CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 41878 of 2016

(Arising out of Order-in-Original No.265/2016-AIR dated 30.03.2016 passed by the Principal Commissioner of Customs, Chennai-VII, New Custom House, Meenambakkam, Chennai 600 016.)

M/s.Johnsons Control Pricol Pvt. Ltd. **.... Appellant**
(now Pricol Pune Ltd.),
Survey No.1065 & 1066,
Pirangut, Tal. Mulshi District,
Pune,
Maharashtra 412 215.

VERSUS

The Principal Commissioner of Customs, **... Respondent**
New Custom House,
Meenambakkam,
Chennai 600 016.

APPEARANCE :

Shri M. Karthikeyan, Advocate
Ms. B. Amritha, Advocate,
Ms. A. Mahimashree, Advocate for the Appellant

Shri Sanjay Kakkar, Authorized Representative
for the Respondent

CORAM :

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

FINAL ORDER No.40605/2026

DATE OF HEARING : 13.02.2026
DATE OF DECISION :26.05.2026

Per: Shri P. Dinesha

This Appeal is filed by M/s.Johnsons Control Private Ltd., the Appellant herein, against Order-in-Original No.265/2016 dated 30.03.2016 passed by the Principal Commissioner of Customs, Chennai-VII. The issue involves the classification of 'LCD panels' imported by the Appellant and the relevant and necessary facts as could be gathered from the documents placed on record and upon hearing both the parties are as under:

2. The Appellant admittedly had imported LCD panels to be used in the manufacture of Automotive Instrument Clusters (AIC) by classifying the same in the relevant Bills of Entry under CTH 9013 which attracted NIL rate of duty. The Revenue taking a cue from the intelligence and the investigation conducted by the Delhi Zonal Unit of DRI, was of the view that the subject goods that is 'LCD panels' which are essentially the integral parts of AIC, are required to be classified under CTH 87089900 / 87149010 as parts of

motor cars/motor cycles/commonly referred to as 'motor vehicles' and hence, the Appellant–Importer had deliberately misdeclared the subject goods as 'Liquid Crystal Display' instead of describing it as 'essential and integral parts of clusters' and thereby evaded Customs duty. Based on the alleged evidence gathered during investigation, it appears that a SCN dated 12.05.2014 was issued on the grounds that the LCD panels were customized/designed as per the specifications and requirements of vehicle manufacturers and, therefore, cannot be used for any application other than in the manufacture of Cluster/AIC for motor vehicles and model numbers for which they are designed; CTH 9013 covers 'Liquid Crystal Devices' not constituting articles provided for more specifically in other Headings, thereby indicating that the above Heading is in the nature of a residual entry i.e the classification under this Heading is ruled out if the goods are more specifically covered in any other Heading or Entry; by application of Section Note 3 to Section XVII of the CTA, the subject goods being designed and suitable only for use solely with AIC, merits classification under CTH 8708 / 8714 as 'parts and accessories for motor vehicles' as this Headings are more specific; classification of Clusters i.e AIC under Chapter Heading 8708 as 'parts and accessories of motor vehicles' has also been clarified by CBEC *vide* Circular No.341/57/97–CX dated 07.10.1997 and even the Delhi Bench of the Tribunal in the case of **CCE, Delhi Vs Premier Instruments and Controls Ltd.** [2000 (123) ELT 657 (Tri.) followed in 2004 (174) ELT 49 (Tri.-Chennai)] has also settled the issue of classification; with the introduction of self-assessment scheme from 08.04.2011, it is the responsibility of the Importer to declare the correct description to correctly classify and pay the duty; in the Bills of Entry filed at the time of import, the Appellant did not give complete description of the goods, which only read as 'Liquid Crystal Device' and in some cases, numbers were added, but without indicating the intended purpose/usage of the subject goods; the classification of subject goods is dependent on the sole use as the LCD panels being imported, the correct classification could not have been determined based on generic description without there being any hint or divulgence as to the usage of the goods in question; other importers have been importing similar items by correctly classifying them under CTH 8708 by also giving clear and complete descriptions by mentioning the imported LCD for use as 'automotive parts'; there is deliberate suppression of correct description by the

Appellant here and the classification of the subject goods is also wrong, which only shows the intention to declare/suppress with intent to evade payment of appropriate Customs duties on the part of the Appellant, which justifies the invocation of extended period of limitation under Section 28 (4) of the Customs Act, 1962 and making the goods liable for confiscation under Section 111 (d) and 111 (m) *ibid*; and also entailing action under Sections 112, 114A and 114AA *ibid*.

3. It appears that the Appellant responded to the SCN by filing a detailed reply and thereby justifying its classification as declared, but however, the Adjudicating Authority confirmed the proposals made in the SCN on the following grounds:

➢ The Appellant who is a manufacturer of AIC, imported parts for the same through various ports, declaring the items imported as 'Liquid Crystal Device' in the Bills of Entry; adding numbers in some cases like LCD7 segment ++ ICONS SK01701 (ISI2300PF04) and classified them under CTH 9013;

➢ In the Bills of Entry filed by other importers which were considered by the investigating agency for comparison, the goods were declared clearly with other suffixes and prefixes e.g. Liquid Crystal Display (MPN: TJM4967) (17207) (Actual User–Liquid Crystal Display of Automotive Parts) and classified under CTH 8708 as 'Automotive parts';

