Cus dated 31.12.2009 under Korea: Import from Republic of Korea under Preferential Treatment Agreement between India and Korea Rules, 2009 have been self-assessed by DAS India as parts of seats CTI 94019900, is liable be denied as the COO certificate does not specify the CTI under 87089900. As such the self-assessment done by DAS India in relation to the said goods appears to be correct and consequently the duty appears liable to be re-assessed.

15.4 The goods imported by DAS India are not essential parts of seats and they are basically adjuncts affixed on the floor of the motor vehicle, on which the seats are mounted. They help in changing the position of the seat according to the passenger's comfort and convenience. Thus, it is clear that the track assembly and seat are individual, independent products, manufactured separately and fixed together to the make the seat movable for a comfortable position of driver and passenger. They are n not part of each other but are two products put together in a motor vehicle for aiding the front and backward movement of seat Seats are complete even without the said track assembly and so the said assembly cannot be termed as Parts of seat and would not merit classification under Chapter heading 9401.”

(emphasis added)

Appellant's submissions

9.1 The appellant on the other hand is of the opinion that the track assembly is a part of the seat of cars and is classifiable under CTH 9401. The track assembly provides the 'Seat Mechanism for Vehicle'. They are not mere adjuncts affixed on the floor of the motor vehicle, on which the seats are mounted. The final goods manufactured by the

appellant from the imported parts are for supply to car seat manufacturers and not to car manufacturers. The car seat is manufactured by integrating the track assembly with the front seat, after which it is supplied to car manufacturers. A Power Track Assembly has a 6-way mechanism (slide, height adjustment and cushion tilt mechanism). The function of the Seat Cushion/Cushion Assembly is to support occupant's ischium and thighs and position the occupant in the seat and are an important safety feature of the car. The metal structure is the track assembly in the front seat and on this structure only the foam is constructed. Therefore, without the structure/track assembly, the seat is of no use in a vehicle/car. It was submitted that the Commissioner has admitted in paragraph 31 and 35 of the impugned order that the track-assembly manufactured by the appellant is affixed/bolted in the lower cushion of the seat and is thereafter, fitted on the floor of the motor vehicle. Therefore, the finding of the Commissioner that the track-assembly is an accessory of the motor vehicle is contrary to the above facts. The appellant has also relied upon two specific articles/ papers published in the **International Journal of Engineering Research and General Science** and in the **Engineering Journal** which have observed and recorded that track-assembly is an integral part of a car seat. They have also stated that as per the decision of the Hon'ble Supreme Court in **Union of India Vs Garware Nylons Ltd.** reported in 1996 (87) E.L.T. 12 (S.C.), the burden of proof is on the taxing authorities to show that the particular case or item in question, is taxable in the manner claimed by them.

Discussion

10. We find from the impugned order that the track assembly manufactured by the appellant is not supplied to car manufacturers as it cannot be straight away fitted into cars. They are supplied to car seat manufacturers, who use it in the manufacturing of the seats of driver & co-driver before supplying it to car manufacturers. The car seat manufacturer assembles the track assembly in their factory with the cushion assembly and all other parts of the car seat and converts it into a complete front seat of the car. The rail assembly is only an accessory of the track assembly and cannot give the final product its identity. Technological innovation often meet with deficiencies or ambiguities within the static statutory and regulatory frameworks. The track assembly before being fitted onto a car is meshed with the car seat and has more utility, than providing a slide function. It provides an identifiable 'front seat mechanism for vehicle' of modern-day cars. This is also clear from the pictorial representation of the two assembly's given in the impugned order and reproduced at para 6.1 above. As seen from the impugned order the Power Track Assembly has a 6-way mechanism (slide, height adjustment and cushion tilt mechanism). A far cry from the days of the fixed car seats. Automobile seats are in close contact with the human body and with their inbuilt mechanisms are primarily designed for passenger safety and to reduce the risk of serious injury while they may also add convenience to the car. The car front seats of modern-day cars are hence not complete in themselves without these mechanisms. They cannot be said to only adds to the convenience or effectiveness of the car seat. They are also not a kind

