

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

REGIONAL BENCH - COURT No. III

Customs Miscellaneous Application No.40805 of 2025

&

Customs Appeal No. 40552 of 2025

(Arising out of Order-in-Original No.111631/2025 dated 14.02.2025 passed by Commissioner of Customs, Chennai-II (Imports), Custom House, No.60, Rajaji Salai,, Chennai 600 001.)

M/s.Hyundai Motor India Ltd.

.... Appellant

Irungattukottai,
Sriperumbudur,
Chennai 602 150.

VERSUS

**The Commissioner of Customs
Chennai-II (Imports)**

... Respondent

Seaport, Custom House,
No.60, Rajaji Salai,
Chennai 600 001.

APPEARANCE :

Dr. C. Manickam, Advocate for the Appellant
Shri Anoop Singh, Authorized Representative
for the Respondent

CORAM :

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

FINAL ORDER No.40095/2026

DATE OF HEARING : 10.09.2025
DATE OF DECISION : 14.01.2026

Per: Shri P. Dinesha

This Appeal is filed by M/s. Hyundai Motor India Limited (**Appellant** herein) against the Order-in-Original No. 111631/2025 dated 14.02.2025 passed by the Commissioner of Customs-II (Imports), Sea Port, Custom House, Chennai. The Appellant is an automobile car manufacturer and for manufacture of automobile vehicles in India they regularly import various parts and components from overseas countries and also procures components and parts from domestic manufacturers. In the impugned Order-in-Original, the Adjudicating Authority has re-determined the classification of the imported items such as "Door Latch and Actuator Assembly" and also denied the benefit of preferential rate of duty availed for the earlier imports as per Sl. No. 1478 of Notification No.46/2011-Cus. Dated 01.06.2011.

2. Brief and relevant facts for the purpose of this Appeal are that the Department initiated investigation on the

ground that the Importer-Appellant while importing "Door Latch and Actuator Assembly" had classified the same wrongly under Customs Tariff Item (**CTI**) 87089900, which resulted in the Department entertaining an opinion that the imported item is to be classified under CTI 83012000 under the category of 'Automobile Locks'; and as an outcome of the Investigation, a Show Cause Notice No. 60/2024 dated 20.06.2024 came to be issued under Section 28(4) and 124 of the Customs Act, 1962 thereby levelling the allegation that the assessment and the declared classification of the imported goods under CTI 87089900 imported vide 149 Bills of Entry are liable to be rejected for wrong-classification and is to be re-classified under CTI 83012000 of the First Schedule to the Customs Tariff Act, 1975 and the subject Bills of Entry had to be re-assessed resulting in denial of the benefit of concessional rate of duty/ duty exemption availed under the Notification No. 46/2011-Cus. It was also proposed to confiscate the goods under Section 111(m) of Customs Act, 1962 and penalty proposed to be imposed under Section 112(a) or under Section 114A of Customs Act, 1962.

3. In response to the allegations levelled in the Show Cause Notice, the Importer/Appellant appears to have submitted a detailed reply and also appeared before the Original Authority for personal hearing wherein they appear to have *inter-alia* submitted that the imported items are only 'parts of locks' and as such, cannot perform the essential functions of a lock; that Rule 2(a) of General Interpretative Rules (**GIR**) cannot be invoked since the imported parts cannot perform essential functions of a lock; that the Importer is an Original Equipment Manufacturer (**OEM**) and the imported goods undergo manufacturing process on post-importation at the factory in the course of which the imported 'Latch and Actuator Assembly' are integrated and processed along with other parts sourced from Domestic markets; that the benefit of Country of Origin cannot be denied at this stage when the earlier clearances were allowed since 60 days' time limit prescribed under the FTA Rules are already expired; that extended period cannot be invoked as it is a classification dispute; and lastly, when the imported goods were allowed for clearance without execution of any bond, consequently the question of confiscation of goods and imposition of redemption fine and penalty would not arise.

4. The Adjudicating Authority having considered the explanation filed by the Assessee, passed the Impugned Order by holding that the imported "Latch and Actuator Assembly" had to be classified under CTI 83012000 as "Locks of a kind used for automobiles" as proposed in the SCN and thus denied the benefit of exemption availed in terms of **Sl. No. 1478 of Notification No. 46/2011-Cus. dated 01.06.2011**. The imported and cleared goods were also confiscated, *in lieu* whereof, option of redemption was permitted upon payment of redemption fine and also imposed mandatory penalty equivalent to the differential duty confirmed in the impugned Order-in-Original. It is this Order-in-Original No. 111631/2025 dated 14.02.2025 which is assailed here, in this Appeal before this forum.

5. The Appellant being aggrieved by the Impugned Order, filed the present Appeal on the following grounds:

- (a) The imported item such as 'Latch and Actuator Assembly' are sub-assembly and components necessary for manufacturing of an Automobile Electronic Lock system along with other components and sub-assemblies procured either domestically or from import

sources, as such, the imported items are mere parts of lock systems and not a complete lock *per se*.