- The Appellant did not mention in the Bills of Entry the usage of the items imported; the subject goods being meant solely or principally to be used in AIC, which is designed for a specific model of a car or two wheeler, the Appellant had not declared the correct description indicating the intended use at the time of import as mandated under Section 46 of the Act; CTH 90131010 does not cover LCDs constituting articles described more specifically in other Headings of the nomenclature, since the subject goods are designed for specific purpose and use solely or principally with motor vehicles, they go out of the purview of CTH 90131010;
- Section Note 3 of Section XVII – applicable to Chapter 87 reaffirms that headings relating to parts and accessories in Chapters 86 to 88 shall apply to those parts and accessories which are suitable for use solely or principally with articles of those chapters; classification of AIC has been settled by Board's circular dated 07.10.1997 and even the Chennai Bench of Tribunal in the case of **CCE Coimbatore Vs Premier Instruments & Controls Ltd.** [2004 (174)

ELT 49 (Tri.-Chennai)] has held that AIC is classifiable under Chapter 87, Note 2 to Chapter 90 does not apply to the subject goods since said note would not to apply to parts and accessories for goods under Chapter 90, thereby confirming classification of parts of AIC i.e LCD panels under Chapter 87089900 (motor cars) and 8714 9010 (motorcycles); in terms of Section 46 (1) of the Act, self–assessment of duty facilitated under Section 17 of the Act postulates correct and proper declaration of description and classification in addition to the valuation and exemptions, if any;

- Appellant has declared the description as well as the classification of the subject goods while self–assessing the import goods; the subject goods being parts and accessories of AIC for use solely or principally with motor vehicles are not articles of Chapter 90, thereby not being covered by Note 2 to Section XVII but governed by subsequent Note 3 to Section XVII; the Apex Court in the case of **Premier Instruments & Controls Ltd. Vs Commissioner** [2015 (321) ELT A130 (SC)] has dismissed the Civil Appeal filed by the Importer against Chennai Bench order (*supra*) and therefore, classification of AIC having attained finality, the same is to be followed; given the fact that classification of the subject goods being materially dependent on the sole use of the LCD panels, correct classification could not have been determined by the Assessing Officer on the basis of a merely general description without any hint as to the usage of the same, whereas description of the goods having been clearly given by the other importers indicating the actual usage as 'automotive parts' and classifying the LCD panels under CTH 8708 had enabled correct assessment and therefore the extended period of limitation was rightly invocable in this case;

- With the introduction of self-assessment procedure, burden is always on the Importer to declare the correct description and correct classification, determine the actual applicable duty as well; the mis-declaration and mis-classification is therefore done with a view to avoid payment of Basic Customs duty, which has resulted in short-payment of other duties of Customs, like CVD and SAD;
- With regard to the contention of the Appellant as to non-providing of certain materials/evidence brought out in the SCN, apart from furnishing copies of examination reports, etc. would not serve any purpose; the ratio of decision in **Priya Blue Industries Vs CC** [2004 (172) ELT 145 (SC) would not apply to the facts of the case, since in

the present case, it was found out during investigation that the Appellant had deliberately misdeclared the description and the classification as well by wilfully suppressing the facts in contravention of Sections 46 and 17 of the Act, thereby justifying the recovery under Section 28 (4) of the Act; the contention of the Appellant that no demand could be made under Section 28 of the Act without revising the assessment already done cannot be accepted in view of the judgement of the Apex Court in the case of **Union of India Vs Jain Shudh Vanaspati Limited** [1996 (86) ELT 460 (SC)] which decision has thereafter been followed in many cases.

4. The above order has been assigned in this Appeal; when the matter was taken up for hearing Shri M. Karthikeyan ld..Advocate appeared for the Appellant– Importer and Shri Sanjay Kakkar, ld. Deputy Commissioner defended the order of the Commissioner. In the Grounds of Appeal which is part of the Appeal Memorandum, the Appellant has prayed for setting aside the impugned demand on the following grounds:

➢ LCD finds specific mention in CTH 9013 and inasmuch as articles falling under Chapter 90 are specifically excluded from the expression 'parts and accessories' by Note 2 to

Section XVII, Note 3 therefore cannot be applied even when the subject goods are meant for use solely or principally with AIC; Import of the subject goods took place through four different ports and at the time of import, invoice copies of overseas buyers were filed in compliance with Section 46(4) of the Act and further, inspite of the subject goods being self-assessed, most of the consignments were subjected to physical examination, but no questions were raised in any of the ports. Disputing the classification despite there being a provision in Section 17 of the Act for assessment of self–assist goods within a time–line and in the absence of mis-declaration, the classification adopted by Appellant has to be accepted; even if it is accepted that the subject goods have not been correctly classified in the facts of this case, it is at the most misclassification or wrong classification and not misdeclaration as the description of the subject goods was in accordance with the description as given in the supporting documents. The difference between misclassification and misdeclaration has been considered and elaborately dealt with by the Hon'ble Karnataka High Court in the case of **CC Bangalore Vs A. Mahesh Raj** [2006 (195) ELT 261 (Kar.); the impugned order does not discuss the decision of Hon'ble Apex Court in the case of **Secure Metres Limited** [2015

(319) ELT 565 (SC)] irrelevant Tribunal decision finds mention in the SCN, in the said judgement the Apex Court has concluded that by virtue of Note 2 (a) to Chapter 90, 'parts and accessories' which are goods specifically mentioned in Chapter 90 would be classified under the respective headings and not as 'parts and accessories' by applying Note 2(a) of Chapter 90; Delhi Bench decision of the Tribunal in the case of **Samsung India Electronics** [2015 (326) ELT 161 (Tri.-Del)] is in their favour as Section Note (2) contains a provision similar to the one in Section XVI discussed by the Delhi Bench, that Section XVII applicable to Chapter 87 does not cover articles of Chapter 90; examination reports would have proved *bonafide* regarding the declaration made at the time of import and further supported the Appellant's contention that there was no suppression or *mala fide* intention; the ratio of Apex Court judgement in the case of **Priya Blue Industries** [2004 (172) ELT 145 (SC)] that once an order of assessment is passed, the duty is payable as per the order unless the order is taken on appeal and modified by the Appellate Authority; it has been held by the Tribunal in the case of **Mac & Megha Agro Equipments** (**P) Ltd. Vs CC Kochi** [2006 (199) ELT 260 (Tri.-Bang.] that once an assessment

is finalized and which has not been challenged, the question of reopening the assessment does not arise.

