

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
New Delhi

PRINCIPAL BENCH – COURT NO. 4

Customs Appeal No.51431 Of 2022

[Arising out of Order-in-Original No. 05/Commr./MS/Aisin/ICD-PPG/2021-22 dated 10.01.2022 passed by the Commissioner of Customs, ICD, Patparganj]

Aisin Automotive Haryana Private Limited : **Appellant**
Plot No. 7, 8, 9 Sector 30B, IMT, Rohtak Haryana

Vs

Commissioner of Customs : **Respondent**
ICD, Patparganj, Delhi-110066

APPEARANCE:

Shri Rajat Mittal, Shri Onkar Sharma and Shri Suprateek Neogi, Advocates for the Appellant

Shri Nagendra Yadav, Authorized Representative for the Respondent

CORAM :

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

FINAL ORDER No. 50306/2025

Date of Hearing:21.10.2024

Date of Decision:13.02.2025

HEMAMBIKA R. PRIYA

The present appeal has been filed by M/s Aisin Automotive Haryana Private Limited¹ to assail the impugned Order-in-Original No. 05/Commr./MS/Aisin/ICD-PPG/2021-22 dated 10.01.2022 wherein the Commissioner has confirmed the duty short paid of Rs. 1,33,82,357/- under Section 28(1) of the Customs Act, 1962 along with interest under Section 28AA of the Customs Act, 1962.

1 the appellant

2. The brief facts of the case are that the appellant was engaged in manufacturing passenger car parts falling under Chapter 87 of the First Schedule to the Customs Tariff Act, 1975, viz., outside handle, door check, door latch and handle frame etc. In order to manufacture the aforesaid parts, the appellant imported various components from Thailand and classified the same under Customs Tariff Heading 8708 99 00 under the category 'others'. The product whose classification has been called in question is "Cap-Sub-Assy Fr Door Outside Handle". While clearing the goods, the appellant availed the benefit of the concessional rate of 5% basic Customs duty, as per under Notification No. 46/2011 Customs dated 1 June 2011 [as amended by Notification No. 82/2018 Customs dated 31 December 2018] for specified products from Thailand. Notification No. 46/2011 covered products falling under Customs Tariff Heading 8708 99 00. On scrutiny of imports made by the appellant, the Department noticed that they were importing parts and accessories of bodies of automotive vehicles like Cap Sub-Assy Fr Door Outside Handle 423205-11480-Coh (Parts for Automobile) by classifying the same under CTH 87089900. On completion of investigation, show cause notice dated 12.03.2021 was issued to the appellant. Vide the impugned order, the Commissioner confirmed the differential duty of Rs. 1,33,82,357/- along with interest under Section 28AA of the Customs Act, 1962. Aggrieved by the said order, the appellant has filed the present appeal.

3. The Learned counsel for the appellant submitted that the appellant had all throughout been classifying the product under Customs Tariff Heading 8708 99 00. The appellant while importing the said item had filed the requisite Bills of Entry which had been accepted

by the Customs Department. The Customs Department while clearing the goods never questioned the classification being adopted by the appellant. Ld. Counsel further submitted that it is a settled principle of law that if 'any person' is aggrieved by any order or decision, then the prescribed procedure for disputing the said order under the relevant statute must be adhered to. The SCN in the present case was issued disputing the Bill of Entry which had been assessed, approved and finalized under Section 17 of the Customs Act. The procedure prescribed for disputing an order / assessed Bill of Entry is provided under Section 128 of the Customs Act. In support of his submission, the learned counsel relied upon the following decisions:-

- **M/s S. K. Timber & Company vs. Commissioner of Customs, Port Kolkata²**
- **ITC Ltd. vs. Commissioner of Central Excise, Kolkata³**

Learned Counsel contended that there is a fine line of demarcation between Section 28 and Section 128 of the Customs Act and Section 28 cannot be invoked with a view to review the assessment orders, in case the same is finalized. He contended that the impugned order had failed to appreciate this legal position and had also failed to distinguish the observations made in the case of **ITC Limited (supra)**.

