

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

CUSTOMS APPEAL NO. 50807 OF 2020

(Arising out of Order-in-Original No.04/2020/UG/Principal Commissioner dated 30.01.2020 passed by the Principal Commissioner of Customs (Import), Customs House, New Delhi)

InterGlobe Aviation Ltd.

Central Wing, Ground Floor,
Thapar House, 124 Janpath,
New Delhi-110001

.....Appellant

VERSUS

Commissioner Of Customs,

Air Cargo, New Delhi Customs House,
IGI Airport, New Delhi- 110037

.....Respondent

APPEARANCE:

Shri B.L. Narasimhan, Ms. Jyoti Pal and Ms. Anjali Singh, Advocates for the Appellant

Shri C. Dhanasekaran, Special Counsel of the Department

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT

HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

DATE OF HEARING: 03.09.2024

DATE OF DECISION: 03.02.2025

FINAL ORDER NO. 50258/2025

JUSTICE DILIP GUPTA:

InterGlobe Aviation Ltd.¹ is aggrieved by the order dated 30.01.2020 passed by the Principal Commissioner Customs ACC (Import), New Delhi² holding that **aircraft engine stand** imported by the appellant through 87 Bills of Entry deserve classification under Customs Tariff Item³ 8716 39 00 of the First Schedule to the Customs Tariff Act, 1975⁴ and not under CTI 8609 00 00, and resultantly confirming the demand of differential customs duty under section 28

-
1. the appellant
 2. the Principal Commissioner
 3. CTI
 4. the Customs Tariff Act

(1) of the Customs Act, 1962⁵ with interest under the provisions of section 28 AA of the Customs Act.

2. The appellant is a scheduled airline operator engaged in the business of transportation of passengers and goods by air from various places in India and outside India. To carry out scheduled operations in India, the appellant imports aircrafts and their parts. The appellant also imports aircraft engines with engine stands, when required for repair, maintenance or otherwise.

3. The dispute pertains to classification of such aircraft engine stands imported with engines by the appellant during the period from April, 2018 to March, 2019.

4. During the relevant period, the appellant imported engine stands under CTI 7310 29 10/ 7310 29 90 on payment of basic customs duty @ 10% and IGST @ 18%/ 12%. The classification adopted by the appellant was for the first time objected to by the department in November 2018 for the import made by a Bill of Entry dated 19.11.2018. According to the department, the classification of aircraft engine stands should have been under CTI 8716 39 00, which covers trailers / semi-trailers.

5. The appellant objected to such re-classification by a protest letter dated 10.12.2018, but the appellant claims that due to commercial reasons it had to clear the consignment as per the classification revised by the department on payment of differential customs duty under protest.

6. Thereafter, the appellant received a pre-notice consultation letter dated 16.04.2019 alleging that the aircraft engine stands are a

5. the Customs Act

kind of a trailer to pull the aircraft from the bay area of the airport to the workshop and vice-versa and thus, would appear to merit classification under CTI 8716 39 00. In response to the pre-notice consultation letter, the appellant submitted that the aircraft engine stands merit classification under Customs Tariff Heading⁶ 8609.

7. It would, therefore, be appropriate to reproduce the relevant tariff entries contained in Chapters 73, 86 and 87 of the First Schedule to the Customs Tariff Act,1975 and they are as follows:

CHAPTER 73

Tariff Item	Description goods	Unit	Rate of Duty	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
7310	Tanks, casks, drums cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment			
7310 10	- Of a capacity of 50 l or more:			
7310 10 10	--- Tin plate containers	Kg.	15%	-
7310 10 20	--- Trunks and cases	Kg.	15%	-
7310 10 90	--- Other	Kg.	15%	-
	- Of a capacity of less than 50l:			
7310 21	-- Cans which are to be closed by soldering or crimping:			
7310 21 10	--- Tin plate containers	Kg.	15%	-
7310 21 90	--- Other	Kg.	15%	-
7310 29	- Other:			
7310 29 10	--- Tin plate containers	Kg.	15%	-
7310 29 20	--- Trunks and cases	Kg.	15%	-
7310 29 90	--- Other	Kg.	15%	-

