CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. III

Customs Appeal No. 42419 of 2015

(Arising out of Order-in-Appeal C.Cus.II.No. 706/2015 dated 30.08.2015 passed by Commissioner of Customs (Appeals-II), No. 60, Custom House, Rajaji Salai, Chennai – 600 001)

With

Customs Appeal No. 42420 of 2015

(Arising out of Order-in-Appeal C.Cus.II.No. 820/2015 dated 03.09.2015 passed by Commissioner of Customs (Appeals-II), No. 60, Custom House, Rajaji Salai, Chennai – 600 001)

And

Customs Appeal No. 42421 of 2015

(Arising out of Order-in-Appeal C.Cus.II.No. 821/2015 dated 03.09.2015 passed by Commissioner of Customs (Appeals-II), No. 60, Custom House, Rajaji Salai, Chennai – 600 001)

M/s. Iljin Automotive Systems Private Limited **...Appellant**
B1 and B2, SIPCOT Industrial Park,
Irungattukottai,
Sriperumbudur,
Kancheepuram – 602 105.

Versus

Commissioner of Customs **...Respondent**
Chennai II Commissionerate,
No. 60, Custom House,
Rajaji Salai,
Chennai – 600 001.

APPEARANCE:

For the Appellant : Mr. S. Murugappan, Advocate
For the Respondent : Ms. Rajini Menon, Authorised Representative

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

FINAL ORDER Nos. 40434-40436 / 2026

DATE OF HEARING : 31.10.2025
DATE OF DECISION : 27.03.2026

Per Mr. VASA SESHAGIRI RAO

These are three Customs Appeals No. 42419 to 42421 of 2015 filed by M/s. Iljin Automotive Systems Private

Limited, Kancheepuram (hereinafter referred to as the Appellant) to assail the Orders in Appeal C.Cus-II No. 706/2015 dated 30.08.2015, C.Cus-II No. 820/2015 dated 03.09.2015 and C.Cus-II No. 821/2015 dated 03.09.2015 (impugned orders) passed by the Commissioner of Customs (Appeals-II), Chennai (hereinafter referred to as the LAA).

2. Briefly stated, the facts of these appeals are that the Appellant had filed 31 Bills of Entry as detailed in Orders-in-Original No. 36776 dated 20.04.2015, 38332 dated 26.05.2015 and 36775 dated 20.04.2015 for clearance of "HA RR GEN 1 ASSY (BRG ASSY)", "MC FRT BRG ASSY" and "RD ASSY(BRG ASSY)". The Appellant self-assessed the classification of the goods under Customs Tariff Heading 84822090 as "Bearing-of bore diameter exceeding 100mm". The goods were cleared on the basis of the classification declared by the Appellant. Thereafter, the department entertained the view that the imported goods are not classifiable under the CTH 84822090 and they are rightly classifiable under the CTH 87087000. Accordingly, three show cause notices dated 13.09.2012, 10.09.2012 and 17.10.2012 were issued to the appellant where it was proposed to: -

i. re-classify the goods under CTH 87087000;
ii. demand the short collected duty amounting to Rs. 19,92,241/- on the goods imported under 12 bills of

entry as detailed in the Show Cause Notice dated 13.09.2012 under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA ibid.

iii. demand the short collected duty amounting to Rs. 34,90,819/- on the goods imported under 18 bills of entry as detailed in the show cause notice dated 17.10.2012 under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA *ibid*.

iv. demand the short collected duty amounting to Rs. 3,78,941/- under Section 28(1) of the Customs Act, 1962, along with applicable interest under Section 28AA ibid.

v. confiscate the impugned goods imported under 30 bills of entry as detailed in the two show cause notices dated 13.09.2012 and 17.10.2012 for contravention of section 111(m) of Customs Act, 1962 and impose penalties on the appellant under Section 114A/112(a) of the Customs Act, 1962.

3. On adjudication, all the proposals made in the three show cause notices dated 13.09.2012, 10.09.2012 and 17.10.2012 were confirmed *vide* Orders-in-Original No. 36776 dated 20.04.2015, 38332 dated 26.05.2015 and

36775 dated 20.04.2015 respectively, resulting in confirmation of demand of duty along with applicable interest and imposition of penalties of Rs.3,00,000/- and Rs.1,50,000/- respectively on the Appellant under Section 112(a) of the Customs Act, 1962 for rendering the impugned goods imported under 30 bills of entry as detailed in the two show cause notices dated 13.09.2012 and 17.10.2012 liable for confiscation under section 111(m) of Customs Act, 1962, but no fine was imposed as the goods were not available for confiscation. Being aggrieved by the same, the appellant preferred appeals before the first appellate authority. The first appellate authority upheld the Orders-in-Original and rejected the appeals. Hence, the present appeals filed before this forum.