(b) The imported item such as 'Latch and Actuator Assembly' are neither complete nor capable of performing any essential function of an Automobile Electronic Lock System, hence, in terms of Rule 2(a) of GIR, the imported item are only 'parts' and not capable of performing essential functions of lock.

(c) Details of procurement of other components from Domestic Market along with particulars of suppliers of the components were submitted to the Adjudicating Authority and such relevant and pertinent facts are neither considered nor rebutted in the Impugned Order and therefore, the findings in the Impugned Order suffers with infirmities and also contrary to the principles of natural justice.

(d) It is a settled position of law as per the Country of Origin Rules notified in terms of Section 5(1) of Customs Tariff Act, 1975 that non-acceptability of the validity of the Country Of Origin Certificates has to be communicated by the Proper Officer of importing party within sixty days from the date of issuance of certificate and in the impugned case, no such action was

contemplated by the Proper Officer of Customs in India and thus, any action to deny the benefit of Country of Origin is not only illegal but also without any authority of law and as such, the Impugned Order is bad in the eye of law.

(e) In the absence of any materials on record to state that there was any mis-representation of facts or wrong disclosure of information, on an issue concerning determination of classification, the extended period of limitation cannot be invoked in terms of Section 28(4) of Customs Act, 1962 and accordingly, the Impugned Order is contrary to facts and against the provisions of Customs Act, 1962; and

(f) As per the *ratio* of the Hon'ble Supreme Court decision in the case of **Commissioner Vs Finesse Creation Inc.**, [2010 (255) ELT A120 (SC)] that on post-clearance basis, imported goods are not liable for confiscation in the absence of any bond executed in terms of Article 299 of the Constitution of India read with the provisions of Customs Act, 1962 and the Regulations made thereunder, as such, the Impugned Order suffers with judicial indiscipline and requires to be struck down.

6. Dr. C. Manickam, Id. Counsel appearing for the Appellant, made the following submissions during the hearing:

(a) That prior to issuance of SCN, the imported items were classified under CTI 87089900, which covers "*Parts and Accessories of Motor Vehicles of heading 8701 to 8705*". Consequent to the investigation, the Appellant had examined the issue in terms of technical and scientific parameters and sought classification of the item under CTI 83016000 and also submitted not to disturb the benefit of preferential duty rate vide Sl. No. 1043 of Notification No. 46/2011-Cus. The essential aspect is that in Para 11.10 of the SCN, the various parts required for manufacturing of Lock systems was narrated, however, in an erroneous manner, it was held that the Imported item is a Complete Lock System. However, the facts submitted to the Original Authority and also mentioned at Para 3.4 of the Appeal Memorandum clearly establishes the truth that the "Latch and Actuator Assembly" are components for making of Locks and to make a

complete Lock, seven more items, such as M/Screw (6 Nos), Striker Assy DR, Handle Assy DR Outside, Handle Assy DR Inside, SET KEY (Key & Key Cylinder), FOB Key and Wiring Harness are domestically procured or imported and Invoices pertaining to such procurement were also enclosed at Page Nos. 178 to Page No. 186 of the Appeal Memorandum. Further, the manufacturing process also is narrated and explained through Technical Drawings and such documents are also enclosed from Page Nos. 170 to Page No. 177 of the Appeal Memorandum.

(b) That the Original Authority at Para 39.2 of the Impugned Order has *inter-alia* observed as follows :-

“39.2 With respect to the above submission of the Noticee that there is value addition that occurs during the manufacturing process so as to make a Complete Lock System, I find that the significant cost of the impugned goods out of the total cost (as submitted by the Noticee) implies that a substantial portion of the product’s functionality and value originates from the imported Components i.e., “Latch and Actuator Assembly”. I further find that, the increase in difference in cost after domestic processes largely reflect overheads such as labor,

logistics, marketing and profit margins, rather than substantial physical or functional changes to the imported goods. The substantial cost of imported components in the whole assembly suggests that the core functionality of the product is already embedded in the imported goods and the domestic processes involve assembly with minor parts to the car doors after “Latch and Actuator Assembly” is attached to the door, rather than essential manufacturing. Without clear evidence of significant manufacturing or technological enhancement, the assertion of value addition is weak.”

With respect to the above referred observations of the Original Authority, it was submitted that the observation is inherently contradictory. On the one hand, the Impugned Order recognizes the aspect of manufacturing process and value addition, and on the other hand, the value addition is attributed to overhead charges such as labor, logistics, marketing expenses and profit margins. The Original Authority had completely failed to consider the other six components procured and used in the process of manufacturing. Thus, the observation of the Original Authority is completely false and untrue and requires to be rejected.