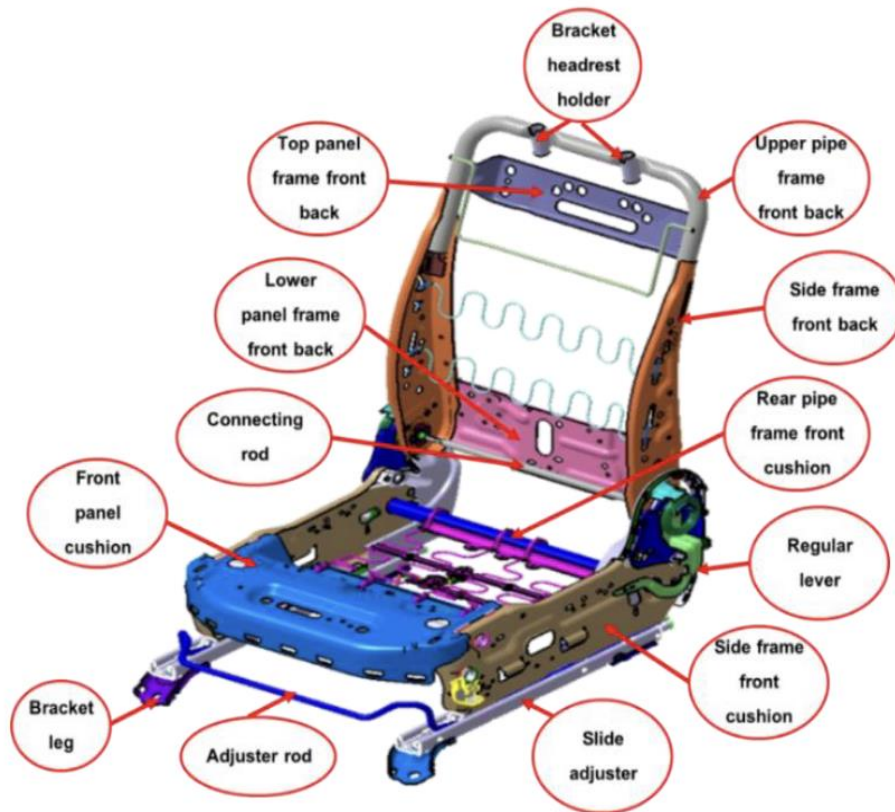
that can be used in more than one kind of machine/ instrument and hence are not accessories. These seats thus have a separate and distinct commercial identity. Such completed finished seats are supplied by the seat manufacturers to the car manufacturer. Hence going by the principal function test, the track assembly is not merely a sliding mechanism and is solely and principally designed for the front seat of motor vehicle and have no other usage.

10.1 One of the methods of testing the commercial identity of goods is by the depiction of the goods in technical papers on the subject, especially when rapid technological innovation often tests the adaptability of existing laws in understanding changes brought about by such improvements. In 'Engineering Journal' (supra) relied upon by the appellant and considered in the impugned order, shows the Car seat structure inclusive of track assembly components as under;

For each car seat structure, there are many small part components which can be grouped into 13 parts, shown in Fig. 2. They are

- (1) bracket headrest holder,
- (2) upper pipe frame front back,
- (3) side frame front back,
- (4) rear pipe frame front cushion,
- (5) regular lever,
- (6) side frame front cushion,
- (7) slide adjuster,
- (8) adjuster rod,
- (9) bracket leg,
- (10) front panel cushion,
- (11) connecting rod,
- (12) lower panel frame front back, and
- (13) top panel frame front back.

Figure 3 (para 24 of impugned order)



The HSN Explanatory Notes to Chapter 94 states that the heading also covers identifiable parts of chairs or other seats, such as backs, bottoms and arm-rests etc. As seen from Figure 1 at para 6.1, the track assembly is an identifiable part of the front seat bottom frame of the car as depicted above.

11. Applying the criteria stated in **York Barbell Company Limited** (Supra), it is seen that:

- (1) the track assembly is essential to the operation of the modern day cars. They are solely and principally designed for motor vehicle front seats;
- (2) the product which is not merely a rail assembly and consists of a large number of parts as listed at para 6.2 above are a necessary and integral sub-assembly / part of the car seat;
- (3) the track assembly is first installed in the car seat by the car seat manufacturers and then fitted onto the car by car manufacturers ; and

- (4) common trade usage and practice shows it to be a part of the car seat.

The impugned goods hence satisfy the test of being a part of a car seat and are classifiable under CTH 9401. We now examine the other issues raised

Departments classification for Drawback Purposes

12. Further it is seen that based on CRA Audit objection raised by the Accountant Generals Office the appellant was issued a demand cum show cause notice to recover duty drawback amount paid on the parts of automative seating systems, exported by the appellant under the declared CTH of 8708 and proposing classification under CTH 9401. In due course, the Additional Commissioner of Customs passed order-in-original no. 103314/2023 dated 16.10.2023 holding that the subject goods are classifiable under CTH 9401. The said order-in-original dated 16.10.2023 has been accepted by the Review Committee vide e-office file no. 19120/23 dated 20.12.2023. The Appellant has stated that they have also paid back the duty drawback amount.