6. CTH

CHAPTER 86

Tariff Item	Description goods	Unit	Rate of duty	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
8609 00 00	Containers (including containers for the transport of fluids) specially designed and equipped for carriage by one more modes of transport	u	10%	-

CHAPTER 87

Tariff Item	Description of goods	Unit	Rate of duty	
			Standards	Preferential Areas
(1)	(2)	(3)	(4)	(5)
8716	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof			
8716 10 00	- Trailers and semi-trailers of the caravan type, for housing or camping	u	10%	-
8716 20 00	- Self-loading or self-unloading trailers and semi-trailers for agricultural purposes	u	10%	-
	- Other trailers and semi-trailers for the transport of goods:			
8716 31 00	-- Tanker trailers and tanker semi-trailers	u	10%	-
8716 39 00	-- Other	u	10%	-

8. A show cause notice dated 13.06.2019 was issued to the appellant and paragraphs 4 and 5 of the show cause notice are reproduced:

“4. However, an engine stand is a tool commonly used to repair large heavy gasoline or diesel engines. It uses a heavy cantilevered support structure to hold the engine in midair so that the mechanic has access to any exposed surface of the engine. **Engine stands are typically**

mounted on large casters so that an engine can be moved around to different test and repair stations, and the engine can often be rotated in midair to provide easier access to underside surfaces of the engine. A caster is a wheeled device typically mounted to a larger object that enables relatively easy rolling movement of the object. Casters are essentially housings, that include a wheel and a mounting to install the caster to objects (equipment, apparatus and more). The engine stand is commonly used in combination with the engine crane to remove or install an engine in a vehicle, break in that engine, and perform repairs. **The engine stand though act as a safety guard for the engine but is mainly a trailer for transportation of the engine. Hence, appears to be more appropriately classifiable under CTH 8716. As regard, CTH 86090000, it includes containers specially designed and equipped for carriage by one or more modes of transport. Since aircraft engine stands is a kind of trailer not a container, the CTH 8609 00 00 is not applicable in this case.** Subsequent to this, Airlines are declaring these goods as "Engine Stand for Transportation" and classifying them under CTH 8716 39 00 which substantiate the department's stand.

5. Therefore, M/s Interglobe Aviation Ltd. are, hereby, called upon to show cause to the Principal Commissioner within thirty days of receipt of this notice as to why:

(i) the short levy of duty amounting to Rs. 2,53,70,872/- should not be demanded and recovered from them under section 28(1) of Customs Act.

(ii) interest as applicable on such short-levied duty under section 28AA of Customs Act should not be demanded and recovered from them.

(iii) penalty should not be imposed on them under section 112(a) of the Customs Act."

9. The appellant filed a reply to the aforesaid show cause notice pointing out that aircraft engine stands imported by the appellant are

classifiable under CTI 8609 00 00. The relevant paragraphs of the reply are reproduced below:

"B.1 The present case pertains to classification of the engine stand imported by the noticee. **The engine stand is specially designed for safely transporting the aircraft engines through different modes of transport i.e.; by truck (land), air and sea.** The engine stand comprises of a cradle (holder) and four (4) caster wheels. The cradle holds the engine safely and prevents impact of any shock or jerk on the aircraft engine during its transportation. The engine stand comes with various miscellaneous parts like hooks, rings, etc. to safely tie and fit the engine stand on to the truck/aircraft / vessel floor for safety during its transportation. The engine is kept on the engine stand even while it is getting repaired in the repair shop or while installation / removal from the aircraft. **The engine stand allows limited mobility within the repair workshop and for adjustment of direction for easy access to all sides of the engine.** The images are given above already and detailed explanation of the functioning of the engine stand is also given above in the facts.

B.6 It is humbly submitted that the essential character of aircraft engine stands is given by the cradle holder which is used to accurately grip and secure the engine and not by the caster wheels. It may be noted that the aircraft engine stands are principally used as a safety guard for the engine. The reasons are given below:

(i) The impugned engine stands are essential and mandatory for safely transporting engines either by truck, sea or air. In fact, engine stands are always prescribed by the engine manufacturers to be used for safe transportation of the engines. Specific engine preservation requirements are described in the Engine Maintenance Manual or airframe manual. Pratt & Whitney's (Supplier's) instructions on transportation of engine are enclosed as **Annexure-7**. The instruction clearly provides that

recommended transport of engines should be on a specified Engine Transport Stand.