5. Sri Karthikeyan, learned Advocate while arguing for the Appellant contended that CTH 9013 being specific to LCDs and further Note 2 (g) to Section XVII excluding articles of Chapter 90 from the purview of Section XVII of Chapters 86–89, classifying the subject goods under CTH 8708 / 8714 is highly inappropriate. The ld. Advocate would also make a forceful submission that the description of the goods had been correctly stated which matched with the description in the invoices issued by the foreign suppliers, the subject goods having been physically examined in most of the cases before clearance and the Bills of Entry having been finally assessed, the impugned order would not stand legally both on merits as well as on limitation. In this regard, he has placed reliance on the following decisions:

(i) **Secure Meters Ltd. Vs CC New Delhi** [2015 (319) ELT 565 (SC)]

(ii) **CCE Aurangabad Vs Videocon Industries Ltd.** [2023 (384) ELT 628 (SC)]

(iii) **Surya Wires Pvt. Ltd. Vs Principal Commissioner, CGST Raipur** [2025 (4) TMI 441-CESTAT Delhi]

(iv) **Hyundai Trnsys India Pvt. Ltd. CC (Imports), Chennai II** [2025 (8) TMI 614-CESTAT Chennai]

(v) **MIRC Electronics Ltd.** Vs CC Raigad [2024 (4) TMI 729-CESTAT Mumbai]

(vi) **CCE Rajkot Vs Parajiya Industries** [2024 (8) TMI 259-CESTAT Ahmedabad]

(vii) **Rider Glass Industries Pvt. Ltd. Vs CC Chennai** [2024 (8) TMI 1346-CESTAT Chennai

(viii) **Prakash Kumar Sethia, M.D & Others Vs CC Airport & Aircargo Kolkata** [2025 (11) TMI 1734-CESTAT Kolkata]

(ix) **Kafila Forge Ltd. Vs CC Import) New Delhi** [2023 (7) TMI 1251 –CESTAT New Delhi]

(x) **Varroc Engineering Pvt. Ltd. Vs CC (Import), Nhava Sheva** [2019 (1) TMI 671 CESTAT Mumbai]

(xi) **Continental Automotive Components (India) Pvt. Ltd. Vs CC Bangalore** [2021 (378) ELT 215 (Tri.-Bang.)

6. Sri Karthikeyan also filed synopsis and urged that the allegation by the Commissioner that the Appellant did not provide actual description of the goods is incorrect since the description of the goods in the Bill of Entry is based on the documents like invoices provided by the foreign suppliers;

- The Appellant had been duly complying with statutory requirements for import of LCDs at various ports, but no question was ever raised regarding the classification till the issue was taken up by the DRI;
- LCDs are used as components in electronic clusters for two wheelers and four wheelers manufactured by them and each LCD is specifically designed according to the product specification;
- As per Note 2 (g) to Section XVII covering Chapters 86–89, the expressions 'parts' and 'parts and accessories' do not apply to articles of Chapter 90 whether or not such 'parts' and 'parts and accessories' are identifiable as goods of Section XVII;
- In view of this specific exclusion, Note 3 of Section XVII cannot be made applicable to the subject goods even if they are meant for use solely or principally with clusters for motor vehicles.
- No doubt, the shape and size of the imported panel is customized as per the specification provided by the Appellant to the foreign supplier, but such customization does not change the nature of the articles which remain as LCD panels only, based on Chapter Heading 9013 and HSN Explanatory Note for the said heading;

- LCD panels have therefore been rightly classified under CTH 9013;
- In view of the exclusion of articles under Chapter 90 from the scope of Section XVII in terms of note 2(g) to that Section, Board's clarification dated 07.10.1997 would not apply to the facts of the present case;
- In the case of **Videocon Industries Limited** (*supra*) it is held that LCD capable of being used in both television and computer monitors merited classification only under CTH 9013 and it has also been held that the Heading referring to 'parts' cannot be more specific than the Heading which covers 'LCD' specifically;
- The Appellant had complied with the requirements of provisions of Section 46 of the Act and also filed copies of invoices at the time of import as envisaged in subsection (4);
- Subject goods have been self-assessed as provided for in Section 17 of the Act, they have been invariably subjected to physical examination and no question was asked as regards classification while granting clearance;
- Section 17 of the Act empowers the Department to verify the self–assessment and order re-assessment when

suspected to have been mis-declared, has to be done within the time limit prescribed;

- The Appellant had been importing the subject goods for quite a long time adopting the same classification consistently which has now been disputed by the Department and, therefore, there cannot be any question as to any *malafides* on the part of the Appellant in so far as the classification is concerned and the charge of suppression therefore would not stand.
- In this regard, reliance has been placed on **Shri Ganesh International Vs CCE Jaipur** [2004 (174) ELT 171 (Tri.-Del)]; the law is settled that assessment of a Bill of Entry is an appealable order and the Department having not challenged the final assessment in the disputed Bills of Entry, duty is deemed to have been paid correctly as per the order of assessment, as held by the Apex Court in the case of **Priya Blue Industries Limited**, (*supra*), the ratio of which has been followed by various Benches across the country. The Hon'ble Bombay High Court in the case of **CC Mumbai Vs Finesse Creation** [2009 (248) ELT 122 (Bom.] has held that there can be no question of confiscation when goods are not available, which decision

has also been affirmed by the Apex Court and hence, the confiscation would not arise at all in this case.