12.1 Revenue has submitted that classification issues are dynamic and not static, and there is no estoppel in matters of tariff classification. Therefore, the mere fact that the impugned goods were earlier classified goods under CTH 9401 cannot be a ground to reject the classification now under CTH 8708. Reliance was placed by revenue on the decision of **Dunlop India Ltd. & Madras rubber Factory Ltd. Vs. Union of India and Others** reported in 1983 (13) ELT 1566 (S.C.). Further it is revenue's case that order-in-original no. 103314/2023 is not applicable to a case of import assessment since

the Drawback schedule was not aligned with the Customs tariff. This position does not appear to be correct. The Ministry vide letter DOF No. 609/38/2005-DBK dated 02.05.2005, has clarified that the drawback Table is fully aligned with the Customs Tariff Act, 1975 at the four-digit level. [See: **Bharat Forge Ltd Vs Commissioner of Customs (Export)** – 2012-TIOL-795-CESTAT-MUM].

12.2 Similarly revenue in the impugned order seeks to apply the ratio of the judgment of the Hon'ble Supreme Court in **Insulation Electrical** (supra), rendered in a Central Excise classification issue to the present Customs classification. The said lis pertained to a dispute which originated with the classification list for the manufactured goods being filed in 1986, as per the Central Excise Tariff 1985. It is seen that the Central Excise and Customs Tariffs were aligned at the 8-digit level after 28.02.2005 only. However, revenue's contention is that though the said judgment pertains to a 1986 matter it is applicable to the present case since prior to 28.02.2005 both the tariffs (Central Excise and Customs) were aligned at the 4-digit level. The judgment is discussed later in this order; however, revenue cannot blow hot and cold on the same issue.

12.3 Moreover, it is not revenues case that while the goods are classifiable under CTI 8708 for customs purposes, they should be classified under CTI 9401 for drawback purposes.

12.4 No doubt, in taxation matters the principle of res judicata will not apply. However, the reason why Courts have held parties to the opinion expressed in a decision in one assessment year to the same opinion in a subsequent year is not because of any principle of res judicata but

because of the theory of precedent or the precedential value of the earlier pronouncement. As stated by the Hon'ble Madras High Court, when once the classification is made on the basis of certain general principles that cannot be changed unless some change in circumstances has taken place or a decision of a superior authority or a judicial pronouncement has come into existence subsequent thereto.

[See: **Bush Boake Allen (I) Ltd. v. UOI** - 1995 (77) E.L.T. 529 (Mad.)].

12.5 In matters of estoppel, the revenue (or the state) and the appellant (or taxpayer) have distinct interests and roles and the application of the doctrine of estoppel is not the same. In a similar situation a three-Judges Bench of the Hon'ble Supreme Court in the case of **Lloyd Electric and Engineering Limited v. State of Himachal Pradesh and Others** [(2016) 1 SCC 560 / 2015 (324) E.L.T. 248 (S.C.)], held that Government cannot speak in two voices. The Supreme Court has upheld the 'doctrine of consistency' on numerous occasions and held that Revenue cannot take a different stand and adopt an inconsistent approach while dealing with the same set of facts as well as legal background. [See: **Pepsico India Holdings Ltd.** - (2001) 130 ELT 193; **Bharat Sanchar Nigam Ltd. And Anr. Vs Union of India and others** - (2006) 3 SCC 1]; **Birla Corporation Ltd. v. CCE** [2005 (186) ELT 266 (SC)]; **Indian Oil Corporation Ltd. v. Collector of C. Ex., Baroda** [2006 (202) ELT 37 (SC)]; and **Boving Fouress Ltd. v. Commissioner of Central Excise, Chennai** [2006 (202) ELT 389 (SC)].

Advance Ruling

13. Revenue has referred to Order No. 17/AAR/2021, dated: 07.05.2021 by the Authority for Advance Ruling, Tamil Nadu in the appellants case, wherein the Authority had classified track assembly under CTH 8708 as parts and accessories of Motor Vehicles. We find that the Review Committee of the department, inspite of the Advance Ruling, accepted Order in Original No. 103314/2023 dated 16.10.2023 holding that the subject goods are classifiable under CTH 9401. The decision of the Review Committee binds the department and as per the theory of precedent or the precedential value of the earlier pronouncement, a change in classification can be occasioned only by some fresh facts pertaining to the classification come to light. No such differentiation has been made in the impugned order.

13.1 An advance ruling is a private tax decision and is an authority in the setting of its own facts. The Income Tax Appellate Tribunal – Mumbai, in the case of **Assistant Director Of Income Tax Vs Green Emirate Shipping And Travels** [(2006) 100 ITD 203 (MUM) / [2006] 286 ITR 60 (MUM)], after referring to the Supreme Court's decision in **Union Of India And Anr Vs Azadi Bachao Andolan And Anr** [AIR 2004 SUPREME COURT 1107], held that the ruling of the Authority for Advance Rulings not being a part of the judicial hierarchy, does not set binding precedents for the revenue, assesseees (except the applicant), or appellate authorities. We agree. Therefore, if there is a conflict between an AAR ruling and more so of a subsequent order from a jurisdictional officer, the quasi-judicial order takes precedence over the AAR ruling, which is not part of the judicial hierarchy.