(ii) The cradle portion in the engine stand holds the engine in a secured manner. The shape of the cradle is specific to the engine and designed to provide grip to the engine so that the engine does not move during transportation.

(iii) During transportation, shocks and jerks may damage the engine. To avoid the same, the engine stand contains a shock attenuation system, which dampens shock loads introduced to the engine during transportation. The cradle is mounted to the stand base through this shock attenuation system.

(iv) The engine stands do not themselves enable transportation of engines but are placed on another mode of transportation, be it a truck for road transportation, aircraft for air transportation, or vessel for sea transportation. They are designed in a particular manner so as to distribute the load over the cargo floor of the aircraft in compliance with aircraft floor loading requirements.

(v) The engine stands are not designed to be used on the concrete roads for taking the engine from one place to another. Caster wheels installed on the engine stand enables limited mobility that too only on smooth surfaces. If an engine is to be transported from one airport to another by road, the engine stand cannot be used as a trailer for transportation. The engine stand in such a case is placed on another truck/lorry, tied properly as prescribed and then the engine transported on such road worthy truck."

B.7 In view of the above, it is submitted that transportation of the engine for small distances by way of caster wheels installed on the aircraft engine stands is purely incidental to the principal function performed by the engine stand, i.e. holding/containing the engine in the cradle. The noticee submits that it is the cradle, which acts as a container, that gives essential character to the engine stand and not caster wheels which enable limited movement of engine.

Accordingly, it is submitted that the engine stand, being composite machine, has to be classified on the basis of the component that gives essential character to the engine stand, i.e. cradle (container)."

(emphasis supplied)

10. The Principal Commissioner, however, did not accept the contentions raised by the appellant and confirmed the differential amount of customs duty, by the order dated 30.01.2020, holding that aircraft engine stand is not a container. The relevant portions of the order are reproduced below:

"10.10 Thus, I find that the Explanatory Notes to CTH 8609, specifically covers only different types of containers, which may be open, closed, specially designed for fluids, cubical or cylindrical and usually vary in size from 4 to 45m³ capacity. Here, it is important to note that this chapter does not cover any casters, or mechanically propelled/ non-mechanically propelled vehicles or sledges/special sleds running on timber trackways that may be joined with another vehicle for transportation from one place to another placed for safe movement.

10.11 Thus, from the above, I am of the view that the main feature of the impugned item is to move the aircraft engine from one place to another place in a safe manner and therefore, these are not containers as described under CTH 8609.

10.13 Moreover, I have noted that the importer, in his reply dated 05.11.2019, have stated that HSN Explanatory Notes of 8609 also provide that such containers may also contain casters and caster is a wheel which is free to swivel about on axis on right angles to the axis of the wheel, used to support trucks, machinery or furniture. On perusal of HSN explanatory notes to CTH 8609, it is evident that no such explanation of goods falling under 8609 has been mentioned."

(emphasis supplied)

11. Thereafter, the Principal Commissioner proceeded to examine whether aircraft engine stand can be classified under CTH 8716 and the relevant observations are as follows:

"10.16 Thus, in view of the HSN Explanatory Note to CTH 8716, I find that trailers and semi-trailers, hand or foot-propelled vehicles and vehicles drawn by animals are covered under CTH 8716. HSN Explanatory Notes to CTH 8716 also gives various examples of different kinds of trailers / semi-trailers which fall under the scope of CTH 8716.

10.17 In relation to trailers that come installed with machinery or appliances, I find that HSN Explanatory Notes for CTH 8716 provides as below:

The classification of units consisting of vehicles with permanently built-on machines or appliances **is determined according to the essential character of the whole.** The heading therefore covers such units which derive their essential character from the vehicle itself. On the other hand, units deriving their essential character from the machine or appliance they incorporate are excluded.

Hence, from the above, I am of the view that primary function of impugned item is to transport the aircraft engines from one place to another place with safety and without any damage.

