

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 3

EXCISE APPEAL NO. 50708 OF 2024

[Arising out of Order-in-Original No.24-43/2024-CE dated 29.02.2024 passed by the Additional Director General (Adjudication), Directorate General of GST Intelligence (Adjudication Cell), New Delhi]

APTIVE COMPONENTS INDIA PRIVATE LIMITED **....APPELLANT**
(Formerly, Delphi Automotive Systems Pvt. Ltd.),
Plot No.7, Sector-6, Industrial Complex,
Dharuhera, Gurugram, Haryana-122 106.

Vs.

ADDITIONAL DIRECTOR GENERAL
(ADJUDICATION), DIRECTORATE GENERAL OF GST **.....RESPONDENT**
INTELLIGENCE-NEW DELHI
2nd Floor, West Block No. 8, Wing No. 6, Sector-1
R.K. Puram, New Delhi-110066

WITH

E/50725/2024	E/50755/2024	E/50806/2024
E/51892/2024	E/51893/2024	E/51955/2024

Appearance:

Present for the Appellant : Ms. Soumya Maholtra, Advocate for the appellant (Appeal Nos.E/50708 & 50806/2024, Shri Siddhanth Sriram, Advocate for the appellant (Appeal Nos.E/50725 & 51955/2024, None for the appellant (Appeal Nos.E/50755, 51892 & 51893/2024),
Present for the Respondent: Shri Rakesh Agarwal, Authorised Representative

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NOS.50110-50116/2025

Date of Hearing : 27/01/2025
Date of Decision : 30/01/2025

BINU TAMTA:

1. The appellant has challenged Order-in-Original No.24-43/2024-CE dated 29.02.2024 passed by the Additional Director General

(Adjudication), Directorate General of GST Intelligence, New Delhi, whereby the cost of specifications provided by the manufacturer were included in the assessable value of the final products manufactured by the appellant and cleared to the manufacturer along with interest and penalty by revoking the extended period of limitation.

2. Brief facts of the case are that the appellant is vendor of Maruti Suzuki India Pvt.¹ and is engaged in the manufacture of automotive parts and components viz. harness assembly, wire components, canister, fuel pump, body control module, immobilizer and remote keyless entry ("final products"). The final products are sold by the appellant to different automotive manufacturers including MSIL on payment of central excise duty. During the period in dispute the appellant manufactured and cleared the final products to MSIL which were used by latter in manufacture of motor vehicles sold by it. For manufacture and supply of final products, MSIL provided the specifications in the form of drawings and designs.

3. Show cause notice dated 20.06.2019 was issued on the allegations that cost of specifications supplied by MSIL to the appellant on FOB basis should be included in the assessable value of the final products manufactured by the appellant in terms of Rule 6 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000² read with Rule 11 relying on the decision of the Tribunal in **Commissioner of Central Excise Jamshedpur vs. Tata Motors**³ by the impugned order the adjudicating authority partially confirmed

1 **MSIL**
 2 **Valuation Rules**
 3 **2009 (237 ELT 147 (Tri.-Kol)).**

the duty demand relating to inclusion of the cost of specifications supplied by the MSIL along with interest and penalty.

4. Being aggrieved, the appellant has preferred the present appeal before this Tribunal.

5. We have heard Ms. Sukriti Das along with Ms. Soumya Malhotra, learned counsel for the appellant and Shri Rakesh Agarwal, learned authorized representative appearing for the department.

6. The issue involved in the present appeal relates to demand of differential central excise duty on account of inclusion of the notional cost of drawings and designs supplied free of cost by Maruti Suzuki India Pvt Ltd. in the assessable value of parts and components of motor vehicles manufactured by the appellant and cleared to Maruti Suzuki India Limited.