13.2 The impugned order also refers to Advance Ruling in respect of **M/s. Shiroki Technico India Pvt. Ltd.** by Gujarat GST Authority for Advance Ruling [No. GUJ/GAAR/ R/42/2020 dated 30.07.2020] in respect of car seat adjuster and that the appellant has been classifying subject items under 8708 9900. However, it is seen that CESTAT-Ahmedabad, in **Shiroki Auto Components India Pvt. Ltd Vs Commissioner of Central Excise & Service Tax, Ahmedabad** [2020 (374) ELT 433 (Tri-Ahmd.)] held that parts of Adjuster/ Recliner of car seat, which are similar to the adjuster and cushion tilt mechanism in the impugned case, are classifiable under CTI 9401 9000. The civil appeal filed by the Department against the said order of CESTAT has been dismissed by Hon'ble Supreme Court as report in 2021 (378) ELT A145 (S.C.). In any case as stated earlier an advance ruling has no precedential value for other assesseees.

Country of Origin Certificate

14. According to revenue, the disputed goods are classified under CTI 8708 9900 and are subject to the merit rate of Customs duty (15% BCD). Further that the appellant does not qualify for the benefit under Notification No. 152/2009-Cus dated 31.12.2009 for imports from the Republic of Korea pursuant to the Preferential Treatment Agreement between India and Korea, Rules 2009, because the Country of Origin Certificate (**COO**) classifies the goods under CTI 9401 rather than 8708.

14.1 In **Hyundai Motors India Ltd. Vs Commissioner of Customs** (Final Order Nos.41308 to 41310/2024, dated 21.10.2024), we held that Parliament would not intend to act in breach of international law,

more so a specific treaty obligation, in the light of the Directive Principles of State Policy as enshrined in Article 51 of the Indian Constitution. This approach is reflected in CBIC Instruction No. 19/2022-Customs (17/08/2022), directing Customs officials to prioritise Free Trade Agreements over conflicting CAROTAR rules. Relevant portion of the circular is reproduced below.

“3.2 In continuation of the same, field formations are sensitized by drawing attention again to section 28DA [**Customs Act, 1962**]. It is emphasized that its sub-section (3) empowers the proper officer to ask the importer to furnish further information, consistent with the trade agreement, in case the proper officer has reasons to believe that the country-of-origin criteria have not been met. Similarly, its sub-section (4) enables the proper officer, where the importer fails to provide the requisite information for any reason, to cause further verification consistent with the trade agreement. Moreover, in the Rules [**CAROTAR**], the rule 8 (3) states - "In the event of a conflict between a provision of these rules and a provision of the Rules of Origin, the provision of the Rules of Origin shall prevail to the extent of the conflict." (Sentence underlined to add emphasis. Highlighted words added for clarity)

“Preferential tariff treatment” has also been defined under CAROTAR to mean allowing preferential rate of duty to goods imported into India in accordance with a trade agreement.

14.2 If an importer provides a valid COO Certificate the CTI mentioned for the imported goods, should be accepted. The exception being if the CTI is shown to be obtained fraudulently. Duty concessions must be granted according to international treaties unless procedures outlined in the 2009 Rules are followed to challenge the CTI. In this case, Revenue has not challenged the CTI 9401 reflected in the COO. Therefore, the goods are correctly classified under CTH 9401, making Revenue's objections unfounded.

15. Revenue has noted that the appellant company's staff changed the description on the COO certificate after issuance, from "other suitable for furniture" to "seat mechanism sub-parts for vehicle." The appellant argues the original wording was vague, while the new description clarifies the nature of the goods. Since this change did not affect the declared CTI of the impugned goods, it hence does not affect the classification of the impugned goods and the exemption claimed. In other words to affect the classification of the goods, the altered description must be a material one in the sense that had it not been altered it would have had an effect on the merits of the case. The issue relating to tampering of the description in the certificate shall be examined later in this order.

CROSS Ruling

16. The appellant has referred to several US Rulings (**CROSS Rulings**) for example No Y J89545 dated 16.10.2003; No. NY R04583 dated 14.08.2006; No NY Ro4586; HQ965970 dated 14.10.2003; No. N105216 dated 26.05.2010, No. N042783 dated 20.11.2008 etc, that have classified vehicle seat back adjuster, height adjuster, rear back lock control, slide inner rail, slide outer rail, reclining arm, parts of seat track assembly, seat track assembly, manual seat track assembly and infant car seat canopy under HSN 9401 90. However, in the light of our own conclusions and since these rulings has no precedential value for other assessees, we do not feel it necessary to examine the same.