(c) That in the case of **M/s. Shiroki Auto Components India Pvt. Ltd. Vs Commissioner of Central Excise and Service Tax, Ahmedabad** [2020 (374) ELT 433 (Tri-Ahm)], which was also upheld by the Hon'ble Supreme Court [as reported in **2021 (378) ELT A145 (SC)**], it has been held that the child parts are required to be classified under the specific heading of parts. The said ratio is directly applicable to the impugned case. In an adequate and appropriate manner, it has been demonstrated to the Respondent that the imported goods are only 'parts and components' and not capable of performing any essential function of an automobile locks and therefore, invocation of Rule 2(a) of the GIR is not proper and correct.

(d) That as a consequence of reclassification of the item, the Impugned Order states that the Appellant is not entitled for the benefit of Sl. No. 1478(I) of Notification No. 46/2011-Cus. dated 01.06.2011 as amended. It is a settled position of law that the provisions of Customs Act, 1962, Customs Tariff Act, 1975 and the Rules made thereunder have to be followed strictly while

determining the eligibility of the preferential duty benefit claimed by the Appellant.

(e) That in accordance with Section 5(1) of the Customs Tariff Act, 1975, the Customs Tariff (Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of Member States of the Association of South East Asian (ASEAN) and the Republic of India) Rules, 2009 have been notified and the said Rules specifically deals with the Standard Operating Procedures concerning the implementation and determination of grant of preferential benefit. More specifically, Rule 7 of Annexure-III of the said Rules state that **“(C) In cases where an AIFTA Certificate of Origin is not accepted by the Customs Authority of the importing party, such AIFTA Certificate of Origin shall be marked in Box 4 and the original AIFTA Certificate of Origin shall be returned to the Issuing Authority within a reasonable period but not to exceed two months.”** The Issuing Authority shall be duly notified of the grounds for the denial of preferential tariff treatment.” (emphasis supplied).

(f) That in the impugned case, the Respondent has sought to deny the benefit of preferential tariff rate, however, as specifically mandated in the Rule, within two months from the date of filing Bill of Entry, neither any grounds for the denial of preferential tariff rate has been assigned nor any whisper is raised with respect to the manufacturing process adopted at the Country of Origin. As such, at this stage, after a long gap, which is beyond two months, the Respondent has no legal authority to deny the benefit. Moreover, this principle of law has been consistently followed by the judicial and *quasi-judicial* authorities including in the case of the Appeal of the same Appellant in Appeal No. C/40143/2024 *vide* **Final Orders Nos.41308-41310/2024** dated 21.10.2024 and reported in **2025 (6) TMI 608 – CESTAT Chennai**, in Para 8.1 to Para 8.12 *inter-alia* it was held that the benefit of preferential tariff rate cannot be denied in case no grounds for the denial of preferential tariff treatment is issued within two months from the date of submission of AIFTA Certificate to the Proper Officer of Customs.

(g) That the above referred decision is specifically dealt in Para 4.5 of the Appeal Memorandum and hence, it was prayed that the same may be relied on and followed and as a result, the impugned Order-in-Original may be set aside.

(h) That the entire issue is mere determination of classification of the imported item and neither there is any allegation in the SCN nor any finding in the Impugned Order that there is any mis-representation of facts enabling the Respondent to invoke the extended period of 5 years. Determination of Classification is the sole prerogative and Sovereign function of the Proper Officer of Customs and on the ground of classification, the extended period cannot be invoked and the Hon'ble Apex Court in many number of cases has held that on the grounds of classification issues, no motive can be attributed to the Assessee and in the absence of any cogent and credible documentary evidence, the Imported goods cannot be subject to confiscation.

(i) That in the case of **Commissioner of Customs (Import), Mumbai Vs Finesse Creation Inc.**

reported in 2009 (248) ELT 122 (Bom. HC), which was upheld by the Hon'ble Supreme Court *vide* Order reported in **2010 (5) TMI 804 (SC) = 2010 (255) ELT A120 (SC)** and subsequently followed in many cases, it has been held by the Hon'ble Supreme Court and other judicial authorities that in the absence of any bond executed with Customs prior to clearance of the imported goods, on post clearance stage, the imported goods are not liable for confiscation. In the impugned case, no such Bond has been executed prior to clearance of the goods. Hence, it was prayed that based on the proposition of law propounded by the Hon'ble Supreme Court, the confiscation of goods in the Impugned Order and imposition of penalty and redemption fine thereon may be held as unlawful and the same may be quashed and set aside.

(j) On the above submissions, it was humbly prayed that the material facts along with the applicable provisions of law and the judicial precedents applicable to the impugned facts may be considered in totality and as a result, the Appeal of the Appellant may be allowed in all aspects as prayed with consequential reliefs.

