CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH-COURT NO. I

CUSTOMS APPEAL NO. 52189 OF 2019

[Arising out of Order-in-Appeal No. CC(A)/D-II /ICD /TKD-IMP/250/2019-20 dated 29.05.2019 passed by the Commissioner of Customs (Appeals), New Delhi]]

KAFILA FORGE LTD **APPELLANT**
Plot No. 32, K.M.Stone,
Kundli Distt. Sonepat.
Haryana

VS.

PRINCIPAL COMMISSIONER OF CUSTOMS, (IMPORT) ICD TKD, CUSTOMS, NEW DELHI **RESPONDENT**

APPEARANCE:

Shri B.L. Yadav, Advocate for the Appellant assessee.
Shri Rakesh Kumar, Authorized Representative of the Department

CORAM:

HON'BLE DR.RACHNA GUPTA, PRESIDENT
HON'BLE MS. HEMAMBIKA R PRIYA, MEMBER (TECHNICAL)

DATE OF HEARING : March 22, 2023
DATE OF DECISION : July 28 , 2023

FINAL ORDER No. 50968 /2023

PER HEMAMBIKA R PRIYA

The dispute, in the present appeal, arose when M/s Kafila Forge Ltd. (hereinafter referred to as the appellant) filed a Bill of Entry No. 7800127 dated 13.12.2006 for clearance of goods declared as "U.J. Cross Part & U J Cross Cup part" claiming the classification to be under heading 8483 60 90 of the Customs Tariff. These goods weighed 24241.900 kgs and the assessable value was declared to be Rs. 31,63,822.01/-. The assessing officer objected the classification and passed an order No. 08/2017/DC/ICD/TKD dated 11.01.2017 classifying the said goods under CTH 8708 of the Customs Tariff. The appellant filed an appeal before the Commissioner(Appeals), who vide the impugned order upheld the said Order-in-Original.

2. The learned Counsel for the appellant submitted that the classification of the impugned goods is not a fresh one but has been classified since long only in the tariff entry of 8483 specifically. He pointed out that various notifications issued by the Central Government also classifies Universal Joints under the heading 8483 in respect of its use in motor vehicles or in a machine. He relied on the decision of the Supreme Court in **Collector of Customs, Bangalore versus Maestro Motors Ltd [2004(12)TMI 86-SC)]** wherein it has been held that such Universal Joints are not classifiable as motor vehicle parts. He submitted that the heading clearly includes Universal Joints which is part of Transmission Shafts and Cranks. He drew the attention of the bench to the Note 2(b) of Section XVI of the Customs Tariff dealing with Chapter 87, which states Parts of Universal Joint Cross and parts of Universal Joint Cross suitable for use solely or principally with the said transmission shaft are also classified with the transmission shaft i.e., under heading CTH 8483. It is not disputed that the goods being imported by the appellants are for use solely or principally with the transmission shafts which may

be used in motor vehicles. He relied on the order of the Tribunal reported in **[2004(167)ELT 343-Tri-Del]** in their own case.

3. The learner authorised representative stated that appellant's contention that the subject goods are covered under 8483 is intended to evade customs duty. The Chapter Heading 8483 essentially relates to transmission shafts, whereas they had declared the goods as parts suitable for use as part of motor vehicles. He drew attention to Part F of the Explanation three notes for CTH 8708 which includes other transmission parts and components (for example propeller shafts, half shafts, here's, gearing, plain shafts bearings, reduction gear assemblies, universal joints) but the heading excludes crankshafts, camshafts and flywheel of heading 8483. He stated that the HSN explanatory notes have a persuasive value for determining the right classification. The self declaration by the appellant that these are parts to be used as parts of motor vehicle is material evidence and cannot be denied at this stage. The submission of Counsel that it is a general part which can be used anywhere is irrelevant as the subject goods shall only be used in motor vehicles as has been stated by the appellant before the Commissioner (Appeals). In order to find the right classification, it is description of goods as well as the test of predominance that matters as, has been held in catena of decisions. The learned Authorised Representative relied on recent judgement in **Westinghouse Saxby farmers Ltd vs.**

Commissioner of Central Excise Calcutta [MANU/SC/0162/2021].