3.1 The Id. counsel for the appellant further stated that the appellant in the present case had substantiated their position during the personal hearing. However, the impugned order had not dealt with the submissions and has summarily rejected the contentions of the appellant. In this context, he relied on the following decisions:-

- **Electronics Data Processing (India) Pvt. Ltd. vs. Commissioner of Central Excise⁴**

2 CA No. 75010 of 2019

3 2019 (368) ELT 216 (SC)

4 2014 (34) STR 577 (Tri.-Bang.)

- **PDS Logistics International Private Limited vs. Commissioner of Service Tax, Bangalore⁵**
- **Commissioner of Service Tax, Bangalore vs. Qualcomm India Private Limited⁶**

3.2 The learned counsel contended that of the impugned order relied on Rule 2(a) of General Rules of Interpretation to observe that an unfinished or incomplete article are to be classified as finished goods, if it has incomplete or unfinished article has the characteristics of the finished goods. He further submitted that Rule 2(a) relates only when the incomplete or unfinished article possesses the characteristics of the finished goods. However, he submitted that the product did not have any characteristic of a door handle. Post its importation, a plastic base material is inserted through its circumference and subsequently, a door handle comes into existence. It is not the case that the said product could perform the function of the door handle on a standalone basis. It is only when the product is moulded in a specific manner and under controlled circumstances, does a door handle come into existence. In support of his submissions, Id. Counsel relied upon the following decisions:-

- **Sony India Ltd. v Commissioner of Customs, New Delhi⁷**
- **Commissioner of Customs, New Delhi vs. Sony India Limited⁸**
- **LG Electronics India Private Limited vs. Commissioner of Customs, Mumbai⁹**

He also submitted that the aspect of applicability of Rule 2(a) has been held in the following cases:

- **Texla Enterprises v Commissioner of Customs, New Delhi¹⁰**

5 2006 (4) STR 548 (Tri.-Bang)
 6 2011 (22) STR 437 (Tri.-Bang)
 7 2002 (143) ELT 411 (Tri-LB)
 8 2008 (321) ELT 385 (SC)
 9 2006 (204) ELT 450 (Tri.-Mum)
 10 2002 (145) ELT 537 (Tri-Del)

- **B.E. Office Automation Products v Commissioner¹¹**
- **Space Ace Engg. Projects (P) Ltd v Collector of Central Excise, Pune¹²**

3.3 The Learned counsel further stated that one of the reasons to classify the product under CTH 8708 29 00 was that the principal use of the product does not change irrespective of the fact that the door handles are affixed by the vehicle manufacturer and the appellant imports the product and assembles to manufacture a door handle. The door handle is subsequently sold to the vehicle manufacturers who affix the same. Therefore, the complete process involves two steps. The appellant is only involved with the first stage, wherein it imports and/or procures domestically the necessary components required for manufacture of the door handle. At the time of import the product is not suitable to be affixed to the body of the car. It is only post importation that the said product is utilized for manufacturing of the door handle which then gets affixed to the body of the car. Ld. Counsel stated that CTH 8708 29 00 covers only those parts which are directly affixed on the body of the motor vehicle. Given the fact that the product is not directly affixed on the body of the motor vehicle, it cannot be classified under Customs Tariff Heading 8708 29 00. Further, he submitted that by relying on Section Note 3 to Section XVII and Note B of HSN Explanatory Notes, the impugned order has held that the product is classified as a part of door handle and since door handle is affixed on the body of the motor vehicle, the same merits classification under Customs Tariff Heading 8708 29 00. He contended that this

11 2000 (122) ELT 908 (Tri)

12 1995 (78) ELT 544 (Tribunal)

interpretation accorded to Note B of the HSN Explanatory Notes is erroneous. The Id. Counsel submitted that Note (B) to Chapter 87 and that Section Note 3 to Section XVII provides that a particular product will not be classified under Chapter 86 to Chapter 88 unless it is principally designed to be used a part of the articles. In support of his submissions, Id counsel relied upon the following decisions:-