7. *Per contra*, Shri Anoop Singh, Id. Joint Commissioner while relying on the findings in the Impugned Order, has *inter-alia* submitted that the imported "Latch and Actuator Assembly" are fitted into the Door of the vehicle and as imported, these two items are capable of performing essential function of Automobile Locks. Therefore, General Interpretative Rules-1 (GIR-1) was invoked and the said Rule states that "*for legal purposes, classification shall be determined according to the terms of the headings, and any relative Section or Chapter Notes*". It was his submission that Rule 2(a) of GIR provides that the *classification of the incomplete or unfinished goods having essential character of the complete or finished goods shall be classified as complete or finished goods*. The sum and substance of the plea was that the imported "Latch and Actuator Assembly" are not mere child parts of the Automobile Locks but on the contrary, they are unfinished goods capable of performing the essential functions of the Locks and on that basis, it was submitted by the Id. A.R that the imported "Latch and Actuator Assembly" have to be re-classified under CTI 83012000 as a Complete Lock of a kind used in automobiles. It was also submitted by the Learned A.R that the benefit of

preferential rate of duty availed at the time of import, has to be denied on the ground that the Country of Origin Certificate produced at the time of import had the particulars of the classification of the item as CTI 87089900 and not CTI 83012000. He also reiterated the findings of the Original Authority and prayed for dismissal of the Appeal of the Appellant.

8. In the light of the above factual background, we have carefully considered the materials made available on record before us and also the submissions made by both the learned counsel; we find that the following issues need to be addressed and decided by us :

- (i) Whether the imported "Latch and Actuator Assembly" are qualified to be considered as a semi-finished locks of a kind used in automobiles capable of performing essential function of a lock or not and the appropriate classification for the imported goods?
- (ii) Whether consequent to the reclassification of the imported item, the benefit of preferential rate of duty can be denied? and

- (iii) Whether the imported and cleared goods are liable for confiscation and redemption fine and penalty, due to reclassification?

9. A perusal of the documents placed on record indicate that prior to the investigation and issuance of SCN, the importer [**Appellant** herein] had sought the classification of the "Door Latch and Actuator Assembly" under CTI 87089900 under the 'residual heading' and the same was accepted by the Department for many years. After the initiation of investigation, the Appellant made a submission to the Department and sought re-classification of the item under CTI 83016000 as 'parts of Locks'. It is a settled position of law that it is the sole and exclusive power of the Department to determine the classification of the imported goods. The Importer is under the mandatory obligation to declare the essential characteristics and the description of the imported goods and enable the Department to make a fair assessment in determination of the classification and duty liability. In this context, we deem it appropriate to refer to the relevant portion/s of the Harmonized System of

Nomenclature (**HSN**). The sub-headings and tariff items under CTH 8708 are reproduced for ease of reference:

Tariff Item 87089900

8708 PARTS AND ACCESSORIES OF THE MOTOR VEHICLES OF HEADING

8701 to 8705

8708 10 – Bumpers and parts thereof:

8708 10 10 --- For Tractors

870810 90 --- Other

- Other parts and accessories of bodies (including cabs):

87082100 -- Safety seat belts

87082200 -- Front windscreens(windshields), rear windows and other windows specified in Sub-heading Note 1 to this Chapter

8708 29 00 – Other

87083000 – Brakes and servo-brakes; parts thereof

87084000 – Gear boxes and parts thereof

87085000 - Drive-axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof

87087000 – Road Wheels and parts and accessories thereof

87088000 – Suspension system and parts thereof (including shock-absorbers)

Other parts and accessories

87089100 -- Radiators and parts thereof

87089200 -- Silencers (mufflers) and exhaust pipes; parts thereof

87089300 -- Clutches and parts thereof

87089400 -- Steering wheels, steering columns and steering boxes; parts thereof

87089500 -- Safety airbags with inflater system; parts thereof

87089900 – Other

9.1 Chapter 87 is covered under Section XVII of Harmonized System Nomenclature (HSN). Note 2 to the above Section states as follows:-

“2. The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:

(a) Joints, washers or the like of any material (classified according to their constituent material or in heading 84.84) or other articles of vulcanized rubber other than hard rubber (heading 40.16);

(b) Parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);

(c) Articles of Chapter 82 (tools);

(d) Articles of heading 83.06;

(e) Machines or apparatus of headings 84. 01 to 84.79, or parts thereof, other than the radiators for the articles of this Section; articles of heading 84,81 or 84,82 or, provided they constitute integral parts of engines or motors, articles of heading 84.83;

(f) Electrical machinery or equipment (Chapter 85);

(g) Articles of Chapter 90;

(h) Articles of Chapter 91;

(j) Arms (Chapter 93);

(k) Luminaires and lighting fittings or parts thereof of heading 94.05; or

(l) Brushes of a kind used as parts of vehicles (heading 96.03).