4.1 The Ld. Advocate Mr. S. Murugappan appeared and argued for the appellant and submitted that in terms of Note 2(e) to Section XVII, the word articles mentioned therein do not apply to heading 8481 or 8482. However, the Original Adjudicating Authority has observed that the articles mentioned under Note 2(e) to Section XVII of Customs Tariff Act 1975 also refers to Articles of heading 8481 or 8482. Classifying the subject goods under tariff heading 87087000, which is against the provisions of Customs Tariff Act 1975 and contrary to the section notes and chapter notes provided under Chapter 84 and 87.

4.2 He further submitted that in paras-17 and 18 of Orders-in-Original No. 36776 dated 20.04.2015 and 36775 dated 20.04.2015, the original authority has observed that "I am of the considered view that such assemblies may not be brought under the heading 8482. In the absence of any entry therein under heading 84.82, obviously in terms of Note 3 in section XVIII, the appropriate classification of these assemblies with sub parts and or accessories, shall be under the heading 87087000, as proposed in the Show Cause Notice." The lower appellate authority in paras(2) vide page Nos. 6 of Orders-in-Appeal C. Cus-II No. 706/2015 dated 30.08.2015 and C. Cus-II No. 821/2015 dated 03.09.2015 and para(2) vide page No. 5 of Order-in-Appeal No. C. Cus-II No. 820/2015 dated 03.09.2015 has observed that "At this juncture, it is useful to refer the sub-heading notes (Chapter-84) which is extracted as below : sub-heading (of chapter-84) applies only to bearings with cylindrical rollers of a uniform diameter not exceeding 5 mm and having a length which is at least three times the diameter. The ends of the rollers may be rounded". Accordingly the claim of the Appellant for classification under CTH 8482 was rejected. The original authority without ascertaining the correctness of classification has assumed that imported goods may not fall under CTH 8482. The Lower appellate authority could not categorically confirm the imported goods under heading 87087000, but rejected the appellant's claim on the ground of insufficient details as mentioned in his findings, which was not one of the grounds for issue of show cause notice.

4.3 The Learned Advocate averred that the specification required for classifying the goods under tariff heading 848240 is made for Needle Roller Bearings. However the imported goods are not Needle Roller Bearings as assumed by the lower appellate authority. Therefore the rejection of classification of bearing under 84822090 by the lower appellate authority is against the tariff heading which is specifically provided for roller bearing. Apart from that, the lower appellate authority has created new ground, which was not mentioned in the Show Cause Notice for rejecting the Appellant's contention. Therefore the lower appellate authority has traversed beyond the scope of show cause notice and confirmed the original adjudicating authority's order on different ground which was not mentioned in the Show Cause Notice which is against the settled law.

4.4 Referring to Rule 3(a) of General Rules for Interpretation of first schedule to the customs import tariff, Learned Advocate submitted that the heading which provides for most specific description shall be preferred to headings that provide more general description. He submitted that in the instant case, roller bearings are specifically covered under 84822090, whereas the tariff heading 87087000 covers road wheels, parts and accessories thereof, which are not very specific but they are very generic in description and therefore the tariff heading 84822090 which covers the roller bearing shall be preferred to heading 87087000, and accordingly, the goods imported by the Appellant are classifiable under tariff heading 84822090 and it has been rightly classified.

4.5 Placing reliance on the case of *U.P.National Manufacturers Limited vs. Commissioner of Customs, Calcutta reported in 2001 (134) E.L.T. 164 (Tri. – Kolkata)* wherein while deciding the correct classification of imported ball bearing, the Tribunal observed that "mere fact that the same are required to be used for electric motors, will not shift their classification from Chapter 84 to Chapter 85" and held that "Ball bearing imported, intended to be used as part of electric motor classifiable under sub-heading 8482.10 of Customs Tariff Act 1975 and not under heading 8503", the Learned Advocate argued that in the same manner, even though the goods imported are meant for motor vehicle use, the imported bearings are classifiable under Tariff Heading 84822090.