4. Having heard both sides, the issue to be decided is classification of the goods, namely U.J. Crossparts, U.J. Cross Body, U.J. Cross Cup, U.J. Cross Needly Roller, U.J. Cross SNAP Ring. We observe that the usage of these goods is not in dispute in as much as these goods are for use solely or principally with the Transmission Shafts which may be used in Motor Vehicles. It is an admitted fact by the appellant- that universal joints or parts of universal joint and transmission parts fall under Tariff Entry No. 8483. The goods imported are Universal Joint parts to be used in Transmission Shafts. Transmission Shafts are further used in automobiles. Transmission shafts are classifiable under CTH 8483.

5. In order to appreciate the coverage of the goods falling under heading 8483 of the Customs Tariff Act, the same is reproduced below:

" 8483 TRANSMISSION SHAFTS (INCLUDING CAM SHAFTS AND CRANK SHAFTS) AND CRANKS; BEARING HOUSINGS AND PLAIN SHAFT BEARINGS; GEARS AND GEARING; BALL OR ROLLER SCREWS; GEAR BOXES AND OTHER SPEED CHANGERS, INCLUDING TORQUE CONVERTERS; FLYWHEELS AND PULLEYS, INCLUDING PULLEY BLOCK; CLUTCHES AND SHAFT COUPLINGS (INCLUDING UNIVERSAL JOINTS)

(1)		(2)
8483 10	-	Transmission shafts (including cam shafts and crank shafts) and cranks:

848310 10	-	Crank shafts for sewing machines
		Other:
8483 10 91	-	Crank shaft for engines of heading 8407
8483 10 92	-	Crank shaft for engines of heading 8408
8483 10 99	-	Other
8483 20 00	-	Bearing housings, incorporating ball or roller bearings
8483 30 00	-	Bearings housings, not incorporating ball or roller bearings; plain shaft bearings
8483 40 00	-	Gears and gearing, other than toothed wheels, chain sprockets and other transmission elements presented separately; ball or roller screws; gear boxes and other speed changers, including torque converters
8483 50	-	Flywheels and pulleys, including pulley blocks:
8483 50 10	---	Pulleys, power transmission
8483 50 90	---	Other
8483 60	-	Clutches and shaft couplings (including universal joints):
8483 60 10	---	Flexible coupling
8483 60 20	---	Fluid coupling
8483 60 90	---	Other
8483 90 00	---	Toothed wheels, chain sprockets and other transmission elements presented separately; parts

6. We find that the department has also not disputed that the impugned goods are part of the transmission shaft, but the dispute is that these goods are to be used as the motor vehicle parts which fall under heading 8708. Both sides have relied upon the Section Notes pertaining to Chapter 84 and 87 of the Custom Tariff Act. Before examination of the Section Notes, the general rules for the interpretation of import tariff have been examined and reproduced below:

THE GENERAL RULES FOR THE INTERPRETATION OF HARMONISED SYSTEM

Classification of goods in this Schedule shall be governed by the following principles:

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:

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 articles 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.

(b)Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principle of rule 3.

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 affected 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.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin."

(Emphasis Supplied)

6.1 From the aforesaid general rule for the interpretation of import tariff, it is undoubtedly an established position that the heading which provides most specific description shall be preferred to heading providing a more general description.

7. In order to appreciate the coverage of the goods falling under heading 8708 of Customs Tariff under which the department have sought to classify these impugned goods, the said tariff heading is reproduced below:

(1)		(2)
8708		**PARTS AND ACCESSORIES OF THE MOTOR VEHICLE OF HEADING 8701 TO 8705**
8708 10	-	-Bumpers and parts thereof:
8708 10 10	-	For tractors
8708 10 90	-	Other Other parts and accessories of bodies (including cabs):
8708 21 00	-	Safety seat belts
8708 29 00	-	Other
8708 30 00	-	Brakes and servo-brakes; parts thereof
8708 40 00	-	Gear boxes and parts thereof
8708 50 00	-	Drive-axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof
8708 70 00	-	Road wheels and parts and accessories thereof
8708 80 00	-	Suspension systems and parts thereof (including shock absorbers) Other parts and accessories:
8708 91 00	-	Radiators and parts thereof
8708 92 00	-	Silencers (mufflers) and exhaust pipes; parts thereof
8708 93 00	-	Clutches and parts thereof
8708 94	-	Steering wheels, steering columns and

00		steering boxes; parts thereof
8708 95 00	-	Safety airbags with inflater system; parts thereof
8708 00	-	Other

8. On comparison of the both the heading 8483 and 8708, the impugned goods i.e. Universal Joints Parts to be used in transmission shaft, are more specifically covered under sub heading 8483 60 90 whereas nothing specific is found in respect of these goods under the heading 8708.