7. *Per contra*, the learned Deputy Commissioner Shri Sanjay Kakkar relied on the findings given in the impugned order. He would also contend that in terms of Note 3 to Section XVII of the CTA being solely meant for use in AIC for four wheelers and two wheelers, classification of the LCD panels would fall under CTH 8708 / 8714 only as the entries are more specific than the Entry in CTH 9013, which is generic in nature. He would also contend that the omission in mentioning the vehicle–specific use in the Bill of Entry amounted to suppression, resulting in the subject goods being assessed to duty incorrectly by the Department. He would also place reliance on the following decisions :

(i) **G.S. Auto International Ltd. Vs CCE** [2003 (1520 ELT 3 (SC)]

(ii) **Pragati Silicons Pvt. Ltd. Vs CCE** [2007 (211) ELT 534 (SC)]

(iii) **Cosmic Dye Chemical Vs CCE Bombay** [1995 (75) ELT 721 (SC)]

(iv) **CCE Vs Chemphar Drugs & Liniments** [1989 (40) ELT 276 (SC)]

(v) **Northern Plastic Ltd. Vs CC** [1998 (101) ELT 549 (SC)]

(vi) **CCE Vs Mehta & Co**. [2011 (264) ELT 481 (SC)

(vii) **UOI Vs Rajasthan Spinning & Weaving Mills** [2009 (238) ELT 3 (SC)]

(viii) **UOI Vs Dharamendra Textile Processors** [2008 (231) ELT 3 (SC)

(ix) **Pratibha Processors Vs UOI** [1996 (88) ELT 12 (SC)]

8. We have heard the rival contentions, perused the documents placed in support; we have also carefully considered the various judicial decisions relied upon by both the parties. Upon hearing the rival contentions, following issues arise for our consideration:

(i) whether 'LCD panels' which are the subject matter of this Appeal imported by the Appellant merited classification under CTH 90138010 [as declared by the Appellant] or under CTH 87089900 / 87149010 as parts of motor vehicles/cars, and two wheelers [as classified by the Revenue] ?

(ii) Whether Appellant has misdeclared the description of the subject goods and thereby suppressed any information leading to incorrect assessment, justifying the invocation of larger period of limitation under Section 28 (4) of the Act?

9. It is not in dispute that LCD panels imported by the Appellant are solely meant for use in AIC manufactured by them which in turn find use as 'parts of motor vehicles' falling under CTH 8708/8714. To put it differently, LCD panel imported by Appellant is the component or part of AIC and the AIC would be the parts of motor vehicles. In this connection, we note the basic tenet of law that the goods should be assessed to duty in the condition in which they are imported and not how they become after their use. This view is drawn from the decision of Apex Court in **Dunlop India Limited & Madras Rubber Factory Ltd. Vs UOI & Others** [1983 (13) 1566 (SC)]. The relevant portion of the said judgement, as could be understood from para 30, reads as below:

> **"30.** The relevant taxing event is the importing into or exporting from India. Condition of the article at the time of importing is a material factor for the purpose of classification as to under what head, duty will be leviable. The reason given by the authority that V.P. Latex when coagulated as solid rubber cannot be commercially used as an economic proposition, as even admitted by the appellants, is an extraneous consideration in dealing with the matter. We are, therefore, not required to consider the history and chemistry of synthetic rubber and V.P. Latex as a component of SBR with regard to which extensive arguments were addressed by both sides by quoting from different texts and authorities."

10. Further, the jurisdictional Madras High Court has in the case of **CC (Port-Import) Chennai Vs Authority for Advance Rulings, Central Excise, Customs & Service Tax, New Delhi** [2025 (391) ELT 113 (Mad.) held as under :

> **"19.3** It has been repeatedly held that until all the components of the complete article are presented together for assessment at the same point of time, Rule 2(a) cannot be invoked to classify the parts as complete article. It has also been held that consignments removed/presented at different points of time from different factories cannot be clubbed together to classify the parts as complete article. The *sine qua non* for the application of this Rule is that any imported article, which is "as presented", must have the essential character of the "complete or finished article". It is also a settled position in law that the goods would have to be assessed in the form in which they are imported and presented on import and not on the basis of the finished goods manufactured after subjecting them to some process after the import is made. In this regard, it may be relevant to refer to the following judgments :
>
> (i) *Commissioner of Customs* v. *Sony India Ltd.*, reported in (2008) 13 SCC 145 = <u>2008 (231) E.L.T. 385</u> (S.C.) :
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> "23. We would, therefore, consider the implication of Rule 2(a). Rule 2(a) is as under :
>
> '**2.** (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.'
>
> The Learned ASG, therefore, suggests that the articles though were not the CTVs in CKD form and were incomplete or unfinished ones, they had the essential character of complete or finished CTVs and applying this Rule, every such component, would have to be taken as an import of CTV. The learned ASG heavily relied on the second part of the Rule, starting from words "It shall also to be taken to include a reference…." He says that every component

whether it is complete or finished and which is presented in unassembled or disassembled condition, would have to be taken as the finished article, like CTVs in this case. In our opinion, this argument is completely illogical and again that is not the import of the language of the Rule. If the argument of the Learned ASG has to be accepted, then we would have to concentrate only on the later part of the Rule, ignoring the first part of the Rule and such dissection, in our opinion, is not possible. The *sine qua non* for the application of this Rule is that any imported article, which is "as presented", must have the essential character of the "complete or finished article". This condition cannot be ignored and we cannot allow the reading only of the second part beginning with words "It shall also to be taken to include a reference…." for application of the Rule. The Rule must apply as a whole.