4.6 Regarding imposition of penalties on the Appellant, the Learned Advocate contended that the issue involves interpretation in classifying the goods imported by the Appellant and therefore, the question of imposing penalties would not arise. In this regard, he relied upon the case of *Indu Nissan Oxo Chemical Industries vs. Commissioner of Customs, Kandla [2013 (290) E.L.T. 299 (Tri. – Ahmd.)].*

5. *Per contra*, the Ld. Authorized Representative Ms. Rajni Menon, for the Revenue supported the findings in the impugned order and submitted that the contention of the Appellant is wholly dependent on the submission that the goods are bearings whereas the impugned goods imported by the Appellant are bearing assembly which is not a bearing but assembly of many sub parts, including bearing, which is ready to be fitted into wheels. She submitted that in terms of Note 3 to Section XVII of the Customs Tariff, the appropriate classification of these assemblies with sub parts and or accessories is heading 8708700 and not under heading 8482 and hence, impugned order, may kindly be upheld.

6. Heard both sides and perused the appeal records.

7. The issues for consideration in these appeals are: -

i. Whether the goods imported by the appellant are classifiable under CTH 8482 or CTH 8708; and
ii. If the impugned goods are classifiable under CTH 8708, whether penalty is imposable on the Appellant or not.

8. The Appellant contended that the impugned goods are classifiable under Chapter 84 whereas the original adjudicating authority has classified them under Tariff Heading 8708 as parts and accessories of motor vehicle, which has been affirmed by the LAA in the impugned orders.

9. Appellant contended that the imported items do not fall under Chapter 87 as the word "articles" mentioned in clause 2(e) of Note 2 to Section XVII does not apply to heading 8481 or 8482. Another contention of the Appellant is that in terms of Rule 3(a) of General Rules for Interpretation of First Schedule to the Customs Import Tariff Act 1975, the heading which provides for most specific description shall be preferred to headings that provide more general description.

10. Classification of imported goods is governed by General Rules for Interpretation of Customs Tariff (hereinafter referred to as GIR). Rules 1 and 3(a) of GIR read as follows: -

> *"1. The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions :*
>
> *3. When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows :*
>
> *(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods."*

Appellant has relied on rule 3(a) of GIR. However, it is seen from rule 1 of GIR that before proceeding to rule 3(a) of GIR, it is necessary to go through relevant Section or Chapter Notes of Customs Tariff.

11. Appellant's claim is that the goods are classifiable under CTH 8482 and thereby excluded from CTH 8708 in terms of clause 2(e) of Note 2 to Section XVII which reads as under: -

> *"2. The expression "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) ---------------*
> *(b) ----------------*

(c) --------------------
(d) --------------------
(e) Machines or apparatus of headings 8401 to 8479, or parts thereof; articles of heading 8481 or 8482 or, provided they constitute integral parts of engines or motors, articles of heading 8483;"

However, it is observed that the classification claimed by the Appellant, *viz*. CTH 8482, falls under Chapter 84 of Customs Tariff which in turn falls under Section XVI thereof. Therefore, notes to Section XVI are as much relevant for determination of classification of the impugned goods as notes to Section XVII.

Note 1(l) to Section XVI of Customs Tariff read as under:

"1. This Chapter does not cover:
(a) to (k) ---
(l) Articles of Section XVII;"

Thus, in terms of Note 1 (l) to Section XVI, goods falling under Section XVII are excluded from Section XVI of Customs Tariff which inter-alia covers Chapter 84 thereof, which includes CTH 8482.

12. The competing entries in this classification dispute, *viz*. CTH 8708 and 8482, fall under chapters 87 and 84 of Customs Tariff respectively. Goods of Section XVII, which inter-alia covers Chapter 87, are excluded from Section XVI on account of Note 1(l) to Section XVI whereas goods of Section XVI, which *inter-alia* covers Chapters 84, are excluded from Section XVII on account of Note 2(e) of

Section XVII. Thus, Note 1(l) of Section XVI and Note 2(e) of Section XVII are not sufficient to determine classification of the impugned goods as each Section excludes goods of other Section in terms of relevant Section Notes. Hence, as held by the Hon'ble Supreme Court in the case of *G.S. Auto International Ltd. Versus Collector of C. EX., Chandigarh [2003 (1) TMI 700 - Supreme Court],* in interpreting the exclusion clause contained in Note 2(b) of Section XVII, Note 3 to Section XVII should also be pressed into service to classify the impugned goods. There, the Hon'ble Supreme Court further held as under: -