9.2 With respect to Note 2(b) above, parts of general use are defined in Note 2 to Section XV, which is reproduced for reference:

“2. Throughout the Nomenclature, the expression “parts of general use” means:

(a) Articles of heading 73.07, 73.12, 73.15, 73.17 or 73.18 and similar articles of other base metal, other than articles specially designed for use exclusively in implants in medical, surgical, dental or veterinary sciences (90.21);

(b) Springs and leaves for springs, of base metal, other than clock or watch springs (heading 91.14); and

(c) Articles of heading 83.01, 83.02, 83.08, 83.10 and frames and mirrors, of base metal, of heading 83.06.

In Chapters 73 to 76 and 78 to 82 (but not in heading 73.15) references to parts of goods do not include references to parts of general use as defined above. Subject to the preceding paragraph and to Note 1 to Chapter 83, the articles of Chapter 82 or 83 are excluded from Chapters 72 to 76 and 78 to 81.”

10. Thus, from the above it is evidently clear that even if the goods/articles are to be used in automobile but are excluded *vide* Note 2 to Section XV (which also covers

articles of heading 83.01 (Padlocks and Locks), 83.02, 83.08, 83.10 and frames and mirrors, of base metal, of heading 8306) as reproduced above, then they are not classifiable under the Section XVII. A combined reading of the above notes i.e. Note 2 to Section XVII and Note 2 to Section XV makes it obvious that Articles of heading 83.01 are excluded from Chapter 87 and more specifically, from CTH 8708.

11. The arrangement of Note to Section XVII of HSN further makes it clear that articles of Headings 8301 are excluded from Chapter 87. Therefore, the classification adopted by the Department prior to the issuance of the SCN was apparently incorrect. However, in the Impugned Order the Adjudicating Authority/Commissioner has held that the imported items viz., "Latch and Actuator Assembly" have to be classified under CTI 83012000 as "Locks of a kind used for motor vehicles", whereas the Appellant had prayed for re-classification of the item under CTI 83016000 as "Parts of Locks". It is the case of the Appellant that during investigation, the Appellant had submitted in the form of statements under Section 108 of the Customs Act, 1962 and *inter-alia* explained that the imported "Latch and Actuator

Assembly” are ‘parts of Door Lock systems’ and they are used along with other components procured from domestic manufacturers such as handles, wiring harness, lock cylinders, and screws. The essence of submissions of the Appellant was that the imported Door Latch and Actuator Assembly are used as component, along with other imported items and also items procured from Indian Domestic market. In para 11.11 of the SCN, it was alleged by the Department that the importer did not provide GST sales invoices of the items imported, i.e. Latch Assembly hoods, Latch Assembly tailgates, Latch and Actuator Assembly, Latch Assembly etc. to substantiate that the other components are required for manufacturing of a complete lock system. In contrast, in the reply to the Show Cause Notice dated 07.01.2025 of the Appellant, it was explained to the Adjudicating Authority; our attention was invited specifically to para 4.4 of the said reply, wherein the following submissions are made:

“It is also submitted that there is a considerable value addition after incorporating these products, which are sourced domestically and from foreign Countries, in the following manner as enumerated in the table below:-

S.No	Door Latch Related parts	Source	Supplier	Part Price Rs.
1	Latch & Actuator Assy	Imported	PHA VIETNAM / Hyundai Motor Company, Korea	762.32

2	M/ Screw (6 Nos)	Imported	Hyundai Motor Company, Korea	20.58
3	Striker Assy DR	Locally Procured	PHA India	36.6
4	Handle Assy DR Outside	Locally Procured	MOTHERSON AUTOMOTIVE TECHNOLOGIES AND ENGINEERING, India	274.6
5	Handle Assy DR Inside	Locally Procured	MOTHERSON AUTOMOTIVE TECHNOLOGIES AND ENGINEERING, India	101.48
6	SET KEY (Key & Key Cylinder)	Locally Procured	Jay Ushin Ltd, India	245.33
7	FOB Key	Locally Procured	MOBASE ELECTRONICS INDIA	744.04
8	Wiring Harness	Locally Procured	APTIV COMPONENTS INDIA (P) LTD / KYUNGSHIN INDUSTRIAL MOTHERSON (P) LTD, INDIA	934.44
	Total			3119.39

12. Along with the above reply, the Appellant also appears to have produced the working drawings and manufacturing process of the Complete Lock Systems. Over and above, the same was substantiated by submitting the details of procurement of other components from domestic manufacturers, viz., Striker Assembly was procured vide Tax Invoice No. 2410013180 dated 31.07.2024 from M/s.PHA India Limited, Handle Assembly Door Outside and Handle Assembly Door Inside from two Tax Invoices No.1523324874 dated 26.03.2024 and Tax Invoice No.