24. Learned ASG was not able to point out as to how the first condition can be satisfied in the present case. A mere PCB or a CRT, in our opinion, under any circumstances, cannot be held to have essential character of the CTV. *It is only when this first condition is satisfied that the remaining clause would have to be read and thereby, the words "that article" used in the later part would have to pass the test of the opening words of the clause "as presented, the incomplete or unfinished article has the essential character of the complete or finished article".* Once this condition is satisfied then the further clause is activated, suggesting that even when such article is in disassembled or unassembled condition, it would still be taken to be a complete article. *Therefore, essentially the second part would come into play provided the component parts intended to make up the finished product are all presented for customs clearance at the same time which is not the case here.*

xx xx xx

26. Again, the meaning of terms "as presented" in Rule 2(a) would clearly imply that the same refers to presentation of the incomplete or unfinished or unassembled or disassembled articles to the Customs for assessment and classification purpose. It is also a settled position in law that the goods would have to be assessed in the form in which they are imported and presented to the customs and not on the basis of the finished goods manufactured after subjecting them to some process after the import is made.'

(ii) *M/s. L.G. Electronic India Pvt. Ltd. and Others* v. *Commissioner, Central Excise, Noida-II,* reported in (2023) 6 Centax 183 (Tri. - All.) :

'15. The first issue that arises for consideration is regarding Interpretative Rules 2(a) of the Central Excise Tariff. The order of the Commissioner is based on this rule 2(a) and, therefore, it will be necessary to reproduce it and rule 1 also and they are as follows :

"The Schedule-Excise Tariff Rules for the Interpretation of the this Schedule

1. The titles of Sections and 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 provisions hereinafter contained.

2.(a) Any reference in a heading to goods shall be taken to include a reference to those goods incomplete or unfinished, provided that, the incomplete or unfinished goods have the essential character of the complete or finished goods. It shall also be taken to include a reference to those goods complete or finished (or falling to be classified as complete or finished by virtue of this rule), removed unassembled or disassembled.

(b) xx xx xx

16. *It would be clear that this rule can be applied only if all the components which form part of the assembly or complete or finished goods are removed together at the same point of time. Thus, unless and until all the component or parts which form part of the complete goods, which in the present case are CTVS, are removed together, rule 2(a) would have no applicability.*

17. It would also be useful to contrast this Interpretative Rules 2(a) with Interpretative Rules 2(a) of the Customs Tariff, which is identical with the only difference being that instead of "removed", the expression "presented" appears in the Customs Tariff. In regard to the applicability of rule 2(a) of the Customs Tariff to import of goods, it has been repeatedly held that until all the components of the complete article are presented together for assessment at the same point of time, rule 2(a) cannot be invoked to classify the parts as complete article. It has also been held that consignments removed/presented at different points of time from different factories cannot be clubbed together to classify the parts as complete article.'

[Emphasis supplied]"

11. Thus, construing the LCD as AIC and subjecting the LCD to assessment at the time of import as 'motor vehicle parts' under CTA, 1975 is wholly ill-founded. Therefore, at the outset, we are clear that the dispute that arises for our consideration in this Appeal is the classification of 'Liquid Crystal Device (LCD)' and not 'Automotive Instrument Cluster (AIC)'.

12. The Appellant relies on Note 2 (g) Section XVII as per which articles falling under Chapter 90 stands excluded from Section XVII which is applicable to Chapters 86 to 88 and in contrast, the Revenue relies on Note 3, to contend that being parts solely meant for use in motor vehicles, the LCDs fall under CTH 8708/ 8714. At this juncture, it is material to examine the competing notes under Section XVII, which are as follows:

> "Note 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:
>
> …………
>
> (g) Articles of Chapter 90
>
> ———-
>
> Note 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…"

Clause (g) to Note 2 of section XVII specifically excludes ‘articles of Chapter 90’ from the scope of Chapter 87, even if the articles are identifiable as ‘parts and accessories of goods’ falling under Chapter 87. Note 3 of Section XVII clarifies that references in Chapter 87 to ‘parts and accessories’ would apply only to such ‘parts and accessories’ which are suitable for use solely or principally with the articles of Chapter 87. Hence, Section Note 3, merely conveys that classification of ‘parts and accessories’ under Chapter 87 is conditional upon satisfying the sole or principal use and it cannot therefore be construed to mean that Section 3 applies to ‘all parts and accessories’ satisfying the sole or principal use condition thereby overriding all other factors to be considered statutorily for classification. Besides, Section Notes should be sequentially applied, when as per Section Note 2, there is a specific exclusion of articles falling under Chapter 90 from the scope of Chapter 87, in spite of the article is being identifiable as ‘parts of goods’ falling under Chapter 87, applying succeeding Note 3 thereby overlooking Note 2 is clearly inappropriate, since to our mind, the exclusion under Note 2 should be exhausted before proceeding to apply Note 3.

13. Now, therefore, we will have to examine the question as whether the subject goods specified under CTH 9013 are more specifically covered as 'parts of motor vehicles' under CTH 8708/8701 and, in this regard, it is relevant to consider the competing entries in the CTH, which read as under:

> 9013 – Liquid crystal devices not constituting articles provided for more specifically in other heads; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this Chapter.
>
> 8708 – Parts and accessories of the motor vehicles of headings 8701 to 8705
>
> 8714 – Parts and accessories of vehicles of headings 8711 to 8713.

14. From reading of CTH 9013, if LCDs are more specifically covered in other headings, then classification under such other headings should be adopted; since HSN Explanatory Notes act as safe guide for resolving disputes relating to the classification, we also rely and refer to the same. HSN notes under Chapter 90.13, defines 'LCDs' as – Liquid Crystal Devices consisting of a liquid crystal layer sandwiched between two sheets or plates of glass or plastics, whether or not fitted with electrical connections,

presented in the peace or cut to special shapes and not constituting articles described more specifically in other headings of the Nomenclature.

