CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Excise Appeal No. 41276 of 2018

(Arising out of Order-in-Appeal No. 47/2018 (CTA-II) dated 31.01.2018 passed by Commissioner of GST & Central Excise (Appeal-II), Newry Towers, Plot No. 2054, I Block, II Avenue, Anna Nagar, Chennai – 600 040)

M/s. Lear Automotive India Pvt. Ltd. **...Appellant**
Plot No. P 8/2,
Mahindra World City,
Industrial Park,
Veerapuram Village,
Chengalpattu – 603 002.

Versus

Commissioner of GST and Central Excise **...Respondent**
Chennai Outer Commissionerate,
Newry Towers, No. 2054-I,
2nd Avenue, 12th Main Road,
Anna Nagar,
Chennai – 600 040.

APPEARANCE:

For the Appellant : Ms. Samyuktha Banusekar, Advocate
For the Respondent : Mr. M. Selvakumar, Authorised Representative

CORAM:
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No. 40982 / 2026

DATE OF HEARING : 01.07.2026
DATE OF DECISION : 31.08.2026

Per Mr. VASA SESHAGIRI RAO

The present appeal has been filed by M/s. Lear Automotive India Pvt. Ltd. (hereinafter referred to as "the appellant") against Order-in-Appeal No. 47/2018 (CTA-II) dated 31.01.2018 passed by the Commissioner (Appeals-II), Central Tax & Central Excise, Chennai (hereinafter referred to as "the impugned order"), remanding the matter for fresh determination of the assessable value of tooling advances of Rs.1,42,03,000/- received from M/s. Mahindra & Mahindra Ltd. during 2011-12 to 2015-16. The Department, by Show Cause Notice No. 56/2015-CE dated 14.12.2015, proposed Central Excise duty of Rs.17,12,144/-, besides applicable interest and penalty under Section 11AC of the Central Excise Act, 1944, treating the advances as additional consideration. The appellant contended that the tooling cost was required to be amortised over the finished goods manufactured with the tools and that the proportionate cost had already been included in the assessable value.

2. The Adjudicating Authority, by Order-in-Original No. 15/2017-CE dated 10.03.2017, accepted the appellant's method of amortisation and dropped the proceedings. The Department challenged the same, contending, inter alia, that only Rs.15,892/- with interest had been paid towards amortisation and that the certificate relied upon was issued by a Chartered Accountant instead of a Cost Accountant. The Commissioner (Appeals), relying principally upon Circular No.170/4/96-CX dated 23.01.1996, remanded the matter for fresh determination of the amortised tooling value. The present appeal is against the said remand.

3. The Ld. Counsel Ms. Samyuktha Banusekar, for the appellant, submitted that the tooling advances themselves were not liable to be treated as assessable value and that only the proportionate cost of tools used in the manufacture of the finished goods was includible. The appellant had followed this method and discharged duty on the amortised tooling cost. Apart from the Chartered Accountant's certificate, the appellant relied upon tool manufacturers' invoices, tooling records, finished-goods invoices, supplementary invoices and proof of payment of duty and interest. It was submitted that Lear Automotive India Pvt. Ltd. v. CCE, Nashik, 2012 (286) E.L.T. 558 (Tri.-Mumbai) was distinguishable on facts, as the tooling cost had not been amortised in that case. It was further contended that Circular No.170/4/96-CX dated 23.01.1996 did not mandate a Cost Accountant's certificate in every tooling case. On limitation, it was submitted that the tooling advances and the proposed amortisation methodology had been disclosed to the Department during audit in October-November 2013. Reliance was placed upon *Sankar Sealing Systems Pvt. Ltd. v. Commissioner of GST & Central Excise, 2024 (6) TMI 1175 (CESTAT-Chennai)* and *Brakes India Pvt. Ltd. v. Commissioner of Central Excise, 2025 (6) TMI 758 (CESTAT-Chennai).*