1524252967 dated 30.07.2025 from M/s.Motherson Automotive Technologies, Tamil Nadu. Set Key and Key Cylinder from M/s.Jay Ushin Limited vide Invoice No. S15241002802 dated 27.07.2024, FOB key from M/s.Mobase Electronics India and wire harness from M/s.APTIV Components India (P) Ltd. It is hence self-evident from the submissions made at Para 4.4 of the reply to the Show Cause Notice along with the tax invoices and the Technical Drawings that all the details were enclosed along with the said reply which was submitted to the Original Authority with their request to accept the imported Latch and Actuator Assembly as 'parts' and not 'complete lock system'. The Original Authority at Para 39.2 has however, observed as under: -

“With respect to the above submission of the Noticee that there is a value addition that occurs during the manufacturing process so as to make a complete Lock system, I find that the significant cost of the impugned goods out of the total cost (as submitted by the Noticee) implies that a substantial portion of the product’s functionality and value originates from the imported components i.e., “Latch and Actuator Assembly”. I further find that, the increase in difference in cost after domestic processes largely reflect overheads such as labor, logistics, marketing, and profit margins, rather than substantial physical or functional changes to the imported goods. The substantial cost of imported components in the whole assembly suggests that the core functionality of the product is already embedded in the imported goods and the domestics processes involve assembly with minor parts to the car doors after “Latch

and Actuator Assembly” is attached to the door, rather than essential manufacturing. Without clear evidence of significant manufacturing or technological enhancement, the assertion of essential value addition is weak.”

13. The above observation of the Original Authority is significant to determine the nature of the imported goods. The observation *inter-alia* recognizes manufacturing process so as to make a complete lock system. However, it was observed that the process of manufacturing is not substantial and the value addition is only based on cost of labour, overhead charges, logistics, marketing and profit margins, rather than substantial physical or functional changes to the imported goods. This observation is inherently contradictory and incorrect. It is the submission of the Appellant before the Adjudicating Authority that along with the 'Latch and Actuator Assembly', other eight items were required to manufacture a Complete Lock and to substantiate such submissions, the Appellant had produced tax invoices and also the manufacturing process. This crucial aspect is not considered rather, is completely overlooked in the Impugned Order and hence, the observation of the Adjudicating Authority is bereft of any basis lacks any merit and thus is unsustainable in the eye of law. Moreover, the Original Authority had invoked Rule 2(a) of the GIR which

inter-alia states that even incomplete or unfinished goods having the essential character of the complete or finished goods shall be classified as 'complete' or 'finished goods' for the purpose of classification. We have observed that it is evident from the manufacturing process adopted by the Appellant and the particulars of procurements of other components required for manufacturing of the Complete Lock System provide factual clarity that the imported Latch and Actuator Assembly neither has any essential character nor capable of performing any independent function of a lock of an automobile lock since substantial and vital manufacturing process along with other procured components are required to make it as a Lock, which is capable of being fitted into an automobile vehicle. The only possible conclusion therefore is that the imported items are only 'parts of locks' and not a 'finished lock' and in view of this, the observation of the Original Authority is unsustainable. We find the reliance placed by the Appellant on of **M/s. Shiroki Auto Components India Pvt. Ltd Vs CCE & ST, Ahmedabad** reported in 2020 (374) ELT 433 (Tri.-Ahmd.), as upheld by the Hon'ble Supreme Court and reported in 2021 (378) ELT A145 (SC) is very apt, wherein the imported 'Latch and Actuator Assembly' have been held

to be classified as 'parts of Automobile Locks' under CTI 83016000 and not under CTI 83012000.

14. The next issue canvassed in the Appeal is that consequent to reclassification of the goods from CTI 87089900 to CTI 83016000, whether the benefit of preferential rate of duty can be denied or not. The admitted facts are that at the time of import and clearance of the goods, the Appellant had sought the benefit of preferential rate in terms of Sl. No. 1478(I) of Notification No. 46/2011-Cus. dated 01.06.2011. Sl. No. 1478 of the said Notification provides benefit of preferential duty for all goods classifiable under CTH 870895 to CTH 870899 and the applicable rate of Basic Customs Duty is 5%. In the Impugned Order, the Original Authority had observed that the Country of Origin certificate produced at the time of import had the details of CTI as 87089900 and not as CTI 83016000, hence, the benefit cannot be extended. It was the submission of the Appellant, consistently right from the initial stage before the Original Authority that the issue has to be decided in accordance with Customs Tariff (Determination of Origin of Goods under the Preferential Trade Agreement between the Government of Member States of the Association of South

East Asian (ASEAN) and the Republic of India) Rules, 2009. It was the specific submission of the Appellant that Clause 7C of Annexure-III to the said Rules states that in cases an AIFTA certificate of origin is not accepted by the Customs Authorities of the importing party, such AIFTA certificate of origin shall be marked accordingly in Box No. 4 and the Original AIFTA Certificate of Origin shall be returned to the Issuing Authority within a reasonable period but not to exceed two months. The Issuing Authority shall be duly notified of the grounds for the denial of preferential tariff treatment. The Appellant in this regard has heavily relied on Clause 7C of Annexure-III of the said Rules and also submitted that any objection leading to denial of the benefit should be intimated within 60 days from the date of submission of Country of Origin Certificate. It was also the submission of the Appellant that this proposition of law has been upheld by judicial and *quasi-judicial* authorities including in Customs Appeal No. C/40143/2024 *vide* **Final Order Nos. 41308-41310/2024** dt. 21.10.2024 of this very Bench of CESTAT, Chennai. In the said Order, the following observations are made:

“8.7 We find that the Government of India signed an Agreement on Trade in Goods Under the Framework Agreement of the ‘Comprehensive Economic Co-operation between the Republic of

India and the Association of Southeast Nations (ASEAN)' in the year 2009. A lot of thought has gone into framing the policy for the benefit of trade and industry in the participating Countries. As per the said international agreement preferential tariff treatment was agreed to be accorded by India in respect of imports of specified goods, provided certain conditions are fulfilled. One such condition was that the goods imported under a Trade Agreement are required to be covered under a Certificate of Origin issued by the Designated Authority of the exporting country. When the Rules of 2009 are comprehensive in nature and contain the complete operative mechanism on various substantive and procedural aspects for facilitating preferential tariff treatment for goods covered by AIFTA, the said Rules would have to be diligently followed before any concession is sought to be denied to goods, coming within the ambit of the Agreement. Otherwise, the whole procedure set out in the 2009 Rules would be rendered redundant and it would upset the certainty of duty that had been notified by the agreement, for the benefit of trade and industry.

8.8 When an importer produces a COO Certificate which covers the imported goods, it has to be considered as substantive and conclusive evidence of being goods as declared and duty concession as eligible should be allowed, in the normal course, as the concession originates from an international treaty entered between the contracting States of which India is a signatory. In case the concession is felt to be not eligible then the department has to take recourse to the provision of the Rules of 2009 and follow the procedure set out there in. When the Customs Department of the importing Country does not take any action as provided for in Paras 7, 16 and 17 of Annexure III to the Rules of 2009 it cannot then question the concession from payment of duty as eligible as per the COO Certificate. As per Para 7, in case the AIFTA Certificate of Origin is not accepted by the Customs Authority of the importing party it shall be returned to the Issuing Authority within a reasonable period but not

exceeding two months, duly notifying the grounds for the denial of preferential tariff treatment. As per para 16 the importing party may request a retroactive check at random and/or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof. In case of reasonable doubt as to the authenticity or accuracy of the document, the Customs Authority of the importing party may suspend provision of preferential tariff treatment while awaiting the result of verification. As per Para 17 if the importing party is not satisfied with the outcome of the retroactive check, it may, under exceptional circumstances, request verification visits to the exporting party.

8.9 In the present case Revenue has not demonstrated that they have taken any steps as required by paras 7, 16 and 17 of Annexure III ibid and have thereby wrongfully sought to deny the exemption. In its judgment in Noble Import Pvt Ltd. Vs Union of India [2017 (349) E.L.T. 44 (A.P.)], the Hon'ble Andhra High Court held as under;

“19. It is only after a retroactive check is conducted, and the concerned authorities are satisfied that the Certificate of Origin cannot be accepted, are they entitled, thereafter, to pass an adjudication order under the Customs Act. Without conducting a retroactive check, in terms of Clause 16(a) of Annexure-III to the 2009 Rules, it was not open to the 3rd respondent to pass an adjudicating order. The impugned orders dated 30-10-2015, passed even before conducting a retroactive check in terms of Clause 16(a), are without jurisdiction.”

8.10 We find that Rule 5 of the CAROTAR allows, the Principal Commissioner of Customs or the Commissioner of Customs, to disallow the claim of preferential rate of duty without further verification, for the reasons to be recorded in writing, where the importer relinquishes the claim or the information and documents furnished by the importer and available on record provide sufficient evidence to prove that goods do not meet the origin

criteria prescribed in the respective Rules of Origin. However, the present issue does not involve a dispute on the origin criteria, but only on the classification of the goods and is hence not applicable.

8.11 Thus, while the Customs department can after following the due process change the classification of the imported goods as per the domestic laws, it cannot deny “preferential rate of duty” (which has been defined under CAROTAR to mean rate at which customs duty is charged in accordance with a trade agreement), to the goods covered by a valid COO Certificate issued as per an international treaty obligation, that satisfies the conditions of a notification issued under Section 25 of the CA 1962, unless the classification had been challenged successfully as provided for in the Rules of 2009. Hence the action taken by the AA in denying concessional rate of duty for the goods by rejecting the Country-of-Origin Certificate is untenable and merits to be set aside.”

