

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA**

REGIONAL BENCH – COURT NO.2

Customs Appeal No. 76314 of 2024

(Arising out of Order-in-Appeal No. KOL/CUS(PORT)/AKR/06-08/2020 dated 10.01.2020 passed by Commissioner of Customs (Appeals), Kolkata.)

Commr. of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Appellant

VERSUS

M/s. Aahana Commerce Pvt. Ltd.
(3, Woodburn Park, Malayalay, Unit No. 2A(S), 2nd Floor, Kolkata, West Bengal)

Respondent

With

Customs Appeal No. 76315 of 2024

(Arising out of Order-in-Appeal No. KOL/CUS(PORT)/AKR/06-08/2020 dated 10.01.2020 passed by Commissioner of Customs (Appeals), Kolkata.)

Commr. of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Appellant

VERSUS

M/s. Aahana Commerce Pvt. Ltd.
(3, Woodburn Park, Malayalay, Unit No. 2A(S), 2nd Floor, Kolkata, West Bengal)

Respondent

And

Customs Appeal No. 76329 of 2024

(Arising out of Order-in-Appeal No. KOL/CUS(PORT)/AKR/06-08/2020 dated 10.01.2020 passed by Commissioner of Customs (Appeals), Kolkata.)

Commr. of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Appellant

VERSUS

M/s. Aahana Commerce Pvt. Ltd.
(3, Woodburn Park, Malayalay, Unit No. 2A(S), 2nd Floor, Kolkata, West Bengal)

Respondent

APPEARANCE :

Mr. S. Chitkara & Mr. S. Debnath, Authorized Representative for the Appellant

Mr. Sudhir Mehta, Sr. Advocate & Ms. Riya Debnath, Advocate for the Respondent

CORAM:

HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)

HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNICAL)

FINAL ORDER NO. 75071-75073/2026

Date of Hearing : 14th January 2026

Date of Decision : 14th January 2026

PER RAJEEV TANDON

As in all the appeals the issue is common, with the consent of both the sides, they have been taken up together for disposal by a common order.

2. The facts of the case are that the Respondent imported Motor Controller and different types of Electric Tricycle Spare Parts. All the Bills of Entry filed were self-assessed. The Assessing Officer reassessed the importation by enhancing the CIF value and rejected the declared value of the impugned goods and also changed the classification of the item imported viz. 'Motor Controller' from CTH 8503 0090 to CTH 8708 9900.

3. The Respondent, to avoid delay and demurrage charges, cleared the goods on payment of the enhanced customs duty, under protest, and requested the lower authority to issue the order(s) of assessment under Section 17(5) of the Customs Act, 1962.

4. The Id. adjudicating authority however passed no formal orders under Section 17(5) of the Customs Act, 1962, as required in law.

5. Being aggrieved of the said assessment done by the Id. adjudicating authority, the Respondent filed appeals before the Ld. Commissioner (Appeals). The Ld. Commissioner (Appeals), after examining the issue, vide the impugned orders, set aside the orders of assessment; the

value declared by the Respondent was accepted and the goods in question were classified as 'Motor Controller' under CTH 8503 0090.

6. Aggrieved of the said orders, the Revenue is before us.

7. The Ld. Authorized Representative appearing on behalf of the Revenue submitted that the Ld. Commissioner (Appeals) has failed to appreciate that Rule 12(2)(iii) of the Custom Valuation Rules, 2007 which provides that "the proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include - (a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;" and has erred in interpreting Rule 12 of Customs Valuation Rules, 2007.

8. He submits that taking into account the submission of the Respondent and their failure to submit the documents, to substantiate their declared value, the transaction value cannot be determined under Rule 3(1) of the CVR, 2007 in terms of Rule 12(1) of the Rules *ibid*.

8.1 Moreover, it is the contention of the Revenue that if transaction value cannot be determined under Rule 3(1) of the CVR, 2007, the same has to be determined in terms of Rule 3(4) of the Rules which stipulates that transaction value has to be determined by the proceeding sequentially from Rule 4 to Rule 9 of the Valuation Rules.

8.2 Further, it is contended that in the instant cases, the contemporaneous import data for identical/similar goods was available; Based on the said data, after rejecting the transaction value as price 'payable' is higher as per evidence for the imported goods was rightly determined in terms of Rule 4/5 of the CVR, 2007, as applicable.