4. The Ld. Authorized Representative Shri M. Selvakumar, for the Revenue, supported the impugned order and submitted that the appellant had received Rs.1,42,03,000/- as tooling advances but had not discharged duty on the entire amount. It was contended that the methodology contemplated by Circular No.170/4/96-CX had not been properly followed and that the certificate ought to have been obtained from a Cost Accountant. Reliance was also placed upon the appellant's earlier decision in *Lear Automotive India Pvt. Ltd. v. CCE, Nashik, 2012 (286) E.L.T. 558 (Tri.-Mumbai).* The Revenue further contended that duty and interest were paid only after departmental detection and that penalty under Section 11AC was therefore attracted.

5. We have considered the Show Cause Notice, the Order-in-Original, Order-in-Appeal (the impugned order), the submissions and the documentary evidence placed on record. The following questions arise for determination: -

i. Whether the tooling advances are includible in the assessable value in their entirety, or only the proportionate/amortised tooling cost attributable to the finished goods manufactured with the aid of the tools?

ii. Whether the extended period of limitation is invocable and, consequently, whether the remand and the consequential liability to interest and penalty are sustainable?

Issue No. (i): Whether the tooling advances are includible in the assessable value in their entirety, or only the proportionate/amortised tooling cost attributable to the finished goods manufactured with the aid of the tools?

7. The dispute is not whether tooling cost has any bearing on valuation. The appellant itself accepts that the cost attributable to tools used in the manufacture of the finished goods has to be reflected in their assessable value. The controversy is whether the entire tooling advance can be treated as assessable value upon receipt or whether only the proportionate cost attributable to the finished goods manufactured with the aid of the tools is required to be included.

8. Section 4 of the Central Excise Act, 1944, as applicable during the relevant period, provides for determination of transaction value where the statutory conditions are satisfied. Rule 6 of the Central Excise Valuation Rules, 2000 provides for inclusion of the money value of additional consideration flowing directly or indirectly from the buyer. Explanation 1 to Rule 6 specifically refers to the value, “apportioned as appropriate”, of tools, dies,

moulds, drawings, blueprints and engineering, development and design work used in connection with the production and sale of the excisable goods. The statutory scheme, therefore, does not contemplate automatic loading of the entire value of a tool on a single clearance; what is required is determination of the portion attributable to the goods being valued.

9. The principle of proportionate amortisation is also recognised in *Flex Industries Ltd. v. Commissioner of Central Excise, Meerut, 1997 (91) E.L.T. 120 (Tribunal) = 1997 (1) TMI 173 (CEGAT, New Delhi).* The Tribunal held that the entire cost of custom-made cylinders used in the manufacture of printed pouches could not be loaded into the value of the goods cleared during the relevant period; the cost was required to be apportioned having regard to the expected life and capability of the cylinders and the quantity of finished goods manufactured. Though the case concerned printing cylinders, the principle is relevant to the method of apportioning tooling cost.

10. The appellant has also relied upon the Larger Bench decision in *Mutual Industries Ltd. v. Collector of Central Excise, 2000 (117) E.L.T. 578 (Tri.-LB).* The Larger Bench held that the value attributable to moulds supplied by

the buyer and used in the manufacture of finished goods constitutes additional consideration and is includible in the assessable value. At the same time, the decision proceeds on the basis of the proportionate value attributable to the use of the moulds. The decision therefore supports the appellant's contention that, while the tooling cost has a valuation consequence, its entire advance cannot be treated as assessable value merely on receipt; the relevant amount is the proportionate cost attributable to the finished goods manufactured with the aid of the tools.