15. It is also found that the legal proposition as observed in our above decision is based on the decision of the Hon’ble Andhra Pradesh High Court in the case of **M/s. Mahadev Metaliks Vs Union of India** [2016 (331) E.L.T. 424 (A. P.)], wherein it was *inter-alia* observed that :-

“21. Rule 7 (c) provides in cases where an AIFTA Certificate of Origin is not accepted by the Customs Authority of the importing party, such AIFTA Certificate of Origin shall be marked accordingly in Box 4 and the original AIFTA Certificate of Origin shall be returned to the Issuing Authority within a reasonable period but such period not to exceed two months and the Issuing Authority shall be duly notified of the grounds for the denial of preferential tariff treatment. Rule 7© is an important Rule provided for the procedure that is required to be

followed in case AIFTA Certificate of Origin issued by the exporting country is not accepted. The Issuing Authority also should be notified of the grounds for the denial of preferential tariff treatment. Rule 7(d) requires, the issuing Authority shall provide with a detailed exhaustive clarification addressing the grounds for the denial of preferential tariff treatment raised by the importing party. The Customs Authority of the importing party shall accept the AIFTA Certificate of Origin and grant the preferential tariff treatment if the clarification is found satisfactory. Rules 13 to 15 deal with submission of original AIFTA Certificate of Origin to the Customs Authorities at the time of lodging the import entry. Rules 15 makes it clear that if there are minor discrepancies, the same are required to be ignored. Rule 16 deal with verification and the process that is required to be followed for further verification...”

16. The ratio that emerges from the above referred Rules and the interpretation drawn by the Hon'ble High Court and the Tribunal is that if any attempt is made beyond two months from the date of submission of the Country of Origin certificate to the importing party, to deny the benefit, the said action is not permitted in terms of Clause 7C of Annexure-III of the said Rules. In the case on hand, we find that the SCN was issued after a period of sixty days from the date of import, to deny the benefit of the preferential rate of duty, which is not permissible in law and as a consequence, the findings and observations of the Adjudicating Authority are invalid and incorrect. Moreover, there is neither any

allegation in the SCN nor any finding in the Impugned Order, to the extent that the Country of Origin Certificate is produced to the importing party by the Appellant was or is invalid or illicit. The only corollary is that the Country of Origin Certificate issued by the Competent Authority at the Country of Export is valid and legal and, as a result, at this stage there is no authority or power conferred to deny the benefit under the Customs Tariff (Determination of Origin of goods under the Preferential Trade Agreement between the Government of Member States of the Association of South East Asian (ASEAN) and the Republic of India) Rules, 2009. It is also a fact that the imported goods are to be reclassified under CTI 83016000 as "Parts of Locks" and Sl. No. 1043 of the said Notification No. 46/2011-Cus. confers preferential rate of duty benefit and the applicable BCD is 0% for the imported goods classifiable under CTI 83016000 as against Sl.No.1478(I) for CTI 87089900 wherein the Appellant had paid BCD @ 5%. However, there is no plea by the Appellant for downward revision of the rate of duty in terms of Sl. No. 1043 of the said Notification. Based on the above, the findings of the Original Authority and the conclusions reached thereon in the Impugned Order are clearly

unsustainable as bereft any merit or basis and hence, the same deserves to be set aside which we hereby do.

17. The only other issue left, to be decided is as to whether the imported and cleared goods are liable for confiscation, liable for redemption fine and penalty, due to an attempt in reclassification of the imported goods. In this regard, we find that there is no documentary evidence placed on record by the Revenue to substantiate that their attempt for reclassification was an outcome of any commission or omission of the Appellant. There is no finding concerning any fraudulent intention or *mala-fide* action of the Appellant to seek wrong classification to avail the benefit of preferential rate of duty. In the absence of any credible evidence or *prima facie* material, the imported goods are not liable for confiscation and this principle is upheld in many cases including in the case of **Union of India Vs M/s. Garware Nylons Ltd.** [1996 (87) ELT 12 (SC)].

18. In view of the above discussion, we hold that imposition of penalty under Section 114A of the Customs Act, 1962, is unsustainable. Moreover, in the case of **Commissioner of Customs (Import), Mumbai Vs**

Finesse Creation Inc. [2009 (248) ELT 122 (Bom.)] which stands upheld by the Hon'ble Supreme Court vide Order reported in **2010 (5) TMI 804 (SC) = 2010 (255) ELT A120 (SC)** it is held that in the absence of any bond executed with Customs prior to clearance of the imported goods, no confiscation could be ordered. Following the above ratio, we hold that redemption fine imposed in the Impugned Order is liable to be set aside and we set aside both penalty and redemption fine.

19. In the result, the Impugned Order is set aside and the Appeal filed by the Appellant stands allowed with consequential reliefs, if any, as per law. The MA filed by Appellant for submission of additional documents also stands disposed of.

(Order pronounced in open court on 14.01.2026)

sd/-

(VASA SESHAGIRI RAO)
Member (Technical)

sd/-

(P. DINESHA)
Member (Judicial)