9. Further, in accordance with the General Rules for the interpretation, the classification shall be determined according to the terms of the heading and relative Section or Chapter Notes. Thus, it would be pertinent to examine the Section Notes.

9.1 The Section XVI of the Customs Tariff Act covers the Chapter 84 & 85. For ready reference, the Note 1 of this Section is reproduced below:

> " 1. **This Section does not cover**:
> (a) transmission or conveyor belts or belting, of plastics of Chapter 39, or of vulcanised rubber (heading 4010), or other articles of a kind used in machinery or mechanical or electrical appliances or for other technical uses, of vulcanised rubber other than hard rubber (heading 4016);
> (b) articles of leather or of composition leather (heading 4205) or of fur skin (heading 4303), of a kind used in machinery or mechanical appliances or for other technical uses;
> (c) bobbins, spools, cops, cones, cores, reels or similar supports, of any material (for example, Chapter 39, 40, 44 or 48 or Section XV);

(d) perforated cards for Jacquard or similar machines (for example, Chapter 39 or 48 or Section XV),
(e) transmission or conveyor belts or belting of textile material (heading 5910) or other articles of textile material for technical uses (heading 5911);
(f) precious or semi-precious stones (natural, synthetic or reconstructed) of headings 7102 to 7104, or articles wholly of such stones of heading 7116 except unmounted worked sapphires and diamonds for styli (heading 8522);
(g) parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);
(h) drill pipe (heading 7304);
(i) endless belts of metal wire or strip (Section XV);
(k) articles of Chapter 82 or 83;
(1) articles of Section XVII;
(m) articles of Chapter 90;
(n) clocks, watches or other articles of Chapter 91;
(o) interchangeable tools of heading 8207 or brushes of a kind used as parts of machines (heading 9603); similar interchangeable tools are to be classified according to the constituent material of their working part (for example, in Chapter 40, 42, 43, 45 or 59 or heading 6804 or 6909);
(p) articles of Chapter 95; or
(q) typewriter or similar ribbons, whether or not on spools or in cartridges (classified according to their constituent material, or in heading 9612 if inked or otherwise prepared for giving impression), or monopods, bipods, tripods and similar article, of heading 9620."

(Emphasis supplied)

9.2 From the above, it is clear that the **'article of the Section XVII'** doesn't fall under the Section XVI provided the impugned goods falls under Section XVII having Chapter 86 & 87 within it.

9.3 With respect to the parts of the machine, the relevant Section Note 2 of Section XVI is reproduced below:

"2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

(a) **parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings**.

(b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in beading 8517, and parts which are suitable for use solely or principally with the goods of heading 8524 are to be classified in heading 8529;

(c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548."

(Emphasis Supplied)

9.4 In view of the above Section Note 2, the parts which are goods included in any of the heading of chapter 84 are in all cases to be classified in their respective headings, except for the heading 8409, 8431, 8448, 8466, 8437, 8487. The goods in question are included in heading 8483 of Chapter 84. However, such classification of the parts in their respective headings is subject to Note 1 of this Section XVI, which excludes the "article of Section XVII." Therefore, it is further inevitable to examine the Notes of Section XVII.

10. For ease of examination, the relevant Section Notes 2 of Section XVII is reproduced below:

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

(a) joints, washers or the like of any material (classified according to their constituent material or in heading 8484) or other articles of vulcanised rubber other than hard rubber (heading 4016);

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

(c) articles of Chapter 82 (tools);

(d) articles of heading 8306;

(e) machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines and motors, articles of heading 8483;

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

(g) articles of Chapter 90;

(h) articles of Chapter 91;

(ij) arms (Chapter 93);

(k) luminaries and lighting fittings and parts thereof heading 9405, or

(1) brushes of a kind used as parts of vehicles (heading 9603).

10.1 In view of the above Section Note, the parts and accessories of Section XVII don't apply to article of heading 8483 (**clause (e) of Section Note 2**).

10.2. In view of the specific exclusion of '**articles of heading 8483**' from the ambit of the Section XVII under which chapter 87 falls, the impugned goods will not fall under Chapter 87.