- **Commissioner of Central Excise, Bangalore vs. San Transmissions¹³**
- **Commissioner of Central Excise, Delhi-III vs. Uni Products India Ltd.¹⁴**

In view of above submission, the Id. Counsel submitted that principal usage of the product is qua the door handle and since there is no specific entry for door handle, the same merits classification under Customs Tariff Heading 8708 99 00. Therefore, going by the rationale of the impugned order itself, the product ought to have been classified under Customs Tariff Heading 8708 99 00 by virtue of Section Note 3 and Note B to HSN Explanatory Notes.

3.5 The Id. Counsel also submitted that Customs Tariff Heading 8708 covers 'Parts and Accessories of the Motor Vehicles of Headings 8701 to 8705'. The sub-classifications envisaged thereunder has to be interpreted keeping in mind the Customs Tariff Heading, i.e., 8708 even in terms of Note 1 of General Explanatory Notes, the entries carrying single dash are to be treated equally and same refers to a sub-set of the heading, which in the present case is heading 8708 "Parts and Accessories of the Motor Vehicles of Headings 8701 to 8705." All parts are to be given equal treatment and one heading cannot exclude the other, other than the exclusions as per the Section Notes, Chapter

13 1999 (107) ELT 482 (Tri.-Bang.)

14 2020 (372) ELT 465 (SC)

Notes and General Rules of Interpretation. In support of his submission, Id. Counsel relied upon the decision of Hon'ble Supreme Court in the case of **Bhavnagar University vs. Palitana Sugar Mills Private Limited and Ors.**¹⁵. Therefore, the impugned order is liable to be set-aside on this ground alone.

3.6 The Id. counsel submitted that entry 1478 of the Notification No. 46/ 2011 as amended vide Notification No. 82/2018 envisages that when goods falling under Customs Tariff Heading 8708 95 to 8709 99 when imported from specified countries, attracts a concessional rate of 5% as Basic Customs Duty. The sine qua non for claiming the concessional rate of Basis Customs Duty is that the product so imported must satisfy and fall under the specified Customs Tariff Headings. He further submitted that the product is appropriately classifiable under Customs Tariff Heading 8708 99 00 as opposed to Customs Tariff Heading 8708 29 00. Therefore, the benefit under Notification No. 46/2011 as amended by Notification No. 82/2018 is available to the Appellant and the same has been rightly availed.

3.7 The Id. counsel for the appellant submitted that Section 28AA prescribes for levy of interest on delayed payment of duty which was payable under Section 28 of the Customs Act. He stated that the settled legal principle of law is that the liability to pay interest arises only when and if there is a liability to pay any duty or tax. In case the duty or the tax has been duly deposited then, the interest liability cannot be triggered. In this regard, learned counsel relied upon the following decisions:-

15 AIR 2003 SC 511

- **Commissioner of Central Excise, Bangalore v Bill Forge Pvt. Ltd.**¹⁶
- **Pratibha Processors vs. Union of India**¹⁷

He also submitted that interest is not leviable if the principal payment of duty is not payable or due has also been held in the following cases:

- **Commissioner of Customs, Chennai v Jayathi Krishna & Co**¹⁸
- **National Steel Industries Ltd v Union of India**¹⁹
- **Commissioner of Central Excise, Bangalore v Pearl Insulation Ltd**²⁰

4. Learned Authorized Representative for the Department while reiterating the findings in the impugned order, submitted that there is no doubt that the imported goods i.e. Cap FR door outside handle, Cap RR door outside handle or handle door outside were designed for specific purpose and the same has been admitted by the importer as well. Therefore, Section Note 3 of Section XVII applies here which states that:-Reference in Chapters 86 to 88 to 'parts' or 'accessories' do not apply to parts of accessories which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principal use of that part or accessory. Therefore, the correct CTH will remain as 8708 which is supported by HSN Explanatory Note B of section XVII.