Supreme Court judgment in the case of '*Insulation Electrical*'

17. Revenue has also drawn attention to the Hon'ble Supreme Court judgment in the case of ***Insulation Electrical*** (supra). In that case

the assessee was manufacturing Rail Assembly front seat (Omini), Adjuster Assembly slider seat, YF-2, Rear Back Lock Assembly and 1000 CC Back Lock Assembly. The assessee therein submitted that the rail assembly, front seat adjuster/assembly, slider seat manufactured by them, **was essentially in the nature of rails made out of iron and steel.** These are to be affixed on the floor of motor vehicles. When seats are affixed on these rails, seats can slide back and forth with the operation of a lever forming part of other rail assembly front seat adjuster. This enables the driver or the passenger, to adjust the position of the seat to suit his comfort and convenience. It is stated that such adjustment of seat is merely to improve the efficiency and convenience of the seat and does not form part of the seat. That the seat is complete and fully functional without this rail arrangement. With regard to YE-2 rear back lock assembly, it was stated that the function of this item is to fix the position of the rear seat of the car i.e. whether straight or slanting and this is also an accessory for enabling the passenger to fix the seat in the most comfortable and convenient position. It was contended by the assessee that lock assembly does not form a part of the car seat at all and the seat is complete without the lock assembly. The goods were being supplied directly to M/s Maruti Udyog Ltd which manufactures of cars and not seats. The issue originated with the classification list being filed in 1986 as per the Central Excise Tariff 1985, which came into effect from 28.02.1986. Although the Central Excise Tariff 1985 introduced an 8-digit code and was aligned to the Customs Tariff by the Central Excise (Amendment Act), 2004 with effect from 28.02.2005. It is revenues contention, as

stated earlier, that even prior to 28.02.2005 both the tariffs for the said goods were aligned at the 4-digit level and hence the judgment is applicable to the present issue.

17.1 We may now examine the relevant portion of the judgment in ‘**Insulation Electrical**’ (supra). Relevant paras of the said judgment are reproduced below;

“13. Before coming to a conclusion, it would be appropriate to look at the two rival entries falling under chapter Headings 8708 and 9401 of the Act. The same are reproduced below for convenience of discussion:

Heading No.	Sub-Heading No.	Description of goods	Rate of duty
87.08	8708.00	Parts and accessories of the motor vehicles of Heading Nos. 87.01 to 87.05	15%
94.01	9401.00	Seats [other than those of Heading No. 94.02], whether or not convertible into beds and parts thereof	18%

14. From the bare reading of the two sub-headings, reproduced above, it is clear that Chapter Heading 8708.00 covers parts and accessories of motor vehicles and this chapter heading is wide enough in its scope so as to cover all accessories of motor vehicles whereas Chapter heading 9401.00 covers all type of seats and parts thereof.

*****. *****. *****

The items manufactured by the assessee are only adjuncts. **These are to be affixed on the floor of motor vehicles. When seats are affixed on these rails, seats can slide back and forth with the operation of a lever forming part of other rail assembly front seat adjuster.** This enables the driver or the passenger, to adjust the position of the seat to suit his comfort and convenience. These are merely to improve the efficiency and convenience of the seat and does not form part of the seat. The seats are complete in themselves without these mechanisms and therefore it cannot be held that the parts manufactured by the assessee merit classification under chapter 9401. Rather the same would be accessories to the motor vehicle as claimed by the assessee and would merit classification under chapter heading 8708, because they are fitted in the motor car for adjustment of the seats for the convenience and comfort of the passengers. The Rail Assembly front seat (Omni), Adjuster/assembly slider seat, YE-2 rear back lock assembly and 1000cc rear back lock assembly being manufactured by the assessee can at best be termed as accessories to the motor vehicle for better convenience of the passengers/drivers travelling in the car.
(emphasis added)

17.2 The goods in **Insulation Electrical** (supra) consisted mainly of ‘rail assembly’ and its lock assembly. Rail assembly was essentially in

the nature of rails made out of iron and steel on which seats can slide back and forth and were supplied directly to M/s Maruti Udyog Ltd which manufactures cars and not seats. In the impugned case the goods are 'track assembly' which includes rail assembly and cushion panel assembly along with lock assembly, set bracket, base assembly, cushion panel, link assembly, cross member bracket assembly, pump assembly, spring assembly, cross member bracket assembly etc.. The goods are more evolved from that of a rail assembly and are not identical to it. Unlike the Central Excise classification dispute in ***Insulation Electrical*** (supra), in the present Customs classification dispute, the track assembly manufactured by the Appellant is supplied to car seat manufacturers who affix the cushion and other components of the car seat, keeping the track assembly as the bottom frame. The car seat is then supplied to the car manufacturer as an integral part of the same. In **Bhavnagar University Vs Palitana Sugar Mills Pvt. Ltd.** [2003 (2) SCC 111], the Apex Court observed that, "It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision". [Also see: **Senairam Doongarmall Vs Commissioner of Income Tax, Assam** - 2002-TIOL-1053-SC-IT-LB].