15. The Explanatory Notes do not just stop with '*not constituting articles described more specifically in other headings*, but continue and end with the words – ***of the Nomenclature***. Thus, as per HSN Explanatory Notes, such more specific description should be by nomenclature or naming of the product or group of products and therefore, by no structure of imagination 'parts and accessories' can be termed as reference or specific description by Nomenclature.

16. In the case of **Premier Instruments and Controls Ltd.** (*supra*), the Hon'ble Supreme Court affirmed the decision of Tribunal and thereby the classification of AIC has attained finality. When we look at the facts and the issue therein, the same related to the classification of cluster of instruments consisting of various individual items like speedometer, temperature gauge, pressure gauge and fuel gauge under the First Schedule to the Central Excise Tariff Act, 1985; as the said cluster of instruments was suitable for use solely or principally as parts of motor vehicles like AIC,

they were classified as 'parts of motor vehicles' under CTH 8708. We have already observed elsewhere in the earlier portions of this order that the issue involved in the present Appeal is not about the classification of AIC but LCDs which are components which form part of AIC and the point of taxation is clearly when imported into India and not upon later stage of manufacturing. In view of the above, the decision of **Premier Instruments and Controls Ltd**. (*supra*) is not applicable to the present case. Further, the cases of **GS Auto International Limited Vs Collector** [2003 (152) ELT 3 (SC)] and **Pragathi Silicons Pvt. Ltd. Vs CCE Delhi** [2007 (211) ELT 534 (SC)] also would not apply for the reason that in both the cases the issue involved was the classification of items like Nuts and Bolts and name plates meant for use in motor vehicles under the CETA and not import of an item like LCD becoming a component or part of AIC for ultimate use in motor vehicles. In fact, in the case of **Shiroki Auto Components India Pvt. Ltd.** [2020 (374) ELT 433 (Tri.-Ahmd.), which also stood affirmed by the Apex Court, the Bench had considered the ratio of the aforesaid judgements and held that CTH 9401 being specific to seats for motor vehicles, it should be preferred to CTH 8708. In the case on hand, according to us, LCDs find specific mention in CTH 9013 and the subject goods not being more specifically covered under any other heading, applying the ratio of the aforesaid Tribunal decision as affirmed by the Supreme Court, the impugned order classifying LCD as 'parts of motor vehicles' under CTH 8708/8714 does not stand to reason at all and so not sustainable.

17. In the decision of **Videocon Industries Limited** [2023 (384) ELT 628 (SC)], the issue was whether LCD panels imported fell for classification under CTH 9013 being specific to the product as claimed by the unit or under CTH 8529 as 'parts' for sole or principal use with apparatus of CTH 8728 as contended by the Revenue. Affirming the order of Tribunal that the LCD is merited classification under CTH 9013, the Supreme Court has observed as under:

> **"25.** The difficulty in accepting the revenue's argument, in this case, is that it jumps over interpretive instructions. One, General Note (1) states that classification has to be in consonance with terms and headings in chapter notes. Two, Rule 3(a) categorically enjoins that in regard to classification, the heading providing for a *"more"* specific description prevails over the general one. Three, Note 1(m) - in Chapter 85 *excludes* the application of articles falling in Chapter 90. In this Court's opinion, this note, along with the General Note 3(a) [of the General Rules of Interpretation] that headings that are specifically provided, should be preferred over the general ones, is decisive. Thus, the revenue's contention that by virtue of Note 2(b) to Chapter 85, the goods are to be classified based on their principal or sole use is insubstantial because of the clear mandate of Note 1(m), which excludes Chapter 90 goods

(which includes LCD panels). More importantly, Note 2 opens with the expression "subject to Note 1". This subordinates the entire subject matter in Note 2; it is only where the article is a "part" which acts as an accessory, that the enumerated portions of Chapter 85 come into play. Such an interpretation is plainly untenable. In *Commissioner of Central Excise, Delhi-III* v. *UNI Products India Ltd.* [[2020] 13 S.C.R. 295 : 2020 (19) SCC 742 = 2020 (372) E.L.T. 465 (S.C.) = [2020] 116 taxmann.com 401 (SC)] this Court had to consider whether "car matting" fell within Chapter 57 of the I Schedule to the CET Act *per heading* "Carpets and Other Textile Floor Coverings" or were to be classified under Chapter 87, as "vehicles other than railway or tramway rolling-stock and parts and accessories thereof". The court held that the item fell within the description "car matting" :

> "25. We do not find any error in such reasoning. Chapter 87 of the Central Excise Tariff of India does not contain car mats as an independent tariff entry. We have reproduced earlier the various parts and accessories listed against tariff entry 8708. All of them are mechanical components, and revenue want car mats to be included under the residuary sub-head "other" in the same list. The HSN Explanatory Notes dealing with interpretation of the Rules specifically exclude "tufted textile carpets, identifiable for use in motor cars" from 87.08 and place them under heading 57.03. Revenue's argument is that the Explanatory Notes have persuasive value only. But the level or quality of such persuasive value is very strong, as observed in the judgments of this Court to which we have already referred. Moreover, the Commissioner himself has referred to the Explanatory Notes in the order-in-original while dealing with the Respondent's stand. Thus, we see no reason as to why we should make a departure from the general trend of taking assistance of these Explanatory Notes to resolve entry related dispute. Now, on referring to these Explanatory Notes, we find that one category of carpets [Textile carpets (Chapter 57)] has been excluded specifically from parts and accessories. In our opinion, the subject-item does not satisfy the third condition specified in Section XVII of the Explanatory Notes in relation to "III-Parts and Accessories". A plain