11. The learned Counsel of the appellant has submitted that the classification of the impugned goods has already decided by the Hon'ble Tribunal, New Delhi in their own case reported at **2004 (167) E.L.T. 343 (Tri.-Del) [20-11-2003] 2004 (167) E.L.T. 343 (Tri. - Del.) in the case of COMMISSIONER OF CENTRAL EXCISE, ROHTAK Versus KAFILA FORGE LIMITED,** which is reproduced below**:**

> "2. The Revenue filed this appeal against the Order-in-Appeal passed by The Commissioner (Appeals) whereby the Commissioner (Appeals) held that the transmission shafts and its parts manufactured by the respondents were classifiable under Heading 84.83 of the Central Excise Tariff.
>
> 3. The contention of the Revenue is that the transmission shafts manufactured by respondents specially designed for use in the motor vehicle of Chapter 87 of the Tariff. Therefore, are to be classified under heading as parts of vehicles. We find that this issue is settled by the decision of the Tribunal in the case of Bharat Fritz Werner (P) Ltd. v. CCE, Bangalore, 1998 (102) E.L.T. 732 and in the case of CCE, Coimbatore v. Venkatachalapathy Industries, 1999 (106) E.L.T. 176. In these cases, crank shafts, tappet shafts, gear wheels, pulleys and picking shafts are to be classifiable under Heading 84.83 of the Central Excise Tariff being specifically covered therein and not as parts of accessories of the machines. In view of the above decisions of the Tribunal, we find no infirmity in the impugned order. The appeal filed by the Revenue is rejected."

12. Apart from aforesaid case law, the learned Counsel has also relied on the following case laws:

(i) Commissioner v. Best Cast (P) Ltd -2001(133) ELT A 258 (SC);

(ii) Eicher Precision machine Ltd. v. Commissioner of C. Ex., New Delhi- 2001 (131) ELT 600 (Tri.- Del.);

(iii) Eicher Ltd. v. CCE-2002(142) ELT 136 (Tri.- Chennai);

(iv) Commissioner of Central Excise, Rohtak v. Kafila Forge Ltd. - 2004(167) ELT 343 (Tri.- Del.) which was in the case of the Appellant itself and relied in the case of-

Jer Ring Gears Pvt. Ltd. v. CCE-2005(186) ELT 73 (Tri.- Bang.)

(v) Collector of Customs, Bangalore v Maestro Motors Ltd. - 2004(174) ELT 289 (SC);

(vi) Commissioner of C. Ex., Chandigarh v. Raja Forging & Gears Ltd. - 2009 (233) ELT 404 (Tri.- Del.) confirmed the above view by holding the classification of items mentioned in Heading 8483, for use in motor vehicle and which was not an integral part engine under heading 8483 ibid and the said order has been affirmed by the Hon'ble Supreme Court in 2016(337) ELT A42 (SC). Gear Box parts and clutch classifiable under sub-heading 8483.00 of CET as parts of gear box**;**

(vii) JTEKT SONA AUTOMOTIVE INDIA LIMITED VERSUS COMMISSIONEROFCUSTOMS-2010 (11) TMI 257-CESTAT NEW DELHI

(viii) 2004 (12) TMI 86 SUPREME COURT- Other Citation: 2004 (174) E.L.T. 289 (SC)- COLLECTOR OF CUSTOMS, BANGALORE VERSUS MAESTRO MOTORS LTD.

(ix) 2021 (12) TMI 490 CESTAT MUMBAI HERO MOTORCORP LIMITED VERSUS COMMISSIONER OF CUSTOMS (NS-I), RAIGAD

13. The judgment of Tribunal Mumbai in the case of **TELCO LTD. Vs COMMISSIONER OF CENTRAL EXCISE, PUNE (2006 (195 E.L.T.151 (Tri. – Mumbai)** relied upon by

the Commissioner (Appeals) is not applicable in as much as the goods, namely, Gear and Gear Box etc involved in the case were specifically covered under heading 8708.

14. In view of above discussions, we hold that the the impugned goods are rightly classifiable under heading 8483 60 90 of the Customs Tariff Act. Accordingly, the appeal is allowed with consequential relief, if any.

(Pronounced in the open court on 28.07.2023)

(DR. RACHNA GUPTA)
PRESIDENT

(HEMAMBIKA R PRIYA)
MEMBER (TECHNICAL)

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