4.1 Learned AR submitted that as per Rule 2(a) of General Rules of Interpretation that any reference in a heading to an article shall be

16 **2012 (279) ELT 209 (Kar)**
 17 **1996 (88) ELT 12 (SC)**
 18 **2000 (119) ELT 4 (SC)**
 19 **2002 (139) ELT 539 (MP)**
 20 **2012 (281) ELT 192 (Kar)**

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 or finished by virtue of this Rule), presented unassembled or disassembled. He further stated Rule 3 states that 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 per 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.

4.2 The Id. AR further submitted that the imported goods were designed for automotive door handle for specific model of motor vehicles. Thus, the goods are in the nature of finished articles as these are door handles that are attached to the motor car door. Even if these are attached using an in-between plastic piece, these are still finished articles and would include incomplete article if attaching a plastic is considered to make it complete. Therefore, as per Rule 2(a) of the GIR, the article is finished goods by itself. Since the imported goods are not a mixture of materials, Rule 2(b) of GIR is not applicable in such case. Rule 3(a) of the GIR, defines that the sub-heading which provides the most specific description shall be preferred to sub-headings providing a

more general description. In this case the appellant has declared goods as "RR door outside handle or FR door handle or outside door handle". The CTH 87082900- other parts and accessories of bodies-is a specific description for the imported goods. The door handles are part of door as per section note 3 of section XVII and HSN explanatory note B of CTH 87.08 and Rule 3(a) of the GIR. The importer has specifically given the description of the goods as door handles at the time of import. Secondly, addition of a plastic material to affix the imported goods on doors doesn't change the principal use. As per rule 2(a) of GIR, the incomplete/ unfinished door handles has the essential character of the complete or finished door handles, therefore, the same can be considered as 'finished door handle' and accordingly should be classified under CTH 87082900. Since, the imported goods are for specific use, therefore, considering Rule 3(a) of the GIR, the goods are classifiable under CTH 87082900. Further, CTH 870899 as others cover those parts which are (a) not parts of bumpers (CTH 8708.10), (b) not parts of bodies (CTH 8708.20), not parts of brakes (CTH 8708.30).....not parts of radiators, silencers, clutches, steering wheels, safety air bags (CTH 8708.91 to 8708.95). As the imported goods are specifically covered under CTH 8708.20 as parts of bodies, these are not to be covered under CTH 8708.99. The entry 8708.99 is a residual entry and covers goods not covered in previous entries of CTH 8708. It is very clear that that the imported item is a special purpose item and it cannot be treated as parts of general use and accordingly its classification should be decided. In the light of above submissions, Id. AR prayed that the present appeal may be dismissed and the impugned order may please be upheld.

5. We have heard the Ld Counsel for the appellant and the Ld Authorised Representative for the Department. We have also perused the case records. The issue before us is the classification of Cap Sub Assembly for Door Outside Handle 423205-11480 as to whether the said item is classifiable under CTH 87089900 as claimed by the appellant or 8708 2900 as alleged by the Department.

6. We note that the Rule 1 of General Rules of Interpretation provides for a thumb rule for all classification matters. The basic principle provided in Rule 1 is that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. We also note that Section Note 2 to Section XVII provides that 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:

(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);

'Parts of general use' have been defined in note 2 to section XV which reads as follows:

2. Throughout this Schedule, the expression "parts of general use" means:

(a) articles of headings 7307, 7312, 7315, 7317 or 7318 and similar articles of other base metal;

(b) springs and leaves for springs, of base metal, other than clock or watch springs (heading 9114); and

(c) articles of headings 8301, 8302, 8308, 8310 and frames and mirrors, of base metal, of heading 8306.

In the instant case, we note that sub assembly for door handles imported by the appellant are solely and principally designed for motor vehicles and have no other usage. Therefore, as per the Section Note, the same is liable to be classified under heading 8708 only.