11. Circular No.170/4/96-CX dated 23.01.1996 also proceeds on the principle of proportionate valuation. It refers to patterns supplied by buyers or prepared at their cost and contemplates apportionment having regard to the expected life and capability of the pattern and the quantity of castings manufactured. It further states that a Cost Accountant's certificate may be accepted. The Commissioner (Appeals), however, treated the reference to a Cost Accountant as a mandatory requirement. We find no basis for such interpretation. The Circular does not convert the suggested certificate into a statutory precondition for establishing valuation, particularly where other reliable documentary evidence is available. Further, the Circular specifically concerns patterns used in casting operations and cannot be

treated as prescribing an inflexible evidentiary requirement for all forms of automobile tooling.

12. The documentary evidence on record is also material. The tooling records identify actual procurement and manufacture of tools through specialised vendors, including Maini Plastics, RGP Moulds Pvt. Ltd., Ankush Enterprises, Om Technocrat, SML Toolings, AVM Plastics, Divine Toolings, Kraftsman Tooling and Daechang India Seat Co. Pvt. Ltd., with descriptions and values of individual tools. The production records connect the tooling with manufacture of components and automobile seats. Payment records also corroborate receipt of tooling-related amounts.

13. More importantly, the record contains a supplementary Challan-cum-Tax Invoice No.15500009 dated 02.11.2015 referring to "tool amortization cost as per annexure", along with the corresponding assessable value and duty. The Chartered Accountant's certificate sets out the tool values, expected production/life, amortisation per seat, quantities cleared and duty payable. For example, in one category it records 19 tooling items valued at Rs.34,50,000/- and amortisation of Rs.34.50 per seat; in another, 55 tooling items valued at Rs.85,25,000/- and amortisation of Rs.85.25

per seat. It further records the corresponding quantities of seats cleared and duty paid through supplementary invoice.

14. The objection of the Commissioner (Appeals) that the certificate was issued by a Chartered Accountant instead of a Cost Accountant, by itself, cannot justify rejection of the entire valuation exercise. The certificate was supported by the underlying invoices, tooling records, production documents, supplementary invoice and payment evidence. The impugned order does not identify any specific error in the tool values, life expectancy, production quantity or amortisation calculation. A remand cannot be sustained merely for obtaining another professional certificate when the existing documentary evidence has not been shown to be unreliable.

15. We have also considered the decision in the appellant's own case, *Lear Automotive India Pvt. Ltd. v. Commissioner of Central Excise, Nashik, 2012 (286) E.L.T. 558 (Tri.-Mumbai),* relied upon by the Revenue. The said decision recognises that tooling consideration supplied by the buyer and used in the manufacture of finished goods has valuation implications. However, the factual basis of that decision was materially different, particularly as regards disclosure of the tooling arrangement and non-amortisation

of the tooling cost. In the present case, the record contains evidence of the tooling activity, its cost and amortisation, as well as payment of duty on the amortised cost. The earlier decision, therefore, cannot be applied to treat the entire tooling advance as assessable value in the present case.

16. In the present case, the Department has not identified any specific deficiency in the appellant's amortisation. No particular tool value, expected life, production quantity or amortisation rate has been shown to be incorrect, nor has any specific clearance been identified on which the appropriate amortised tooling cost remained unpaid. The evidence on record establishes actual tooling activity and subsequent inclusion of the amortised cost in the assessable value. The entire tooling advance of Rs.1,42,03,000/- therefore cannot be treated as assessable value merely because it was received from the buyer. The Order-in-Original, having considered the evidence and accepted the amortised valuation, was justified in dropping the demand proposed on the entire tooling advance. Issue No. (i) is answered in favour of the appellant.

Issue No. (ii) : Whether the extended period of limitation is invocable and, consequently, whether the remand and

the consequential liability to interest and penalty are sustainable?

17. The Show Cause Notice dated 14.12.2015 invoked the extended period under Section 11A(4) of the Central Excise Act, 1944 on the allegation that the appellant had suppressed the receipt of tooling advances. The allegation has to be examined in the light of the appellant’s conduct and the Department’s own knowledge of the transaction.