7. Learned counsel for the appellant has submitted that the issue involved is no longer *res integra* and has been decided in favour of the appellant in a recent decision of the Tribunal in **Denso India Pvt Ltd. and Others vs. Additional Director General (Adjudication), Directorate General of GST Intelligence, New Delhi**⁴ where DGGI has raised the demand of differential duty on the vendors of MSIL involving the same set of facts as in the present case. Further, in support of his submissions the learned counsel for the appellant set out in detail the process of procurement of desired part or components by MSIL. The short listed potential vendors provide their price quotation for a particular part or component. The specifications of the desired

part or components, for which MSIL does not charge any amount, are shared through the web-based software with all the potential vendors. The process is known as Request for Quotation ("RFQ"). The specifications are nothing but the MSIL's requirement of parts and components in terms of dimensions/ measurements, so that the potential vendors can understand such requirements and accordingly provide their best price quotation for manufacturing and supplying the desired parts and components. For manufacture and supply of final products, the appellant was selected as the vendor. Keeping in mind the specifications provided by MSIL, the in-house engineering team of the Appellant prepared the detailed drawings and designs. For preparing the detailed drawing and designs, the appellant received technical support from its overseas group company by entering into a Technical Assistance and Licence Agreement. The overseas group company manufactured the moulds and sold them to the appellant on payment of applicable duties. Upon procurement of moulds, the appellant had sent such moulds to MSIL for fitment testing and sold the same to MSIL upon payment of central excise duty. The MSIL had supplied such moulds to the appellant on free of cost on returnable basis thereafter the appellant manufactured the final products with the help of detailed drawings and designs as well as the moulds after amortizing the cost of moulds and cleared the final products to MSIL upon payment of appropriate central excise duty. The development cost incurred towards the development of the detailed drawings and designs was incorporated in the assessable value of the final products. The schedule followed in this regard clearly shows the intent of MSIL and the appellant that specifications provided by MSIL merely

contained their requirements and not the detailed drawings and designs which were required to complete the manufacturing of the final products. Therefore, the notional cost of MSIL's specifications is not includable in the assessable value of the final products manufactured by the appellant.

8. The issue raised in the case of **Denso India Pvt Ltd. (supra)** was whether the notional cost of specifications in the form of drawings and designs supplied free of cost by Maruti to the potential vendors should be included in the assessable value of the parts or components manufactured by the vendors and cleared to Maruti for their motor vehicles. To appreciate the said issue, the Principal Bench considered the provisions of section 4 of the Central Excise Act, 1944⁵ and Rule 6 of the Valuation Rules and observed that anything which is supplied by the buyers to the manufacture before even identifying the potential seller/ manufacturer cannot be treated as additional consideration for sale. It was, therefore, held that something can be treated as an additional consideration for sale of goods only when there exists a contract of sale or an agreement to sale between two parties and in terms thereof the buyer pays something over and above the price agreed. In other words anything which is supplied by the buyer to the manufacturer even before identifying the potential manufacturer can never be treated as an additional consideration for sale. The Tribunal, therefore, concluded that the drawing and designs supplied by MSIL at the time of identification and short listing of potential vendors for supply of parts and components, the provisions of section 4 1(b) of the

5 The Act

Act read with Rule 6 of the Valuation Rules, could not have been invoked as no consideration was received by the vendors from MSIL.

The observations of the Tribunal in this case are as follows:

"29. It clearly transpires from the aforesaid provisions that something can be treated as an additional consideration for sale of goods only when there exists a contract of sale or an agreement to sell between the two parties and in terms of such an agreement the buyer pays something over and above the price agreed, either in cash or in kind to the manufacturer. Thus, anything which is supplied by the buyer to the manufacturer before even identifying the potential manufacturer as the supplier can never be treated as an additional consideration for sale. It also transpires that the specification drawings and designs were supplied by Maruti to the potential vendors free of cost before the letter of intent was issued and after the letter of intent was issued to the appellant the price of goods was paid by Maruti to the appellant and no other amount was paid, and it is not even the allegation made in the show cause notice that the buyer had paid any amount to the appellant over and above the consideration price after the letter of intent was issued. It, therefore, follows that neither section 4(1)(b) of the Excise Act nor rule 6 of the 2000 Valuation Rules could have been invoked in the facts and circumstances of the case as no additional consideration towards sale has been received by the appellant from Maruti.