7. The first submission made by the Ld Counsel is that the department should have filed an appeal against the bills of entry which had already been assessed by the department under section 17 of the customs act. He relied on the Supreme Court decision in the case of ITC Ltd. We note that section 28 of the customs act deals with the recovery of duties which are not levied or short paid. In this context, we observe that the appellant had self assessed his Bill of Entry which is being questioned under Section 28 of the Customs Act specifically provides for raising any issue in respect of duty not paid/short paid/short levy. The decision of the Hon'ble Supreme Court has to be interpreted in the context of self assessment. Being a case of self assessment, the appellant cannot take the plea that ITC decision would apply in the facts of the case. Hence we are unable to appreciate the learned counsel's submissions. It has also been submitted before us that the imported product does not have the characteristics of a door handle. Post importation, plastic material is inserted through its circumference and subsequently the door handle comes into existence. Ld. Counsel also has submitted that the product has to be moulded in a specific manner and under controlled circumstances for it to emerge as a door handle. In this context we note that the product imported by the appellant are door handles that are to be attached to the motor car door. The said door handles are attached using a plastic piece around its circumference. Rule 2(a) of the General Rules for Interpretation states

that any reference in a subheading to an article shall be taken to include a reference that article as presented in incomplete or unfinished form has the essential character of the complete or finished article. The relevant rules are reproduced below:-

RULE 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 or finished by virtue of this Rule), presented unassembled or disassembled.

RULE 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 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 3 (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 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

8. In the instant case, it is on record that the appellant had himself described the product as 'door handles' in the Bills of Entry. The goods so imported were described as RR door outside handle or FR door handle or outside door handle, clearly specifying the placement of each such

door handle. It has been argued before us that the door handle cannot be affixed as such and the plastic base material has to be affixed around its base in order to manufacture door handle. The true test for classification is the test of commercial identity. It has to be ascertained as to how the goods in question are referred to in the market by those who deal with them. In the instant case, the imported goods are door handles for the front door, rear door and in commercially identifiable as such, forming part of the body of the car.

9. At this point, we take note of the Hon'ble Supreme Court in its judgment in **M/s Thermax Ltd Vs Commissioner of Central Excise, Pune [2022 (382) E.L.T. 442 (S.C.)]** has highlighted the persuasive value of the HSN and held as follows:-

"6. The definition of a product given in the HSN should be given due weightage in the classification of a product for the purpose of levying excise duty. This is because in the Statement of Objects and Reasons of the Bill leading to enactment of Central Excise Tariff Act, 1985, it was clearly stated that the pattern of tariff classification is broadly based on the system of classification derived from the International Convention on the Harmonised Commodity Description and Coding System (Harmonised System) with such contraction or modification thereto as are necessary, to fall within the scope of the levy of Central Excise duty. The tariff so suggested for the levy under the Indian Tariff Act is based on an internationally accepted nomenclature, in the formulation of which, all considerations, technical and legal, have been taken into account. This was done to reduce avoidable disputes on tariff classification. Besides, the tariff would be on the lines of the harmonized system. It was also borne in mind that the tariff on the lines of the harmonized system would bring about considerable alignment, between the Customs and Central Excise Tariffs, which in turn, would facilitate charging of additional

customs duty on imports, equivalent of excise duty. It was therefore expressly stated in the Statement of Objects and Reasons that the Central Excise Tariff are based on the HSN and the internationally accepted nomenclature was as such taken into account, to reduce tariff classification disputes. **Thus, it was suggested that a safe guide for classification is the internationally accepted nomenclature emerging from the HSN and in case of doubt, the HSN should be chosen advisory for ascertaining the true meaning of any expression used in the Tariff Act.** In *Wood Craft* (supra), in the opinion written by Justice J.S. Verma, the following was pertinently opined in this context :

"12. Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the HSN. This being the expressly acknowledged basis of the structure of Central Excise Tariff in the Act and the tariff classification made therein, in case of any doubt the HSN is a safe guide for ascertaining the true meaning of any expression used in the Act. The ISI Glossary of Terms has a different purpose and, therefore, the specific purpose of tariff classification for which the internationally accepted nomenclature in HSN has been adopted, for enacting the Central Excise Tariff Act, 1985, must be preferred, in case of any difference between the meaning of the expression given in the HSN and the meaning of that term given in the Glossary of Terms of the ISI.