> *"22. So far as Civil Appeal No. 5711 of 1999 is concerned, the classification of goods was done under the Central Excise Tariff Act, 1985 (for the post-1986 period). The competing Heading numbers are 73.18 and 87.08, which read as under :*

Heading No.	*Sub-Heading No.*	*Description of goods*	*Rate of duty*
(1)	*(2)*	*(3)*	*(4)*
73.18		*Screws, bolts, nuts, coach-screws, screw-hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel*	
	7318.10	*-Threaded articles*	*20%*

Heading No.	*Sub-Heading No.*	*Description of goods*	*Rate of duty*
(1)	*(2)*	*(3)*	*(4)*
87.08	*8708.00*	*Parts and accessories of the motor vehicles of heading Nos. 87.01 to 87.05*	*20%*

> *23. Now, we shall refer to the relevant notes under Sections XVII and XV respectively.*

Notes 2(b) and (3) of Section XVII read 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) xxx xxx*
>
> *(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);"*
>
> *"3. References in Chapters 86 to 88 to 'parts' or 'accessories' do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part of accessory."*

24. Section XVII deals with Vehicles, Aircraft, Vessels and Associated Transport Equipment. Note 2 says that the expression "parts" and "parts and accessories" do not apply to the articles mentioned in clauses (a) to (l) thereunder. In clause (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), are mentioned. This takes us to Note 2(a) to Chapter XV, which provides that throughout that Schedule, the expression "parts of general use" means:

> *"(a) Articles of Heading No. 73.07, 73.12, 73.15, 73.17 or 73.18 and similar articles of other base metal; "*

25. Note 3 says that references in Chapters 86 to 88 to 'parts' or 'accessories' do not apply to parts or accessories which are not suitable for use solely or primarily with the articles of those chapters and that a part or accessory which answers to a description in two or more headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part of accessory.

26. A conjoint reading of the Notes, referred to above, would show that the expression "parts of general use" throughout the Schedule, means, inter alia, articles of Heading No. 73.18 and similar articles of other base metal; and the expression 'part and accessories' in Chapter Heading 87.08 does not apply to parts or accessories which are not suitable for use solely or primarily with articles of Chapter Heading 87.08 which pertains to parts and accessories of motor vehicles of Chapter Heading Nos.

> *87.01 to 87.05. For the purposes of classification under Chapter Heading 87.08, the test to be applied is: whether the goods are suitable for use solely or primarily with articles of Chapter Heading Nos. 87.01 to 87.05; if the answer is in the affirmative, the goods will be classifiable under Chapter Heading 87.08, but if the answer is in the negative, they would have to be classified under Chapter Heading No. 73.18. Having regard to the finding that the goods in question cannot but be regarded as parts of automobiles, it has to be held that they are suitable for use primarily with articles of Chapter Heading Nos. 87.01 to 87.05. It follows that the goods in question cannot be treated as falling under Chapter Heading No. 73.18 and that they can properly be classified under Chapter Heading No. 87.08 of the Central Excise Tariff Act, 1985."*

13. To similar effect is the decision of the Hon'ble Supreme Court in the case of *M/s. Cast Metal Industries (P) Ltd. Versus Commr. Of Central Excise-IV, Kolkata [2015 (11) TMI 833 - Supreme Court],* wherein reliance was placed on the decision of Hon'ble Supreme Court in the case of G.S. Auto International Ltd. (*supra*), to hold that in deciding classification of parts or accessories which are suitable for use solely or primarily with articles of Chapter Heading 87.08 which pertains to parts and accessories of motor vehicles of Chapter Headings 87.01 to 87.05, the test to be applied is : 'whether the goods are suitable for use solely or primarily with articles of Chapter Headings 87.01 to 87.05' and the hinges and handles which are specifically meant for motor vehicle as its parts, are the parts and accessories of the motor vehicles classifiable under Chapter Heading 8708.00 and merely because they are hinges and handles, these, by

itself, cannot be treated as accessories or fittings of furniture classifiable under Chapter Heading 8302.00 as the use of the aforesaid items is specifically for motor vehicles and cannot be used generally for any other product much less furniture. The relevant portion of the said judgment in the case of *M/s. Cast Metal Industries (P) Ltd. Versus Commr. Of Central Excise-IV, Kolkata [2015 (11) TMI 833 - Supreme Court]* is reproduced below: -