10.18 I find that the examples given in the Explanatory Notes indicate that the CTH 8716 covers trailers and semi-trailers used for actual transportation of goods and conveyance of persons or fairground / exhibition trailers capable of being moved with the help of another self-propelling vehicle and hence, I am of the view that it is well covered under CTH 8716. Even, the importer, in his reply, at para C. 12, has admitted that the purpose of the engine stand is to ensure safe transportation of the aircraft engine. **I am of the view that safe transportation of the aircraft engine with the**

impugned item 'engine stand' is not possible without wheel. The impugned item 'engine stand' is used for transportation of aircraft engine on wheels for safety purpose. Wheels are essential part of impugned item for safe transportation and the same is not the specific description covered under CTH 8609. **In view of the above, I do not agree with the importer's contention that the presence of castor wheels does not give essential character to the engine stand and its function is ancillary to the main function of securely holding and protecting the engine during transportation.**

10.21 I am of the view that the transportation/ movement with or without wheels is the essential characteristics of goods of CTH 8716 and simultaneous reading of HSN Explanatory Notes for CTH 8716 with the GI Rules as well as essential characteristics of item, I am of the view that the goods are appropriately covered under CTH 8716."

(emphasis supplied)

12. The Principal Commissioner ultimately, by the order dated 30.01.2020, held that as the appellant had misclassified the imported goods, it resulted in short levy of customs duty which was, therefore, directed to be paid by the appellant with interest.

13. This order dated 30.01.2020 passed by the Principal Commissioner has been assailed in this appeal.

14. Shri B.L. Narasimhan, learned counsel for the appellant assisted by Ms. Jyoti Pal and Ms. Anjali Singh made the following submissions:

- (i)** The aircraft engine stands were correctly classified by the appellant under CTI 8609 00 00. By virtue of rule 3(b) of the General Rules for the Interpretation

of the Schedule⁷, the appropriate heading/ sub-heading for the impugned engine stand shall be determined on the basis of the component that gives essential character to the engine stand. The essential character of aircraft engine stands is given by the cradle/holder which is used to accurately grip and secure the engine and not by the caster wheels;

- (ii) Once the assessment is reopened by the department, the appellant is entitled to claim a classification that is different from the one claimed at the time of import;
- (iii) The aircraft engine stands are not classifiable under CTI 8716 39 00. The impugned order holds that the main feature/ essential character or the principal function of the engine stand is to transport the aircraft engines from one place to another safely and hence the essential character of the engine stand is derived from its wheels. Accordingly, the same is classifiable under CTI 8609 00 00 as 'trailers and semi-trailers';
- (iv) The aircraft engine stand is completely different from the kinds of trailer given in HSN Explanatory Note to CTH 8716. The actual transportation of an engine placed on the engine stand is done through another mode of transportation, like a truck or an aircraft or a vessel;
- (v) The impugned order is a non-speaking and vague order as the essential character of the aircraft engine stand has been determined without discussion on the

technical/functional aspects of the aircraft engine stands; and

- (vi)** Section 3(12) of the Tariff Act does not borrow IGST demand, interest and penalty provision from the Customs Act. In absence of any machinery provision, IGST and interest cannot be recovered and penalty cannot be imposed on the noticee.

15. Shri C. Dhanasekaran, learned special counsel appearing for the department, however, supported the impugned order and made the following submissions:

- (i)** The order passed by the Principal Commissioner is a detailed order and takes into consideration all the aspects pointed out by the appellant;
- (ii)** The appellant is not justified in contending that the aircraft engine stands deserve classification under CTI 8609 00 00;
- (iii)** On the other, an aircraft engine stand deserves classification under CTI 8716 39 00; and
- (iv)** The Principal Commissioner was justified in demanding interest under section 28AA of the Customs Act.

16. The submissions advanced by the learned counsel for the appellant and the learned authorized representative appearing for the department have been considered.

17. The issue that arises for consideration in this appeal is regarding classification of aircraft engine stands. For this purpose, it would be useful to first consider the description of aircraft engine stands.

18. According to the appellant, aircraft engine stands are made of welded steel frames and are fabricated from structural-steel shapes. It comes with attachment parts such as structural bolt, which are made of high strength corrosion resistant, SAE grade hardware. It comprises of miscellaneous units such as two-bar, rings, lock pins and shock mounts. The aircraft engine stands, and its units are primed and paint-protected with a resistant enamel. They are specifically designed to support an engine with or without the Engine Build Unit. The aircraft engine stands majorly comprise of a base, a cradle set and caster wheels for ease of movement of the stand with engine on it. The cradle supports the engine and is mounted to the base through a shock attenuation system which is critical to the safe transporting of engines. The cradle is of unique shape and holds the engine in a manner that the engine is safely secured while it is being transported and that it is not damaged due to shock. The shock attenuation system dampens shock loads introduced to the engine during transport. With the help of caster wheels, the aircraft engine stand along with engine is able to move within the shop only on smooth surfaces and for very small distances.