17.3 We find that the Review Committee of the department, had accepted Order in Original No. 103314/2023 dated 16.10.2023, related to the appellants drawback claim, holding that the subject goods are classifiable under CTH 9401, notwithstanding the Hon'ble Supreme Court judgment in ***Insulation Electrical*** (supra). Therefore, revenue cannot take another stand now.

Other Judgments

18 Revenue has cited the following judgments in their favour;

- A) **The Commissioner of Customs, Bangalore Vs M/s Bosch Limited** [2023 (12) TMI 386 – CESTAT BANGALORE]. The dispute pertains to assessee classifying Smartra Immobilisers which was a security device, under CTH 8536 5090 as automatic regulating and controlling instruments and apparatus which was sought to be classified under CTH 8708 9900 as accessories of vehicles by revenue.
- B) **Chemplast Sanmar Ltd Vs Commissioner of Customs (Import), Chennai** [2018 (364) ELT 345 (Tri-Chennai)], where 'Titanium Pipes and Fittings' of various sizes were imported. The core issue was whether the said generic goods could be considered as parts of the Membrane Electrolyser imported separately by the appellant.
- C) **Guru Overseas Pvt. Ltd. Vs Collector of Central Excise, New Delhi** [2000 (120) ELT 209 (Tribunal)], where leather and textile seat covers were held to be accessories of car seats and classifiable under CETH 8708 of the Central Excise Tariff, 1985 and not under CETH 9401.

18.1 We find that the goods under dispute in all the case are not of 'track assembly'. The judgments at (A) and (B) above mainly rely on the judgment in **Insulation Electrical** (supra) to distinguish between parts and accessories. As discussed earlier the ratio decidendi in **Insulation Electrical** was distinguished from the facts in the present case and the said judgments do not help revenues cause. Further it has been discussed above that the impugned goods are a part of the

front seat of a car and not an accessory, hence the said judgment at (C) too is distinguished.

18.2 Based on the discussion above it is seen that the department has not been able to discharge its burden of proof on the merits of classification the impugned track assembly under CTH 8708 9900, hence the classification as declared by the appellant merits to be upheld and the part of the impugned order relating to classification needs to be set aside.

Penalty

19. **Whether the Appellant has classified the goods by fraud and deliberately suppressing facts and hence demand is liable under the extended period; the goods are liable for confiscation and the importer and other appellants are liable to penalty.**

19.1 We have in our discussions observed that revenue has not been consistent with its own classification of the impugned goods and spoke in two voices, showing that the dispute involves complex interpretation of legal provisions. That apart the classification of the impugned goods as decided by revenue has been found to be not proved. Hence the question of demand for duty with interest or the question of imposing a fine in lieu of confiscation of the goods itself does not arise.

19.2 However in assessment proceedings, the primary concern is with the assessment of tax as authorised by law i.e. the correct quantification and computation of total tax due as per the provisions of the tax statute. Whereas in penalty proceedings, which we examine next, the primary concern is with the conduct of the assessee.

19.3 We find that the impugned order has listed out the blame worthy conduct of the company officials in editing/ tampering with the COO certificate after receipt of the original document electronically, and changes made to the description of the goods given therein.

19.4 Any breach of a civil obligation under the Act is a blameworthy conduct by the assessee. Generally, mens rea is not required to be proved for a statutory offence. Penalty has been sought to be imposed against the above appellants under section 112(a), 114A and 114AA of the Customs Act, 1962. The relevant portions of the said sections are reproduced below for easy reference;

Penalty for improper importation of goods, etc.

112. Any person,--

(a) who, in relation to any goods, does or omits to do any act which act or omission **would render such goods liable to confiscation** under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable,--

*****. *****. *****

Penalty for short-levy or non-levy of duty in certain cases.

114A. Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:

*****. *****. *****

Penalty for use of false and incorrect material.

114AA. If a person knowingly or intentionally **makes**, signs or **uses, or causes** to be made, signed or used, any declaration, statement or document **which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act**, shall be liable to a penalty not exceeding five times the value of goods.

(emphasis added)

19.5 As per the discussions above the goods have been classified correctly and the appellant has not tampered with the CTI of the goods in the COO Certificate. We have also noted that the goods are not liable to confiscation. This being so section 112(a), cannot be invoked against the above appellants. Similarly, section 114A is imposable in a case where the duty has not been levied or has been short levied etc., which is not the situation here. No duty is to be demanded and hence the said section cannot also be invoked in this case. These penalties hence do not sustain.