> reading of clause (C) thereof, which we have quoted above, excludes "textile carpets" (Chapter 57).
>
> 26. The main argument of the Appellant is that because the car mats are made specifically for cars and are used also in cars, they should be identified as parts and accessories. But if we go by that logic, textile carpets could not have been excluded from Parts and Accessories. We have referred to such exclusion in the preceding paragraph. It has also been urged on behalf of the revenue that these items are not commonly identified as carpets but are different products. The Tribunal on detailed analysis on various entries, Rules and Notes have found they fit the description of goods under chapter heading 570390.90. We accept this finding of the Tribunal. Once the subject goods are found to come within the ambit of that sub-heading, for the sole reason that they are exclusively made for cars and not for "home use" (in broad terms), those goods cannot be transplanted to the residual entry against the heading 8708. As we find the subject-goods come under the chapter-heading 570390.90, and the other entry under the same Chapter forming the subject of dispute in the second order of the Commissioner, in our opinion, there is no necessity to import the "common parlance" test or any other similar device of construction for identifying the position of these goods against the relevant tariff entries."

… ….

28. It is, therefore, clear that when goods are excluded from a particular chapter, the "pull in" through a note has to be narrowly construed, as otherwise, the basis of exclusion would be defeated, and the earlier note (of exclusion) rendered redundant. Finally, *Secure Meters* (supra) is decisive on the question that LCDs are not articles provided "more specifically in other headings", *i.e.*, other than 90.13. Furthermore, the fact that LCDs could be used for purposes other than television sets or audio sets is also concluded because, in that decision, its use in meters was in issue. This Court held, pertinently, as follows :

“17. Keeping in mind the aforesaid nature of product in question, we revert to the tariff entries. It cannot be disputed that LCDs are specifically provided in Tariff Item 9013. The only condition is that such LCDs should not constitute “articles” provided more specifically in other headings. In the present case, it is also not in dispute that LCDs imported by the appellant did not constitute any such “article” which is more specifically provided in other headings. On the contrary, the Revenue wants to include in the same chapter *i.e.* Chapter 90, though under Entry 9028.90.10 as “parts and accessories”. The only reason for including the goods under Chapter Heading 9028 is that the LCDs were to be used in the electricity supply meters. However, Entry 9028 does not pertain to LCDs but gas, liquid, etc. and includes electricity supply meters as well. Merely because these LCDs are to be used as parts in the said electricity supply meters, can it be said that they are to be included in Entry 9028? Here, Note 2 of this Chapter Notes becomes important since LCDs are used in the electricity supply meters only as parts thereof. Note 2(a) stipulates that parts and accessories which are goods included in the heading of the said chapter *i.e.* Chapter 90, are to be classified in their respective headings. Going by the plain reading of Note 2(a) it is clear that LCDs, which are goods and are used as parts in the final product mentioned in Chapter 90, namely, electricity supply meters, are to be classified in its respective heading. Respective heading, which is specifically provided is 9013.

18. It was sought to be argued by Ms. Kiran Suri that as per Note 2(b), when these LCDs are used solely for particular instrument, namely, electricity supply meter, it has to be classified with the said meter and, therefore, Chapter Entry 9028 would get attracted. However, this argument loses sight of the fact that Note 2(b) relates to “other parts and accessories”, namely, it would apply to those parts and accessories for which Note 2(a) is inapplicable. Once we find that in the present

> case Note 2(a) squarely applies, the irresistible conclusion is that the goods will be classified in Tariff Item 9013, which is the specific heading for these goods."

18. We also find that the issue in the case of **Samsung India Electronics Pvt Ltd.** (*supra*) who imported Liquid Crystal Devices, was the classification of LCDs under CTH 90138010, which was disputed by the Revenue, to be classified under CTH 85299090 on the ground that these were parts suitable for use solely or principally with LCD TVs of CTH 8528. The Allahabad Bench *vide* its order reported in 2018 (360) ELT 1053 (Tri.-All) concurred with an earlier order of the coordinate Bench of Delhi in respect of the same importer and held as under:

> "7. .... It clearly follows from the said Supreme Court's judgment that the description "parts suitable for use solely or principally with LCD TV" does not cover LCDs for LCD TVs as specifically as the description of CTH 9013 which covers LCDs by name and devotes a sub-heading (9013 80 10) exclusively therefor."

The above view of the Bench was affirmed by the Supreme Court, as reported in 2023 (386) ELT 641 (SC). We are of the view that the ratio of the above decisions clearly guide us to accept the classification declared by the Importer. Hence, we have no hesitation in adopting the above ratio to decide the classification in favour of the Appellant in this Appeal also.

19. We are therefore of the firm view that CTH 9013 being specific to LCDs, parts and accessories of motor vehicles under CTH 8708 / 8714 as classified in the impugned order not being more specific in Heading, since no other heading is shown to be more specific to LCD than CTH 9013, the judgements of the Supreme Court in **Videocon Industries Limited** (*supra*) and **Samsung Electronics India Ltd**. (*supra*) being directly on the issue under consideration, the LCD imported by the Appellant rightly falls under CTH 9013 and certainly not under CTH 8708 / 8714. We are quite aware of the decision of the Apex Court in the case of **Westinghouse Saxby Farmer Limited Vs CCE Calcutta** [2021 (376) ELT 14 (SC)] wherein, applying Note 3 of Section XVII, it has been held that reliance for specific use as Railway Signaling Equipment fell for classification under CTH 8608 as parts, despite there being a specific entry for relays against Tariff Heading 8536.90. We, however, note that the ratio of the decision would not apply to the facts of this case by virtue of the terms of CTH 9013 excluding from its scope only such of those LCDs which are more specifically

covered by any other Heading or Headings by Nomenclature and parts and accessories being a generic term cannot be said to be more specific by Nomenclature. In this connection, we find that it is appropriate to quote the relevant observations of the Supreme Court in the case of **CCE, Calcutta Vs Alnoori Tobacco Products** [2004 (170) ELT 135 (SC)] as under:

> "**11.** Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes……
>
> **12.** …… And, in *Herrington* v. *British Railways Board* [1972 (2) WLR 537] Lord Morris said :
>
> "There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case. "
>
> **13.** Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.
>
> …"

20. We also note that in the case of **Ford India Private Limited Vs Commissioner of Customs, Chennai** [(2024) 24 CENTAX 20 (Tri.-Mad)], the Chennai Bench has, while

ruling out the application of the ratio of Apex Court in the case of **Westinghouse Saxby Farmer Limited** (*supra*) held at para 7.3 as under:

> **"7.3** We find force in the averments of the appellant. The Hon'ble Supreme Court in Westinghouse Saxby Farmers held that 'relays' are classifiable as parts of 'railway signalling equipment' under Heading 8608 of the Central Excise Tariff, by applying the 'sole or principal use' test of Section Note 3 in precedence over Note 2(*f*) ibid of Section XVII. However, the impugned issue pertains to the classification of goods under Section XVI. When the two Section Notes are not in *pari materia,* then decision rendered with reference to one Section Note of the Schedule to the Central Excise Tariff Act, cannot be applied with reference to the provisions of another Section Note of the schedule to the Customs Tariff Act. In *Hari Khemu Gawali* v. *Deputy Commissioner of Police, Bombay and another* [AIR 1956 SC 559], a Constitution Bench of the Apex Court stated:
>
> "It has been repeatedly said by this Court that it is not safe to pronounce on the provisions of one Act with reference to decisions dealing with other Acts which may not be in pari materia."
>
> Hence the ratio of the judgment of the Hon'ble Supreme Court in *Westinghouse Saxby Farmers* would not be applicable in deciding the issue in this case."

In view of the above discussions, we answer the issue No. (i) in favour of the importer

21. The second issue is the time-limit, we find that the twin reasons which weighed with the Commissioner in confirming the charge of misdeclaration/suppression that the Appellant did not mention the end-use, other importers of LCDs been declared end-use in their respective Bills of Entry,

the same mislead the officers while assessing the subject goods to duty and being self–assessment era, the Appellant should have taken enough care to correctly assess the goods in question. The law is well settled in this regard that goods should be assessed to duty in the state or condition in which they are imported. We have already referred to the decision of **Dunlop India** (*supra*) elsewhere in the other earlier part of this order in this regard. Though the Adjudicating Authority has recorded a finding that Section 46 of the Act mandates indication of the usage of the item at the time of import, we do not find any such stipulation in the said provision. We are therefore surprised that the Adjudicating Authority has sustained the charge of suppression on the ground that other importers of identical goods mentioned end-use in their Bills of Entry. We observe that what should be declared should be statutorily mandated and declaration by someone does not by itself cast an obligation on others to do the same sans statutory prescription. When the SCN relies on certain documents to slap the charge of suppression, it is expected that copies of such relied upon documents are furnished to the noticee against whom a serious allegation is levelled. Whereas in the case on hand, we find that no such documents were shared with the

Appellant despite repeated requests. If therefore, the reasoning of the Commissioner that in respect of self-assessment importers are obliged to take great care for correctly classifying the goods is taken to its logical conclusion, then, even cases of wrong classification due to genuine reasons could be branded as arising out of suppression and such interpretation would definitely defeat the purpose of having different time-limits for deliberate and inadvertent acts.

22. Further, we find that in this case, the imports have taken place through four different ports, in the Bills of Entry filed with the Customs the Appellant has clearly described the goods as 'LCD/Liquid Crystal Device/Liquid Crystal Display' matching with the description in the respective invoices issued by their foreign suppliers; as there was a specific entry in Tariff Heading 9013 for LCDs in the CTA and since the LCDs as such did not constitute motor vehicle parts, but were meant for manufacture of instrument clusters in the Appellant's unit, they have been rightly classified under CTH 9013. The classification, therefore, adopted by the Appellant is also justified in view of the decisions referred to and discussed in the earlier parts of this

order. Further, in terms of Section 46 (4) of the Customs Act, there is no dispute that the Appellant had filed copies of invoices of the exports while filing Bills of Entry and, as submitted by Appellant, there is no dispute raised and in most of the cases, subject goods were in fact physically inspected or verified by the Customs officials before issuing orders for home clearance under Section 47 *ibid*. If the officers had entertained any doubt, asked as to the correctness or otherwise of classification of the subject goods declared by the self–assessment, then they would have called for further information with supporting documents from the Appellant to ensure correct declaration by doing re-assessment in terms of Section 17 *ibid*. The Commissioner's finding that the description of goods in the Bills of Entry mislead the officers into accepting the classification does not hold any water for the reason that the subject goods were subjected to visual examination as well. In view of the above, the reasoning of non-furnishing of examination report is clearly legally flawed.

23. The description of the imported goods has therefore been correctly stated, nothing is suppressed from the knowledge of the Department, besides the issue being

interpretational in nature, we are of the view that the extended period of limitation under Section 28 (4) of the Customs Act, 1962 was unwarranted and therefore, even on limitation, the Appellant should succeed.

24. Resultantly, the Appeal is allowed with consequential benefits, if any, as per law both on merits as well as on limitation.

(Order pronounced in open court on 26.05.2026)

sd/-	sd/-
(VASA SESHAGIRI RAO)	**(P. DINESHA)**
Member (Technical)	Member (Judicial)

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