19. It has also been stated that the aircraft engine stands consist of other small parts which perform the following functions:

- (i) **Fork Lifts Channels-** They assist with the handling of the engine and the engine stand while the engine with stand is being lifted by forklift for adjusting its height and direction.
- (ii) **Tie down rings-** Tie down rings are provided to secure the engine and engine stands during transit.

(iii) Integral shock mounts- Integral shock mounts perform the function of dampening ground handling loads and vibrations during transit.

(iv) Adapters- The engines are secured to the aircraft engine stands by adapters which are attached to the ground handling pads on the engine cases.

20. The appellant has further pointed out that an engine can be transported by three modes, i.e., through truck (road), air and sea. For transportation of an engine through truck or air, it is necessary that engine is mounted on engine stand. For truck shipment, the engine stand is secured to the truck bed using straps or chain with adequate capacity utilizing the tie down rings on the engine stand base (lower structure). The engine stand used in air transportation is designed to distribute the load over the cargo floor in compliance with the aircraft floor loading requirements.

21. The appellant has also stated that the only purpose of engine stand is to protect and secure the aircraft engine from damage during transportation. The aircraft engine stand is a specialized designed stand to enable it to absorb shock loads, if any, during transportation. The aircraft engine stand is supplied by Pratt and Whitney and it is specifically mandated by them that engine should be transported only on engine stand to maintain safety and avoid any damage during the transit.

22. It would, therefore, be seen that an engine stand is specially designed for safely transporting the aircraft engine by different modes of transport i.e., by land, air and sea. The engine stand comprises of a cradle (holder), a base and four caster wheels. The

cradle holds the engine safely and prevents impact of any shock or jerk to the aircraft engine during transportation. An engine is kept on engine stand even while it is getting repaired in the repair shop or during installation/removal from the aircraft. An engine stand allows limited mobility within the repair workshop for adjustment of direction for easy access to all sides of the engine. It is, therefore, moved along with the engine right from its loading on to a truck, vessel or aircraft till the time it is unloaded and even during repairs.

23. The GI Rules provide that the classification of goods 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 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 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 principles 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 effected 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 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, insofar 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."

24. It would be seen from a perusal of rule 3(b) of the GI Rules that the appropriate heading/ sub-heading of an aircraft engine stand would have to be determined on the basis of the component that gives the essential character to aircraft engine stand.

25. The description of an aircraft engine stand reveals that the essential character of an aircraft engine stand is given by the cradle/holder which is used to accurately curb and secure the engine and not by the caster wheels. This is apparent from the fact that an aircraft engine stand is essential and mandatory for safely transporting the engines by road, sea or air. In fact, engine manufacturers mandate that engine stands should be used for safe

transportation of engines. The shape of the cradle is specific to the engine and designed to provide grip to the engine so that the engine does not move during transportation. Engine stand also contain a shock attenuation system, which dampens shock loads introduced to the engine during transportation. The cradle is mounted to the stand base through this shock attenuation system. An engine stand does not by itself enable transportation of engines but is placed on another mode of transportation, be it a truck for road transportation, aircraft for air transportation, or a vessel for sea transportation. An engine stand is not designed to be used on concrete roads for taking the engine from one place to another. Caster wheels installed on an engine stand only enables limited mobility and that too only on smooth surfaces. If an engine is to be transported from one airport to another by road, engine stand cannot be used as a trailer for transportation. Engine stand, in such a case, is placed on another truck and tied properly and then transported on a road worthy truck. Engine stand cannot even enable movement of the engine from the bay area of the airport to the repair workshop. This is because the weight of engine stand is approximately 2.5T and with the engine it is approximately 5T or more. It is, therefore, difficult for manpower to move the engine safely even till the repair workshop. The caster wheels on the engine stand only enable smooth movement of the engine within the repair workshop.