> *"The goods in question are motor vehicles hinges and handles. The assessee is the manufacturer of motor vehicles parts which were supplied by the assessee to M/s. Tata Motors Limited, M/s. Hindustan Motors Limited and M/s. Mahindra & Mahindra Limited, the original equipment manufacturers. It is not in dispute that these motor vehicles hinges and handles are manufactured by the assessee on the basis of specifications given by the clients in the form of designs as well as part number. It is also not in dispute that the hinges and handles are used only in the motor vehicles which are manufactured by the aforesaid manufacturers of the motor vehicles. In this backdrop, the question that fell for consideration is as to whether the goods are classifiable under Chapter Heading 8302.00 or Chapter Heading 8708.00. The two competing entries read as under:*

87.08	*8708.00*	*Parts and accessories of the motor vehicles of heading Nos. 87.01 to 87.05*	*15%*
83.02	*8302.00*	*Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, sadder, trunks, chests, caskets or the like; base metal hat-racks, hat-pegs, brackets and similar fixtures; castors with mountings or base metal; automatic door closers of base metal.*	*18%*

> *It becomes manifest from the reading of the aforesaid two entries that whereas parts and accessories of motor vehicles are covered by Entry No. 8708.00, Chapter Heading 8302.00 deals with furniture fittings. Therefore, one can clearly find that the goods in question, which are specifically meant for motor vehicle as its parts, are the parts and accessories of the motor vehicles and merely because they are hinges and handles, these, by itself,*

cannot be treated as accessories or fittings of furniture as the use of the aforesaid items is specifically for motor vehicles and cannot be used generally for any other product much less furniture.

Mr. S.K. Bagaria, learned senior counsel appearing for the assessee, has submitted that the parts hinges and handles which are manufactured by the assessee meant for the motor vehicles have certain specifications which are as follows:

> *"DOOR HANDLE FOR MOTOR VEHICLES.*
>
> > *a) It works in conjunction with inside design of the door locking system of the motor vehicles.*
> >
> > *b) It is manufactured strictly conforming to the designs and drawings of the concerned model of the vehicle as supplied by the motor vehicle manufacturers.*
> >
> > *c) On the exterior portion of the door handle, there is a push button. If it is pushed, the mechanism inside the vehicle hits and pushes the plate in the locking system. Thereby the locking mechanism inside the door panel enables the door to open.*
> >
> > *d) If it is the door handle for driver's door, it is provided with lock and key.*
> >
> > *e) In the motor vehicle manufacturer's drawing/design, part number of the handle is mentioned. This part number is also mentioned in the purchase orders as well as in the Invoices raised by the Appellant.*
> >
> > *f) The appellant manufactured door handles for the motor vehicles manufactured by three motor vehicle manufacturers, viz. Tata Motors Limited, Hindustan Motors Limted and Mahindra & Mahindra Ltd.*
>
> *HINGES FOR MOTOR VEHICLES*
>
> *a) Hinges were manufactured as per the designs and drawings of the concerned model of motor vehicle as supplied by the motor vehicle manufacturers.*
>
> *b)These were for being fitted on the outside portion of the bonnet and dickey of the motor vehicles.*
>
> *c) These performed the function of enabling lifting of bonnet and dickey portions manually and at the*

> *same time preventing the said portions from going further back and hitting the main body of the vehicle.*
>
> *d) These were of the precise sizes and designs of the concerned models of the motor vehicles and at the same time the curve given to these parts precisely matched the curve of the body of the motor vehicle at bonnet and dickey portions. The objection was that these can precisely rest without any gap on the body of the motor vehicle."*

The aforesaid factual position is neither disputed nor it can be disputed by the Department. Notwithstanding the aforesaid position, we find that the Commissioner as well as the Tribunal have classified the goods under Chapter Heading 8302.00 by relying upon the Explanatory Note under Heading 83.02. This Note read as under:

> *"This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, doors, windows, coach work etc. Goods within such general classes remain in this heading even if they are designed for particular uses (e.g. door handles or hinges for automobiles). The heading does not, however, extend to goods forming as essential part of the structure of the article, such as window frames or swivel devices for revolving chairs."*

On the face of it, this note would not be applicable as it is HSN Note which has diversion with the relevant entry and as the very first line thereof mentions that it covers those goods which are meant for "general purpose". In the instant case, as already pointed out above, the goods in question are meant for specific purpose viz. in the motor vehicles that too for specific model of the motor vehicles as its parts.