8.3 It is further contended by the Ld. Authorized Representative for the Revenue that the Ld. Commissioner (Appeals) has also failed to

appreciate that except the argument that their invoice value is correct and should be accepted as transaction value, the Respondent never submitted any substantive document like email exchanges for price negotiation, contracts, payment details, proof of remittance, etc., as required in terms of Rule 11(3) of the Custom Valuation Rules, 2007.

8.4 It is also submitted that the Ld. Commissioner (Appeals) has failed to appreciate that Customs Tariff Heading 8503 covers "parts suitable for use solely or principally with the machines of heading 8501 or 8502" and Custom Tariff Item 8503 0090 covers "parts of electric motor (other than DC motor)"; as clearly brought out in the said assessment order(s), the controller does not form a part of the electric motors, but is a separate and complete device used for controlling numerous activities including that of motor; that the controller under import is a device used in e-rickshaw or electric tricycle not to control the motor exclusively but other devices of e-rickshaw or electric tricycle as well; thus the said controller is used to control the functions of various parts of vehicle including acceleration and as also mentioned in the impugned Order-in-Appeal, control equipment are to be classified under CTH 8708, being used for acceleration etc. Hence, it is contended that the controller therefore cannot be regarded as part of 'motor' and cannot be classified under Customs Tariff Heading 8503.

9. On the other hand, the Ld. Counsel appearing on behalf of the Respondent supported the impugned orders passed by the Ld. Commr. (A). He relied on the decision of the Hon'ble Apex Court in the cases of **Commissioner of Central Excise, Aurangabad v. Videocon Industries Ltd. [2023 (384) E.L.T. 628 (S.C.)]** and **Hero Electric Vehicles Pvt. Ltd. v. Commissioner of Cus., Ludhiana [2018 (364) E.L.T. 1090 (Tri. – Chan.)]**

10. The Ld. AR has also relied up on the case of YC Electric Vehicle issued by the Delhi bench vide Final Order No. 50298/2025 dated 10/2/2025.

11. Heard the parties. Perused the appeal papers and documents placed before us.

12. We find that in respect of both the issues, with regard to valuation as well as classification, the Tribunal in the appellant's own case, has considered the matter and passed Final Order No. 76829-76831/2024 dated 29.08.2024. The relevant extract of the Tribunal's order reads as under:-

"11. We observe that the assessing officer has rejected the transaction values without any valid basis/reasons and without following the due procedure as laid down under Section 14 and Valuation Rules, especially when there is nothing on record to suggest that the transaction values declared by the appellant were not the price actually paid for the goods when sold for export to India. There is also nothing on record to suggest that the buyer and seller of the goods were related or price was not the sole consideration for sale. Also, we find that the Department has adduced no evidence that the respondent has paid any amount over and above the invoice value to the foreign supplier. In these circumstances, we hold that the enhancement of assessable values by the Id. adjudicating authority is liable to be struck down and set aside and the impugned bill of entry is to be assessed at values declared by the Respondent. We observe that the Ld. Commissioner (Appeals) has given categorical findings to reject the enhancement of value by the assessing officer and we find no reason to interfere with the same. Accordingly, we uphold the impugned order passed by the Commissioner (Appeals), accepting the transaction value declared by the Respondent in the respective Bills of Entry.

12. Regarding the classification of the goods imported by the Respondent, we observe that the Respondent has classified the goods under the Tariff Heading 8503 0090. Customs Tariff Heading 8503 covers "parts suitable for use solely or principally with the machines of heading 8501 or 8502" and Custom Tariff Item 8503 0090 covers "parts of electric motor (other than DC motor)". The electric motor is classified under the chapter heading 8501. In the Assessment Order, the Ld. Adjudicating authority has observed that the 'Controller' is used for starting and stopping the motor, selecting forward or reverse rotation, selecting and regulating the speed etc. We observe that all these functions are connected to motor and the 'controller' is principally used with the motor to perform these functions. Thus, we observe that the 'controller' imported by the Respondent is rightly classifiable under the chapter 8503.

12.1. The allegation of the department is that the 'Controller' does not form a part of the electric motors, but is a separate and complete device used for controlling numerous activities including that of motor. We have also gone through the definition of "controller" as provided by the adjudicating authority which reads as follows:

"A Controller is a comparative device or group of devices that receives an input signal from a measured process variable, compares this value with that of a predetermined control point value (setpoint), and determines the appropriate amount of output signal required by the final control element to provide corrective action within a control loop. An electric/electronic controller uses electric signals and digital algorithms to perform its receptive, comparative and corrective functions."