19.6 Section 114AA, does not make confiscation a condition for the said penalty. In fact it does not make a reference to goods at all or link it to payment of duty, but concerns itself with a declaration, statement or document which is false or incorrect in the **transaction of any business for the purposes of this Act**. In the circumstances the tampering with the description of the goods in the COO certificate satisfies the applicability of the said section in this case. The Hon'ble Supreme Court in **State Of U.P. & Others Vs Sukhpal Singh Bal** [AIR 2005 SUPREME COURT 3324 / 2005 (7) SCC 615], recognized deterrence as an object behind the imposition of a penalty and stated thus;

"Penalty" is a slippery word and it has to be understood in the context in which it is used in a given statute. A penalty may be the subject-matter of a breach of statutory duty or it may be the subject-matter of a complaint. In ordinary parlance, the proceedings may cover penalties for avoidance of civil liabilities which do not constitute offences against the State. This distinction is responsible for any enactment intended to protect public revenue. **Thus, all penalties do not flow from an offence as is commonly understood but all offences lead to a penalty.** Whereas the former is a penalty which flows from a disregard of statutory provisions, the latter is entailed where there is mens rea and is made the subject-matter of adjudication. In our view, penalty under section 10(3) of the Act [Uttar Pradesh Motor Vehicles Taxation Act, 1997] is compensatory. It is levied for breach of a statutory duty for non-payment of tax under the Act. Section 10(3) is enacted to protect public revenue. It is enacted as a deterrent for tax evasion. If

the statutory dues of the State are paid, there is no question of imposition of heavy penalty. Everything which is incidental to the main purpose of a power is contained within the power itself. The power to impose penalty is for the purpose of vindicating the main power which is conferred by the statute in question. **Deterrence is the main theme of object behind that imposition of penalty under section 10(3).**
(emphasis added)

19.7 The appellants have stated that section 114AA is invokable only in respect of export cases and not imported related issues. A legal enactment must be interpreted in its plain and literal sense, as that is the first principle of interpretation. The well-settled principle is that when the words in a statute are clear, plain and unambiguous and only one meaning can be inferred, the necessity for employing rules of interpretation disappears and the authorities are bound to give effect to the said meaning irrespective of consequences. While analysing and interpreting the aforesaid provisions of law, it would be apposite to refer to rules laid down by Hon'ble Apex Court in **Chief Commissioner of Central Goods and Service Tax & Ors. Vs. M/s Safari Retreats Private Ltd. & Ors.** [(2025) 2 SCC 523], pertaining to interpretation of taxing statutes, which is reproduced hereunder:-

“RULES REGARDING THE INTERPRETATION OF TAXING STATUTES

25. Regarding the interpretation of taxation statutes, the parties have relied on several decisions. The law laid down on this aspect is fairly well-settled. The principles governing the interpretation of the taxation statutes can be summarised as follows:-

- a. **A taxing statute must be read as it is with no additions and no subtractions on the grounds of legislative intendment or otherwise;**
- b. **If the language of a taxing provision is plain, the consequence of giving effect to it may lead to some absurd result is not a factor to be considered when interpreting the provisions. It is for the legislature to step in and remove the absurdity;**
- c. **While dealing with a taxing provision, the principle of strict interpretation should be applied;**
- d. If two interpretations of a statutory provision are possible, the Court ordinarily would interpret the provision in favour of a taxpayer and against the revenue;

e. In interpreting a taxing statute, equitable considerations are entirely out of place;

f. **A taxing provision cannot be interpreted on any presumption or assumption;**

g. **A taxing statute has to be interpreted in the light of what is clearly expressed. The Court cannot imply anything which is not expressed. Moreover, the Court cannot import provisions in the statute to supply any deficiency;**

h. There is nothing unjust in the taxpayer escaping if the letter of the law fails to catch him on account of the legislature's failure to express itself clearly;

i. If literal interpretation is manifestly unjust, which produces a result not intended by the legislature, only in such a case can the Court modify the language;

j. Equity and taxation are strangers. But if construction results in equity rather than injustice, such construction should be preferred;

k. It is not a function of the Court in the fiscal arena to compel the Parliament to go further and do more;

l. When a word used in a taxing statute is to be construed and has not been specifically defined, it should not be interpreted in accordance with its definition in another statute that does not deal with a cognate subject. It should be understood in its commercial sense. Unless defined in the statute itself, the words and expressions in a taxing statute have to be construed in the sense in which the persons dealing with them understand, that is, as per the trade understanding, commercial and technical practice and usage. (emphasis added)

[Also see: Judgment of a nine-judge Bench of the Hon'ble Supreme Court in **Superintendent & Legal Remembrancer, State of West Bengal Vs Corporation of Calcutta** - (1967) 2 SCR 170]. Hence it is contrary to all rules of construction to read words into a statute which the legislature in its wisdom has deliberately not incorporated. The section does not refer to 'import' or 'export' of goods but only to, "transaction of any business for the purposes of this Act". **To confine the section only to export related misuse, would be to legislate into the section what the legislature itself has left out, which is impermissible.** Read in this light, the wording of the section is neutral to a situation of import or export and can hence apply to the facts of either of the situations.