We also find that the issue is squarely covered by the judgment of this Court in the case of G.S.Auto International Limited vs. CC Excise, Chandigarh[2003(2) SCC 371]. In the said judgment, following the earlier decisions of this Court, the Court specifically held that to determine the applicability of the item under particular head, the test of commercial identity of the goods would be the relevant test and not the functional test. It was also held that the expression "parts of general use" would not apply to parts or accessories which are not suitable for use solely or primarily with articles of Chapter Heading 87.08 which pertains to parts and accessories of motor vehicles of Chapter Headings 87.01 to 87.05. The Court was also categorical that in such a case the test that is to be applied is: 'whether the goods are suitable for use solely or primarily with articles of Chapter Headings 87.01 to 87.05'. It is strange even when the judgment was specifically

> *brought to the notice of the Tribunal and is taken note of, but the same was not dealt with by the Tribunal in the impugned judgment at all.*
>
> *We are of the opinion that the aforesaid judgment clinches the issue in favour of the appellant/assessee herein. Accordingly, the impugned judgment of the Tribunal is set aside and this appeal is allowed with no order as to costs."*

14. It is not in dispute that the impugned goods are used solely as parts of motor vehicles. In the letter dated 09.11.2012 submitted to the original adjudicating authority in reply to the Show Cause Notices issued from file Nos. (i) TA/112074/03.09.2012-Gr.5 dated 13.09.2012, and (ii) TA/112090/01.10.2012-Gr.5 dated 17.10.2012 which culminated in orders-in-original No. 36776/2015 dated 20.04.2015 and 36775/2015 dated 20.04.2015 and subsequently in orders-in-appeal No. C.Cus.II No. 706/2015 dated 30.08.2015 and C.Cus.II No. 821/2015 dated 03.09.2015 respectively, Ld. Advocate for the Appellant has submitted that "*The bearing assemblies in question are Rotation Parts used respectively in Car Rear Drum assembly and Front Wheel Axle Assembly. The bearing assembly consists of sub-parts assembled together. The sub parts are inner race, outer race, balls and retainer. Our clients receive this bearing assembly from Korea and manufacture Rear Drum assembly and Axle assembly in their plant*."

Further, in para 2 of page 5 of order-in-appeal No. C.Cus.II No. 706/2015 dated 30.08.2015, para 3 in page 4 of order-in-appeal No. C.Cus.II No. 820/2015 dated 03.09.2015 and para 2 in page 5 of order-in-appeal No. C.Cus.II No. 821/2015 dated 03.09.2015, LAA has observed that *"There is no dispute regarding the description of the subject goods viz., HA RR GEN.1 ASSY (BRG ASSY) / MC FRT BRG ASSY". In short, impugned goods are "bearings assembly". In the Invoice dated 23.09.2011 and 01.10.2011, the description of goods was mentioned as "Automotive Components". The impugned goods are in the form of "ball bearing assembly of the rear drum assembly for motor vehicles". Since, the impugned goods are used as automotive components of the vehicles/cars it is obvious that the impugned goods were imported for use in the car wheels to ensure the smooth movement of car wheels by reducing the axle-wheel friction and also used in car rear drum assembly for rotation. Thus imported goods are used in the car wheels as (car) parts only. Thus it becomes an admitted fact by the appellant that the imported goods viz. ball bearing assembly are used in the car rear drum assembly for rotation of wheels of motor vehicles/cars that goes with metal to metal by reducing the friction to smooth movement."*

As there is no dispute that the impugned goods are used solely as parts of motor vehicles, applying the ratio of *G.S. Auto International Ltd. Versus Collector of C. EX., Chandigarh [2003 (1) TMI 700 - Supreme Court]* and *M/s. Cast Metal Industries (P) Ltd. Versus Commr. Of Central Excise-IV, Kolkata [2015 (11) TMI 833 - Supreme Court],* the impugned goods are appropriately classifiable under CTH 87087000. Therefore, the first issue is decided in favour of Revenue and against the Appellant. While doing so, it is also noted that as done by the Hon'ble Supreme Court in G.S. Auto International Ltd. [*supra*], the original adjudicating authority has also applied note 3 to Section XVII (erroneously mentioned as Section XVIII in the orders-in-original as Section XVIII of HS Nomenclature 2012 Edition does not contain any Section Notes – it only has Chapter Notes for Chapters 90, 91 and 92) for deciding the issue of classification of the impugned goods, as seen from the following identical findings in paras 16 to 18 of order-in-original No. 36776/2015 dated 20.04.2015 and paras 15 to 17 of Order-in-Original No. 36775/2015 dated 20.04.2015: -