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18. We are of the view that the Tribunal as well as the High Court fell into the error of overlooking the fact that the structure of the Central Excise Tariff is based on the internationally accepted nomenclature found in the HSN and, therefore, any dispute relating to tariff classification must, as far as possible, be resolved with reference to the nomenclature indicated by the HSN unless there be an express different intention indicated by the Central Excise

Tariff Act, 1985 itself. The definition of a term in the ISI Glossary, which has a different purpose, cannot, in case of a conflict, override the clear indication of the meaning of an identical expression in the same context in the HSN. In the HSN, block board is included within the meaning of the expression "similar laminated wood" in the same context of classification of block board. Since the Central Excise Tariff Act, 1985 is enacted on the basis and pattern of the HSN, the same expression used in the Act must, as far as practicable, be construed to have the meaning which is expressly given to it in the HSN when there is no indication in the Indian tariff of a different intention."

7. Commenting on the importance of taking guidance from HSN Classification and how a taxing statute should be construed in consonance with their commonly accepted meanings in the trade and popular sense, Justice Sanjiv Khanna in D.L. Steels (supra) also so correctly observed as follows :-

"9. The Harmonised System of Nomenclature, developed by the World Customs Organisation, has been adopted in India by way of the Customs Tariff Act, 1975, though there are certain entries in the Schedules to this Act which have not been assigned HSN codes. The Harmonised System is governed by the International Convention on Harmonised Commodity Description and Coding System, which was adopted in 1983, and enforced in January, 1988. This multipurpose international product nomenclature harmonises description, classification, and coding of goods. While the primary objective of the HSN is to facilitate and aid trade, the Code is also extensively used by governments, international organisations, and the private sector for other diverse purposes like internal taxes, monitoring import tariffs, quota controls, rules of origin, transport statistics, freight tariffs, compilation of national accounts, and economic research and analysis. In the present times, given the widespread adoption of the Harmonised System by over 200 countries, it would be extremely difficult

to deal with an international trade issue involving commodities, without adverting to the Harmonised System. The Code is the bedrock of custom controls and procedures. The HSN consists of over 5000 commodities groups, which are structured into 21 Sections and 97 Chapters, which are further divided into four and six digit sub-headings. Many custom administrations, like India, use an eight or more digit commodity coding system, with the first six digits being the HSN code.

10. Classification under the Harmonised System is done by placing the goods under the most apt and fitting sub-heading. This is done by choosing the appropriate Chapter, Heading, and sub-heading respectively. To facilitate interpretation and classification, each of the 97 Chapters in the HSN contain corresponding Chapter Notes, General Notes, and Explanatory Notes applicable to the Headings and sub-headings within that Chapter. In addition, there are six General Rules of Interpretationⁿ applicable to the Harmonised System as a whole.

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12. We would, at this stage, take on record the well-settled principle that words in a taxing statute must be construed in consonance with their commonly accepted meaning in the trade and their popular meaning. When a word is not explicitly defined, or there is ambiguity as to its meaning, it must be interpreted for the purpose of classification in the popular sense, which is the sense attributed to it by those people who are conversant with the subject matter that the statute is dealing with. This principle should commend to the authorities as it is a good fiscal policy not to put people in doubt or quandary about their tax liability. The common parlance test is an extension of the general principle of interpretation of statutes for deciphering the mind of the law-maker. However, the above rule is subject to certain exceptions, for example, when there is an artificial definition or special meaning

attached to the word in a statute, then the ordinary sense approach would not be applicable.”