18. The record shows that the Department raised an audit objection on 23.10.2013 concerning the tooling advances and referred to the appellant’s earlier decision in Lear Automotive. The appellant replied on 24.10.2013 and again on 26.11.2013, explaining that tooling development was in progress and that, after determination of the final tooling cost, the proportionate amount would be amortised and included in the value of the seats. Thus, the Department was aware of the tooling advances and the appellant’s valuation methodology well before issuance of the Show Cause Notice.

19. The dispute was essentially one of valuation methodology—whether the entire tooling advance was liable to be included or whether the tooling cost was to be

apportioned over the finished goods. In *Sankar Sealing Systems Pvt. Ltd. v. Commissioner of GST & Central Excise, 2024 (6) TMI 1175 (CESTAT-Chennai),* the coordinate Bench held that mere failure or negligence in adopting the correct valuation or payment of duty does not, by itself, establish suppression with intent to evade, particularly where the dispute concerns valuation. The present case stands on a stronger footing because the tooling advances and the proposed method of valuation were specifically brought to the Department's notice during audit.

20. The Revenue's reliance upon the appellant's earlier decision in *Lear Automotive India Pvt. Ltd. v. CCE, Nashik, 2012 (286) E.L.T. 558 (Tri.-Mumbai),* does not assist it on limitation, as that decision arose in materially different circumstances. In the present case, the tooling advances and the appellant's proposed method of amortisation were disclosed to the Department during audit in October-November 2013. The principle laid down in *Mutual Industries Ltd. v. Collector of Central Excise, 2000 (117) E.L.T. 578 (Tri.-LB),* is also relevant, as the Larger Bench held that where the material particulars were disclosed to the Department, the extended period could not be invoked. The necessary ingredients of suppression of facts with intent to evade duty are therefore not established in the present case.

21. The appellant's reliance on *Brakes India Pvt. Ltd. v. Commissioner of Central Excise, 2025 (6) TMI 758 (CESTAT-Chennai),* is also relevant to the question of penalty. Revenue neutrality, by itself, cannot determine statutory liability; however, it is a relevant circumstance when considered with the appellant's disclosure of the tooling advances, the bona fide valuation method adopted and the subsequent payment of duty and interest on the amortised tooling cost. In the facts of the present case, there is no material establishing deliberate suppression or intent to evade duty warranting penalty under Section 11AC. The ratio of Brakes India therefore supports the appellant's case on penalty.

22. We therefore find that the Department has failed to establish wilful suppression, misstatement or deliberate withholding of material information with intent to evade duty. The extended period under Section 11A(4) is consequently not invocable. Since the principal demand, as proposed on the entire tooling advance, is also unsustainable on merits, the consequential interest and penalty cannot survive. Penalty under Section 11AC cannot be sustained merely because the Department subsequently adopted a

different valuation methodology. Issue No. (ii) is answered in favour of the appellant.

23. In view of the foregoing findings, the entire tooling advance of Rs.1,42,03,000/- could not be treated as assessable value. Only the proportionate/amortised tooling cost attributable to the finished goods manufactured with the aid of the tools was includible. The Department has not established any specific short-payment after taking into account the amortised tooling cost already included by the appellant. The extended period is also not invocable in the facts of the case. The Commissioner (Appeals), therefore, was not justified in remanding the matter merely for obtaining a Cost Accountant's certificate when the existing documentary evidence had not been shown to be deficient in any particular.

24. As such, the Order-in-Appeal No. 47/2018 (CTA-II) dated 31.01.2018 is set aside and Order-in-Original No. 15/2017-CE dated 10.03.2017, dropping the proceedings initiated by Show Cause Notice No. 56/2015-CE dated 14.12.2015, is restored. Consequently, the proposed demand of Rs.17,12,144/-, along with applicable interest and penalty under Section 11AC of the Central Excise Act, 1944, does not survive. The appeal filed by M/s. Lear Automotive

India Pvt. Ltd. is allowed with consequential relief, if any, in accordance with law.

(Order pronounced in open court on 31.08.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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