31. A plain reading of clauses (ii) and (iv) of Explanation (1) to rule 6 of the 2000 Valuation Rules leaves no manner of doubt that only those specified goods and services are covered which are used in the production of goods in question or which are undertaken elsewhere than in the factory of production and necessary for the production of goods in question.

32. It is clear that the purpose behind rule 6 is to levy excise duty on all those expenses which are incurred by a buyer on behalf of the seller-manufacturer and relieves the seller-manufacturer from incurring such expenses. Thus, the expressions 'drawings, blue prints, technical maps and charts and similar items' mentioned in clause (ii) of Explanation (1), and 'design work and plans and sketches' mentioned in clause (iv) of Explanation (1) can only mean those drawings and designs which a manufacturer would have prepared for use in the manufacture of the product but were prepared by the buyer and supplied to such manufacturer on free of cost or at reduced cost. This is clear from the language used in clauses (ii) and (iv) of Explanation (1) to rule 6 of the 2000 Valuation Rules. It covers drawings which are **used in the production of such goods and those designs which are necessary for the production of such goods.**

36. Even if Maruti had to spend some amount for getting these drawings by making payment of royalty to Suzuki Maruti Corporation, Japan, the position would not change as this cannot be said to form an additional consideration for sale of parts or components. It also needs to be noted that these specification drawings provided by Maruti to the potential vendors cannot be said to be used in the production of the components or necessary for the production of the components in terms of rule 6 of the 2000 Valuation Rules. Thus, clauses (ii) or (iv) to Explanation (1) of rule 6 of the 2007 Valuation Rules cannot be invoked in the facts and circumstances of the present case."

9. It is also pertinent to take note of the fact that the Principal Bench had noted the distinction between mere specification and detailed engineering drawing as considered in the earlier decision in **Mangalore Refinery & Petrochemicals Ltd. Vs. CC, Mangalore** ⁶, where the Tribunal has held that there is a distinction between mere specifications and detailed engineering drawing. It is only the latter which is covered under rule 9(1)(b)(iv) of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 (which is now rule 10(1)(b)(iv) of the 2007 Customs Valuation Rules). The relevant portion of the decision of the Tribunal in **Mangalore Refinery & Petrochemicals Ltd. vs. C.C., Mangalore (supra)** is reproduced below:

"9.3 When a person buys a product available, off-the-shelf, he need not be concerned with the Engineering Design and services which have gone into the manufacture of such product. He has to merely order by giving the specifications. If a person wants to buy an air-conditioner, he may specify whether it should be window type or split type and also specify the tonnage besides the brand name. He may consult a specialist to identify such requirements. These specifications are in the nature of "buyers' assist" and the cost incurred for getting such specifications cannot become part of value of the goods in the hands of the supplier.

6 2014 (313) ELT 353 (Tri.-Bang.)

9.4 When a sophisticated technology is involved in the manufacture of any products and the process involved in the manufacture is a patented one, the equipments required have to be compatible with the patented process and assistance may be required before ordering such equipments. In such a case, the Engineering services utilized for preparing tender documents will be in the nature of "buyers' assist" and the same cannot be treated as necessary in the hands of the manufacturer of the equipments for the purpose of manufacture of such equipments.

10. The aforesaid decisions are squarely applicable to the facts of the present case and, therefore, the specifications in the nature of design/drawings provided by MSIL were merely layout or dimensions of the desired parts and components as they have to be necessarily manufactured as per the requisite dimensions so that they can be fitted in the vehicle manufactured by the Maruti.

11. Therefore, the impugned order deserves to be set aside and the appeal is, accordingly allowed.

[Order pronounced on 30th January, 2025]

(BINU TAMTA)
MEMBER (JUDICIAL)

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

Ckp.