10. It is important to note here that in the aforesaid judgment, the Supreme Court has reiterated the view that the HSN code is the bedrock of custom controls and procedures. It has also been held that as per the HSN, classification is done by placing the goods under the most apt and fitting sub-heading. In this context, we also note that the Supreme Court in the judgement in Commissioner of Central Excise, Delhi vs. Uni Products Limited [2020-TIOL-91-SC-CX] had laid some guidelines for classification.

1) Section notes, Chapter notes are of utmost importance to determine classification. ACC to HSN Explanatory notes to Section XVII, all the 3 conditions must be fulfilled to classify product as par or accessory. In addition, the Hon’ble Court highlighted the persuasive value of the HSN Explanatory notes, specific headings should be preferred to general headings.

11. We now examine whether the said product satisfies the criteria of Rule 2 (a) of General Interpretation Rules. As per the facts of this case, there is no doubt that the imported goods i.e. Cap FR door outside handle, Cap RR door outside handle or handle door were designed for specific purpose and is admitted by the appellant. Consequently, as per Section Note 3 of Section XVII “Reference in Chapters 86 to 88 to 'parts' or 'accessories' do not apply to parts of accessories which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.” The

imported goods has been specifically designed as automotive door handle for specific model of motor vehicles. We are of the opinion that as per Rule 2(a) of the GIR, the said door handle in unfinished or incomplete form is liable to be classified as parts of outer body of a vehicle. Rule 3(a) of the GIR, defines that the sub-heading which provides the most specific description shall be preferred to sub-headings providing a more general description.

12. In the instant case, we note that the Appellant had declared goods as "RR door outside handle or FR door handle or outside door handle". The CTH 87082900-other parts and accessories of bodies-is a specific description for the imported goods. The door handles are part of door as per Section note 3 of section XVII and HSN Explanatory note B of CTH 87.08 and Rule 3(a) of the GIR. When the appellant has specifically given the description of the goods as door handles at the time of import, mere addition of a plastic material to affix the imported goods on doors does not change its principal use. As per rule 2(a) of GIR, the incomplete/ unfinished door handles has the essential character of the complete or finished door handles. Therefore, the same can be considered as 'finished door handle' and accordingly is liable to be classified under CTH 87082900. Since, the imported goods are for specific use, therefore, considering Rule 3(a) of the GIR, the goods are classifiable under CTH 87082900.

13. It has been submitted by the learned Authorized Representative that CTH 87089900 others' cover those parts which are (a) not parts of bumpers (CTH 8708.10), (b) not parts of bodies (CTH 8708.20), not parts of brakes (CTH 8708.30).....not parts of radiators, silencers, clutches, steering wheels, safety air bags (CTH 8708.91 to 8708.95). As

the imported goods are specifically covered under CTH 8708.20 as parts of bodies, these are not to be covered under CTH 8708.99. We are in agreement CTH 87089900 refers to "other parts and accessories of motor vehicles" which includes any miscellaneous parts or accessories for vehicles that are not specifically classified under other headings within Chapter 87, like small hardware components, non-standard vehicle parts, or specialized accessories not commonly listed elsewhere; essentially, any vehicle part not falling under the other 8701 to 8705 categories that are considered "parts and accessories of motor vehicles.". Door handles are to be classified under the Customs Tariff Heading 87082900 if they are parts or accessories of motor vehicles for the following reasons:-

- The HSN code 87082900 is for parts and accessories of motor vehicles, including cabs.
- The classification of door handles depends on whether they are designed for use primarily with motor vehicles.
- If the door handles are designed for use with specific models of motor vehicles, they are classifiable under the customs tariff heading 87082900.

14. In this context, we also rely on the Supreme Court's decision in **Westinghouse Saxby Farmer Ltd. vs. Commissioner of Central Excise, Calcutta**²¹ wherein, the Hon'ble Court held as follows:-

"34. Though at first blush, Note 2(f) seems to apply to the case on hand, it may not, upon a deeper scrutiny.

35. Note 3 of Section XVII reads as follows:

"References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory."