> *"16. The advocate, in his reply dated 09.11.2012 (in para 3) has submitted that the bearing assemblies in question (HARR Gen 1 Assy (Bearing Assy) and M.C. font Bearing Assembly) are rotation parts used respectively in Cars rear drum assembly and front wheel assembly; These imported two assembly consists of sub parts assembled together to produce the above assemblies.*
>
> *17. Now the Question is, whether the above "assemblies" with the sub parts and others in the technical write up, which reveals that these consist of sub parts mentioned in*

> *the write up (inner race, outer race, Balls, and retainer) used in Car drum Assy with sketches could be accommodated as Articles under heading 8482 which has coverage on "Ball and Roller Bearings" as specified Articles, with specifications in the eight digit headings, with separate eight digit level for balls, rollers, needles.*
>
> *18. I am of the considered view that such assemblies may not be brought under the heading 8482. In the absence of any entry therein under 84.82 obviously in terms of Note 3 in Section XVIII, the appropriate classification of these assemblies with sub parts and or accessories, shall be under the heading 87087000, as proposed in the SCN."*

15. Having decided the first issue in favour of Revenue, it becomes imperative to take up the second issue of imposition of penalties on the Appellant. While the Learned Advocate for the Appellant has relied upon the case of *Indu Nissan Oxo Chemical Industries vs. Commissioner of Customs, Kandla [2013 (290) E.L.T. 299 (Tri. – Ahmd.)]* to contend that the issue involves interpretation in classifying the goods imported by the Appellant and therefore, the question of imposing penalties would not arise, it is observed that out of the three orders-in-original which are in dispute, the original adjudicating authority has imposed penalty on the Appellant in two cases, *viz*. Order-in-Original No. 36776 dated 20.04.2015 and 36775 dated 20.04.2015 but penalty has not been imposed on the Appellant in one case, viz. order-in-original No. 38332/2015 dated 26.05.2015 and the department has not filed any appeal against non-imposition of penalty in order-in-original No. 38332/2015 dated 26.05.2015. Thus, it is apparent that even the department is

of the view that the issue involved does not warrant imposition of any penalty on the Appellant. Further, it is observed that LAA has upheld the imposition of penalty on the ground that the Appellant has to bear the consequences of a wrong classification and distinguished the case of Indu Nissan Oxo Chemical Industries (*supra*) cited by the Appellant on the ground that there, confiscation itself was set aside whereas in the case of Appellant, the order of confiscation has been upheld. In other words, LAA has found his own order of upholding confiscation on account of wrong classification as the reason to distinguish the judgment of Hon'ble Tribunal that the question of imposing penalties would not arise when the issue involves interpretation in classifying the goods. Thus, LAA has found his own judgment to be superior to the judgment of Hon'ble Tribunal on the same issue of confiscation of goods on account of wrong classification and consequently, distinguished the judgment of the Hon'ble Tribunal on the issue of imposition of penalty for wrong classification of goods. Judicial discipline demands that the lower appellate authority should have followed the judgment of the Hon'ble Tribunal and set aside the penalty imposed on Appellant. Therefore, the penalties of Rs. 3,00,000/- and Rs. 1,50,000/- imposed on the Appellant under Section 112(a) of the Customs Act, 1962 are set aside.

16. In view of the foregoing discussions, the substantive issue of classification is decided in favour of Revenue and against the Appellant. The issue of imposition of penalties is decided in favour of the Appellant and against Revenue.