19.8 The appellant has referred to the comments of the Ministry of Finance made before the Standing Committee on Finance as seen from its **Twenty Seventh Report on the Taxation Laws (Amendment) Bill, 2005 on 12.12.2005**. At the risk of repetition it has to be stated that the Hon'ble Supreme Court while examining such a plea had in **Anandji Haridas & Co. Pvt. Ltd vs Engineering Mazdoor Sangh** [(1975) 3 SCC 862 / TS-5002-SC-1975-O], observed as below;

"We are afraid what the Finance Minister said in his speech cannot be imported into this case and used for the construction of Clause (e) of Section 7. The language of that provision is manifestly clear and unequivocal. It has to be construed as it stands, according to its plain grammatical sense without addition or deletion of any words. **As a general principle of interpretation, where the words of a statute are plain, precise and unambiguous, the intention of the Legislature is to be gathered from the language of the statute itself and no external evidence such as Parliamentary Debates, Reports of the Committees of the Legislature or even the statement made by the Minister on the introduction of a measure or by the framers of the Act is admissible to construe those words.** It is only where a statute is not exhaustive or where its language is ambiguous, uncertain, clouded or susceptible of more than one meaning or shades of meaning, that external evidence as to the evils, if any, which the statute was intended to remedy, or of the circumstances which led to the passing of the statute may be looked into for the purpose of ascertaining the object which the Legislature had in view in using the words in question."

(emphasis added)

19.9 The Principal Bench of this Tribunal at New Delhi in its FINAL ORDER NO. 55493 /2024, dated: 08.04.2024 in **Patparganj Vs KSS Abhishek Safety Systems Pvt Ltd** stated;

"17. A plain reading of the above only shows the background in which section 114AA was introduced. Nothing in the section indicates that it does not apply to import. It will apply to both imports and exports and the recommendation of the Committee was that it should be applied with due diligence and care so as to avoid any undue harassment to trade. . ."

A similar view was taken by the Mumbai Bench of this Tribunal in **M/s. Swastik Creation Vs Commissioner of Customs, Air Special Cargo** [FINAL ORDER NO. A/86089-86090/2022, Dated: 18.11.2022].

It is a well-accepted norm of judicial discipline and in conformity with

the principle of Comity of Courts, that a Bench of co-equal strength must follow the decision made earlier, on a question of law. Hence, we find that the impugned order merits to be upheld on the imposition of penalty under section 114AA of the customs Act 1962.

20. The alleged blameworthy conduct of the following persons have been examined in the impugned order.

(A) Mr. Anish Joseph, Former Import Executive Daebu Automotive Seat India Pvt. Ltd..

(B) Mr.V.Karthick, Import Executive Daebu Automotive Seat India Pvt. Ltd.,

(C) Mr. L Manikandan Deputy General Manager, Business Development of Daebu Automotive Seat India Pvt. Ltd.,

(D) Mr. M David Edward, Deputy General Manager, Finance and Taxation, Daebu Automotive Seat India Pvt. Ltd., and

(E) Mr. Hong Yeol Yoon, Managing Director Daebu Automotive Seat India Pvt. Ltd.

(F) M/s. Daebu Automotive Seat India Pvt. Ltd.,

We find that all the appellants have mechanically taken the same plea that the SCN has not stated as to what was the incorrect/ wrong documentation/ declaration which the appellants had submitted knowingly or intentionally. To accomplish a legal obligation by illegal means is a blameworthy conduct which would lead to a penalty. The officials have in their different roles made, used or caused to be made or used tampered documents (COO certificates), which was false or incorrect in material particulars/ description of the goods. The same has not been effectively rebutted and the onus of proof which shifted

to the appellants has not been discharged and shifted back to revenue. The burden of proof has hence been discharged by revenue.

21. It is now well settled that the scope of examination of the discretion exercised by the lower authority is limited to see whether it has been exercised in a judicial manner that is regulated according to the known rules of law and whether there is any deficiency in the decision-making process and not in the decision. We hence do not find any reason to interfere with the penalties imposed under section 114AA of the Customs Act 1962.

22. Having regard to the discussions above, we find that;

(i) Revenue has failed to prove the charge and discharge its burden against the classification of the goods as declared in the BoE's and hence it does not merit a change. In the circumstances as discussed above the demand for duty, interest and fine in lieu of confiscation are set aside.

(ii) Revenue has succeeded in discharging its burden in terms of Section 114AA of CA 1962 and hence the said penalties imposed are upheld. The penalties imposed under sections 112 and 114A of the Customs Act 1962 are not proved and are hence set aside.

The appellants are eligible for consequential relief is any, as per law. The appeals are disposed of accordingly.

(Order pronounced in open court on 01.08.2025)

(M. AJIT KUMAR)
Member (Technical)

(P. DINESHA)
Member (Judicial)