FAX : 011-26108426 REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: **22/05/2014**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/52264/2014-CU[DB]** dated **08/05/2014**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **129-A(4) of the Customs Act, 1962.**

Asstt. Registrar(CUSTOMS Appeal Branch)

	Application	Appeal	Name and Address of Appellant
1	C/Stay/802/2012	C/87/2012	**VISTEON CLIMATE SYSTEMS INDIA LTD.** SP-812A, INDUSTRIAL AREA, BHIWADI, RAJASTHAN.
			Name and Address of Respondent
2		C/87/2012	**C.C. NEW DELHI (IMPORT & GENERAL)** New Custom House, Near I.G.I. Airport, New Delhi 110037.

Other Appellants and Respondents as per Annexure

Copy To

3 Advocate(s) / Consultant(s):

Vaish Associates,
10 HAILEY ROAD, NO 5-7,
NEW DELHI-110001

4 Bar Association, CESTAT, Delhi

5 Director Publications, Customs, Excise, I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj New Delhi - 110070

12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

13 C.D.R. 14 Office Copy 15 Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

COURT NO.II

Customs Appeal No.C/87/2012-CU[DB]
[Arising out of Order-in-Appeal No.CC(A) CUS/ICD/428/2011 dated 15.11.2011 by the Commissioner (Appeals) of Customs, New Delhi].

M/s.Visteon Climate Systems India Limited ...Appellant

Vs.

Commissioner of Customs ... Respondent

Present for the Appellant : Ms.Mannat Waraich, Advocate
Present for the Respondent : Shri.Rakesh Puri, DR

Coram: Hon'ble Mr.D.N.Panda, Judicial Member
Hon'ble Mr.Manmohan Singh, Technical Member

Date of Hearing: 08.05.2014

FINAL ORDER NO. 52264/2014 DATED: 08.05.2014

PER: D.N.PANDA

Ld. Advocate, Ms. Mannat Waraich submits that the goods entered into India was aluminium square tube and fan motors. Nature of the goods is covered by CTH 8708 9100, whereas the aluminium square tube is covered by 7608 1000 and fan motors is covered by CT 8501 1019.

2. So far as the Revenue's claim is concerned, the tariff heading 8708 9100 emanates from the gene "parts and accessories of motor vehicles" of the heading 8701 to 8705 under the main heading 8708. The Customs Tariff Heading 8708 9100 deals with residuary item and parts thereof. This clearly shows that to bring the goods to the fold of CTH 8708 9100

that should be established as parts and accessories of the motor vehicles of headings 8701 8705. The burden lies on Revenue to prove that the imported goods were sold. But nothing comes out from that angle on record and Revenue failed to discharge its burden of proof. So far as the aluminium tube is concerned, claim of the appellant is that the same shall fall under CTH 7608 1000. That entry relates to the "product of aluminium tubes and pipes". Therefore, appellant is correct on its claim of classification in so far as the aluminium square tube is concerned.

3. So far as the claim of the appellant relating to fan motors is concerned, it is explained by the appellant that the goods fulfils the characteristics of CTH 8501 1019. That entry reads as the residual goods of the heading 8501 dealing with electric motors and generators. There is no whisper in the show cause notice that the fan motors were the accessories and parts of the motor vehicle under the heading 8701 8705. Without physical examination report suggesting that the fan motors belong to the family of motor vehicle parts and accessories, it is not possible at this stage to appreciate contention of Revenue that the said goods belong to CTH 8708 9100. In absence of characteristics of the goods found during physical verification and the description thereof recorded in the show cause notice, claim of Revenue fails.

4. Accordingly, appeal is allowed.

[Dictated & Pronounced in the open Court].

20.5.2014 15/5/2014

(MANMOHAN SINGH)
TECHNICAL MEMBER

(D.N.PANDA)
JUDICIAL MEMBER

Anita