36. What is recognized in Note 3 can be called the "suitability for use test" or the user test. While the exclusion under Note 2(f) may be of goods which are capable of being marketed independently as electrical

21. 2021(376)E.L.T. 14(S.C.)

machinery or equipment, for use otherwise than in or as Railway signalling equipment, those parts which are suitable for use solely or principally with an article in Chapter 86 cannot be taken to a different Chapter as the same would negate the very object of group classification. This is made clear by Note 3.

37. It is conceded by the Revenue that the relays manufactured by the appellant are used solely as part of the railway signalling/traffic control equipment. Therefore, the invocation of Note 2(f) in Section XVII, overlooking the "sole or principal user test" indicated in Note 3, is not justified.

38. On the question as to what test would be appropriate in a given case, this court pointed out in **A. Nagaraju Bros. v. State of A.P.**²² as follows:

"...there is no one single universal test in these matters. The several decided cases drive home this truth quite eloquently. It is for this reason probably that the common parlance test or commercial usage test, as it is called, is treated as the more appropriate test, though not the only one. There may be cases, particularly in the case of new products, where this test may not be appropriate. In such cases, other tests like the test of predominance, either by weight of value or on some other basis may have to be applied. It is indeed not possible, nor desirable, to lay down any hard and fast rules of universal application."

Therefore, the respondents ought not to have overlooked the 'predominant use' or 'sole/principal use test' acknowledged by the General Rules for the Interpretation of the Schedule."

15. Similarly, in the case of **Cast Metal Industries (P) Ltd. vs.**

Commissioner of Central Excise-IV, Kolkata²³, the Apex Court held

as follows:-

"5. On the face of it, this note would not be applicable as it is HSN Note which has diversion with the relevant entry and as the very first line thereof mentions that it covers those goods which are meant for "general purpose". In the instant case, as already pointed out above, the goods in question are meant for specific purpose viz. in the motor vehicles that too for specific model of the motor vehicles as its parts.

6. We also find that the issue is squarely covered by the judgment of this Court in the case of *G.S. Auto International Limited v. CC Excise, Chandigarh* [2003 (2) SCC 371 = 2003 (152) E.L.T. 3 (S.C.)]. In the said judgment, following the earlier decisions of this Court, the Court specifically held that to determine the applicability of the item under particular head, the test of commercial identity of the goods would be the relevant test and not the functional test. It was also held that the expression "parts of general use" would not apply to parts or accessories which are not suitable for use solely or primarily with articles of Chapter Heading 87.08 which pertains to parts and accessories of motor vehicles of Chapter Headings 87.01 to 87.05. The Court was also categorical that in such a case the test that is to be applied is: whether the goods are suitable for use solely or primarily with articles of Chapter Headings 87.01 to 87.05'. It is strange even when the judgment was specifically brought to the notice of the Tribunal and is taken note of, but the same was not dealt with by the Tribunal in the impugned judgment at all.

22. 1994 Supp (3) SCC 122 = 1994 (72) E.L.T. 801 (S.C.)

23. 2015 (325) E.L.T. 471(S.C.)

7. We are of the opinion that the aforesaid judgment clinches the issue in favour of the appellant/assessee herein. Accordingly, the impugned judgment of the Tribunal is set aside and this appeal is allowed with no order as to costs."

16. The Ld. Counsel submitted that interest liability arises only when there is inability to pay tax. In the instance case, the customs duty had already been deposited at the time of import, hence, interest is not liable to be paid. As regards interest, we note that Supreme Court in the case of Pratibha Processors & Ors vs Union of India & Ors [AIR 1997 SUPREME COURT 138] has held that "Interest is compensatory in character and is imposed on an assessee who has withheld payment of any tax as and when it is due and payable." As we have held that the differential duty is liable to be paid, hence, the demand for interest is also upheld.

17. In view of the above discussion, we find no infirmity in the impugned order and uphold it. Accordingly, the appeal stands dismissed.

(Order pronounced in the open Court on 13.02.2025)

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

G.Y.