17. The Ld. Advocate has raised the issue that LAA has traversed beyond the scope of show cause notice and confirmed the original adjudicating authority's order on different ground which was not mentioned in the Show Cause Notice. It is observed that the LAA has decided the classification based on the fact that the impugned goods are parts of car by taking into account the specific design and function of the goods, as evident from the following extracts from the impugned orders: -

> *"I have carefully gone through the facts of the case, Order in Original and records. In the instant case the issue to be seen is whether the imported goods fall under the CTH 8482 2090 or 87087000. There is no dispute regarding the description of the subject goods viz., HA RR GEN.1 ASSY (BRG ASSY) / MC FRT BRG ASSY". In short, impugned goods are "bearings assembly". In the Invoice dated 23.09.2011 and 01.10.2011, the description of goods was mentioned as "Automotive Components". The impugned goods are in the form of "ball bearing assembly of the rear drum assembly for motor vehicles". Since, the impugned goods are used as automotive components of the vehicles/cars it is obvious that the impugned goods were imported for use in the car wheels to ensure the smooth movement of car wheels by reducing the axle-wheel friction and also used in car rear drum assembly for rotation. Thus imported goods are used in the car wheels as (car) parts only. Thus it becomes an admitted fact by the appellant that the imported goods viz. ball bearing assembly are used in the car rear drum assembly for*

> *rotation of wheels of motor vehicles/cars that goes with metal to metal by reducing the friction to smooth movement."*
>
> *"I hold that the being parts of car the imported goods are appropriately classifiable under CTH 8708 as parts of (automotive components) car. Only after ruling out the CTH relevant for bearings, the goods were classified as parts of vehicles/cars taking its function into account. These bearings are specifically designed, tested and manufactured to work as part of road wheel of motor vehicles/car only."*

The Lower Adjudicating Authorities had also decided the issue of classification of the goods by considering the impugned goods imported by the Appellant as bearing assembly which is not a bearing but assembly of many sub parts, including bearing, which is ready to be fitted into wheels, as evident from the following extracts from the Orders-in-Original:

Extracts from Order-in-Original No. 38332/2015 dated 26.05.2015: -

> *"9. In a nutshell, the issue involved herein is about classification of the goods imported vide Bill of Entry No.5201023 dated 16.11.2011 and declared as "HA RR Gen1" (Bearing Assembly) and "MC FRT BRG Assembly". I have to decide as to whether the said goods are correctly classifiable under heading 84822090 as applicable to tapered Roller Bearing and as availed by the importer or under 87087000 (as parts of Road Wheels of motor vehicle), as proposed by the department vide show cause notice dated 10.09.12.*
>
> *10. Though Advocate stated in his reply dated 09.11.012 (In para 5(i)) there is no dispute that the goods are bearings is not true. The Show Cause Notice came into existence because the department is of the opinion that the goods are not bearings but assembly of many sub parts which is ready to be fitted into wheels. I find that the contention of the importer is wholly dependent on the submission that the goods are bearings where as I find that the goods are bearing assembly which is not a bearing but assembly of many parts including bearing. Hence the*

submissions made by the importer are unfounded in my opinion. The goods can be classified as bearings under heading 8482 rather they are identifiable part of road wheels for automotive and deserve to be appropriately classifiable under heading 870870."

Extracts from Orders-in-Original No. 36775 dated 20.04.2015 and 36776 dated 20.04.2015: -

"Now the Question is, whether the above "assemblies" with the sub parts and others in the technical write up, which reveals that these consist of sub parts mentioned in the write up (inner race, outer race, Balls, and retainer) used in Car drum Assy with sketches could be accommodated as Articles under heading 8482 which has coverage on "Ball and Roller Bearings" as specified Articles, with specifications in the eight digit headings, with separate eight digit level for balls, rollers, needles."

"I am of the considered view that such assemblies may not be brought under the heading 8482. In the absence of any entry therein under 84.82 obviously in terms of Note 3 in Section XVIII, the appropriate classification of these assemblies with sub parts and or accessories, shall be under the heading 87087000, as proposed in the SCN."

It is observed that the adjudicating authorities and the LAA have decided the classification by taking into account the description, form and function of the goods. Therefore, there is no doubt that the impugned orders were passed by LAA only after taking into consideration all the grounds on which the show cause notices were issued and the orders-in-original were passed.

18. In view of the above findings, Appeal Nos. C/42419/2015 and C/42421/2015 are partly allowed and the appeal No. C/42420/2015 is rejected. Accordingly, Orders-in-Appeal No. C.Cus-II No. 706/2015 dated 30.08.2015 and

C.Cus-II No. 821/2015 dated 03.09.2015 are modified to set aside the penalty imposed on Appellant. Order-in-Appeal No. C.Cus-II No. 820/2015 dated 30.09.2015 is upheld.

(Order pronounced in open court on 27.03.2026)

Sd/-	Sd/-
(VASA SESHAGIRI RAO)	**(P. DINESHA)**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)

MK