26. Accordingly, an engine stand, being a composite machine, has to be classified basis the component that gives the essential character to it, i.e., cradle (container).

27. For classification of a “container” two competing entries namely, CTH 7310 and CTH 8609 have to be seen. It needs to be remembered that classification of goods or clearance of imported goods under a particular classification does not debar an assessee to dispute the earlier classification, when the assessments are re-opened by the departments for any reason.

28. Chapter 73 and Chapter 86 cover goods which are mutually exclusive. HSN Explanatory Notes to CTH 7310 excludes “containers” specially designed and equipped for carriage by one or more modes of transport under CTH 8609. Thus, containers falling under CTH 8609 cannot be classified under CTH 7310. CTH 8609 covers “containers” (including containers for the transport of fluids) specially designed and equipped for carriage by one or more modes of transport. HSN Explanatory Notes to CTH 8609 provide that these containers (including lift vans) are packing receptacles specially designed and equipped for carriage by one or more modes of transport (e.g., road, rail, water or air). They are equipped with fittings (hooks, rings, casters, supports etc.) to facilitate handling and securing on transporting vehicles, aircraft or vehicle.

29. The dictionary meaning of the word “container” can now be considered.

- | | |
|--|--|
| <p>(i) New Webster's Dictionary-</p> | <p>“that which contains; a vessel, receptacle, carton, case or other enclosing structure”</p> |
| <p>(ii) The Chamber's Dictionary-</p> | <p>“something that contains goods, etc. for storage; a large box-like receptacle of standard shape and size in</p> |

which goods are enclosed for transport on a lorry, train or ship”

(iii) **Oxford Dictionary of English (3rd Ed.)-** “an object for holding or transporting something”

30. In **G. Claridge & Company Ltd. Vs. Collector of Central Excise⁸**, the Supreme Court considered the meaning of the term “container” and the relevant portion of the judgment is reproduced below:

“9. The above definitions would show that the expression ‘container’ is used in three different senses: in a broad sense, it means a receptacle which contains; in a narrower sense, it means a receptacle in which articles are covered or enclosed and transported; and in a more limited sense, it means enclosures used in shipping or railway for transport of goods. If used in a broad sense, ‘container’ would include a tray because it is receptacle which contains articles and, therefore, an egg tray would be a ‘container’. But an egg tray would not be a ‘container’ in a narrower sense because articles placed in it are not covered or enclosed and they cannot be transported as such. It is, therefore, necessary to ascertain whether the expression ‘container’ in Item 17 of the old Tariff and Heading 48.18 of the new Tariff has been used in the broad sense to include all receptacles or in a narrower sense to mean those receptacles in which the articles are covered or enclosed and transported. For this purpose, the context in which the word ‘container’ has been used in these entries has to be examined. In Item 17 of the old Tariff, the word ‘containers’ is preceded by the words ‘boxes, cartons, bags’ and other packing’ and in Heading 48.18 of the new Tariff, the word ‘containers’ is Preceded by the words ‘and cases’ It is a well-accepted canon of statutory construction that when two or more words which are susceptible of analogous meaning are coupled together they are understood to

8. 1991 (52) E.L.T. 341 (S.C.)

be used in their cognate sense. It is based on the principle that words take as it were their colour from each other, that is, the more general is restricted to a sense analogous to a less general [See: Dr. Devendra M. Surti v State of Gujarat 1969 (1) SCR 235 at p. 240]. **Considering the expression 'container' in the context in which it is used in the relevant tariff item, we are of the opinion that the said expression has to be construed to mean 'packing containers' which are analogous to boxes and cartons, that is, an enclosed receptacle which can be used for storage and transportation of articles. Egg trays being receptacles which are not covered or enclosed cannot be used for transportation of articles and, therefore, they cannot be regarded as 'containers' under the above mentioned entries in the Excise Tariff."**

(emphasis supplied)

31. It would be seen from aforesaid judgment of the Supreme Court that the term "container" was given a narrow interpretation to mean a receptacle in which articles are covered or enclosed because the term "container" was preceded by the type of containers like boxes, cartons and cases, which are all closed containers.

32. In the present case, CTH 8609 does not use the term 'boxes' or 'cartons'. In fact, in terms of HSN Explanatory Notes to CTH 8609, all packing receptacles specially designed and equipped for carriage by one or more modes of transport are covered under this Heading. HSN Explanatory Notes to CTH 8609 also give various examples of containers that can get covered within the Heading. One example at paragraph (4) is also of an open container. Thus, so far as CTH 8609 is concerned, there is no good reason to apply the narrow meaning of the term "container" as against the broad meaning as discussed by the Supreme Court in **G. Claridge & Company Ltd.**

33. Thus, a product would merit classification under CTH 8609 if it fulfills the following conditions:

- (i) It must be a container, which can be of any type, including an open container.
- (ii) It must be a packing receptacle that is specially designed and equipped for carriage by one or more modes of transport i.e. road, rail, water or air.
- (iii) It must be equipped with fittings (hooks, rings, casters, supports, etc.) to facilitate handling and securing on the transporting vehicle, aircraft or a vessel.

34. Engine stand is a form of an open container as it holds/ contains the engine during its transportation/ repair process. Engine stand is specially designed for safely transporting the aircraft engines through different modes of transport, i.e., by truck, air and sea. Engine stand is in fact called as 'engine transport stand' denoting that it is a stand to be used during the transportation of aircraft engines. This is because the stand comes with a shock attenuation system to ensure safe transportation of the engine by avoiding any shocks or jerks during the transit and for keeping the engine safe from damages. Engine stand is always fitted with bolts and rings which are used to secure the engine onto the cradle and also to secure the stand (with engine on it) onto the transporting vehicle, which can either be another trailer/ truck or an aircraft. The aircraft engine stand imported by the appellant satisfies all the three conditions for safe transportation of the engine.

35. The caster wheels of aircraft engine stands are not even used. In fact, while the engine along with the stand is transported either through air, sea or land, the caster wheels of the aircraft engine stands are pivoted/ folded upwards. If the caster wheels are not folded upwards, the engine can easily shake and fall off the stand and thereby sustain multiple damages.

36. In view of the aforesaid provisions of rule 3(b) of the GI Rules, aircraft engine stand would merit classification under CTI 8609 00 00.

37. The classification of engine stand by the Principal Commissioner under CTI 8716 39 00 is not correct. The Principal Commissioner held that the main feature or the essential character or the principal function of an engine stand is to transport the aircraft engine from one place to another safely without damage and so the essential character of an engine stand is derived from its wheels. Accordingly, the same has to be classified under CTI 8716 39 00 as 'trailer and semi-trailers'.

38. As per HSN Explanatory Notes to CTH 8716, trailers and semi-trailers, hand or foot-propelled vehicles and vehicles drawn by animals are covered under CTH 8716. HSN Explanatory Notes to CTH 8716 gives various examples of different kinds of trailer/ semi-trailers which fall under the scope of CTH 8716. Some of these examples are, trailers or self-unloading trailers. The examples given in HSN Explanatory Notes to CTH 8716 cover those trailers and semi-trailers which on their own are used either for transportation of goods or conveyance of persons. Aircraft engine stand is entirely different. Engine stand is only used as a safety guard for the engine and prevents the engine from shocks during transportation. The actual

transportation of an engine placed on an engine stand is done by another mode of transportation, like a truck or an aircraft or a vessel. The sole purpose of an engine stand is to only protect the engine against any shock and ensure safe transportation of the aircraft engine. Aircraft engine stands are specifically designed in such a shape to provide sufficient amount of support to the aircraft engine against any damage. There are various large-sized machines/ appliance/ furniture items, which come with wheels for enabling their movement from one place to another. They are not transported on road simply by attaching the machines/ appliances with the help of a hook to another vehicle. It is only when the essential character is derived from the vehicle itself that the classification is done under CTH 8716.

39. The aforesaid discussion leads to the inevitable conclusion that air craft engine stand imported by the appellant would deserve classification under CTI 8609 00 00 and not under CTI 8716 39 00, as claimed by the department.

40. The impugned order dated 30.01.2020 passed by the Principal Commissioner, therefore, deserves to be set aside and is set aside. The appeal is, accordingly, allowed.

(Order Pronounced on **03.02.2025**)

(JUSTICE DILIP GUPTA)
PRESIDENT

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