12.2. As per the definition of 'Controller' reproduced above, we observe that the controller has multiple usages and it is nowhere discussed in the assessment order or declaration given by the Respondent that the said motor will be employed in e-rickshaw. There is no logical reasoning provided in the assessment order that the motor has sole function of operation in e-rickshaw and cannot be operated in other mechanical equipment. The lower authority in its assessment order gave various pictorial references regarding the usage of controller with the e-rickshaw but nowhere discusses the usage of the same with the motor as declared by the Respondent.

12.3. We find that the adjudicating authority has considered that the controller is used for the starting and stopping the motor, forward or reverse motion and in the regulation of speed. However, the controller cannot on its own perform the said functions in the e-rickshaw without the presence of motor in the said vehicle. Therefore, the controller can be employed in e-rickshaw only when the motor to which it is attached to is an intangible part of the vehicle. As it is evident that the motor in itself has various usages and not solely to be used with the electric tri-cycle, as such the functions of the controller will also become limited in accordance with the principal function performed by the motor.

12.4. Controllers may be of various categories depending upon their usage and also depending upon the nature of the motor and the machine in which it is to be used. The main function of the controller as per the definition provided in paragraph 12.1 supra is to control the working of the machine i.e. to start and stop the operations of an electric motor which gives the desired speed to the operations of the machine for which it is being used. In this case, it has been confirmed that

the controller receives signals from the stations and controls power supply to motors which enables operators to start the motor in the desired direction and stop the motor as soon as the desired function is achieved. Thus admittedly the said controller does the function of "start" and "stop" of an electric motor attached to the hosts.

12.5. We also observe that there is no specific entry for the controller in the Customs Tariff Act, 1975. The adjudicating authority has considered the goods imported by the Respondent to be a part of e-rickshaw and classified the same under CTH 8708. The lower authority also described various parts of the motor such as rotor, frame, stator, motor shaft, commutator & brushes & terminals and contended that since the controller is not the part of the motor the same cannot be classified under CTH 8503. In this regard, we find that the chapter heading of CTH 8503 reads as follows:

"8503 Parts suitable for use solely or principally with the machines of heading 85.01 or 85.02."

"8503.00 Parts suitable for use solely or principally with the machines of heading 8501 or 8502."

12.6. As per the reading of descriptions as provided under Import Tariff, Section Notes to Chapter XVII and Explanatory Notes to HSN/CTH 8708, the goods imported will have the essential characteristic of parts & accessories of e-rickshaw only when the same are solely or principally used in the said vehicle. We also find that the goods as imported by the Respondent did not fulfil the description as provided in explanatory notes to CTH 8708. Further, the electronic controllers are excluded from the parts covered under CTH 8708. Moreover, the lower authority in its findings has not adduced any evidence that the goods imported by the respondent are the parts and accessories of e-rickshaw. We also observe that there is no declaration by the respondent that the said goods will be solely/principally employed in the manufacturing/making of the electric tricycle. As per the terminology of CTH 8708, the goods covered should be the parts and accessories of motor vehicles under CTH 8701 to 8705 and as per the point 3 of the Notes to Chapter XVII, the said goods having the description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principle use of that part of accessory. As per the reading of point 3 of Notes to Section XVII and the explanatory notes covering both CTH i.e. 8503 & 8708, the said goods are imported under the description of 'controller' and there is no declaration by the respondent that the said goods are the spare parts of e-rickshaw.

12.7. We also find that the controllers are not covered under the CTH 8708 as per the explanatory notes to Section XVII. It is also pertinent to note that the Notes to CTH 8503 covers the parts to be used with motor and as such merits the classification of the goods under CTH 8503. Thus, we hold that the goods imported by the Respondent are rightly classifiable under Chapter heading 8503 0090 as claimed by them in the respective Bills of Entry.

13. Hence, we find that the correct classification of the goods in question is CTH 8503 0090. Therefore, hold that the Ld. Commissioner (Appeals) has rightly held the classification of the impugned goods under CTH 8503 0090.

14. Therefore, following the order in respondent own case (*supra*), we do not find any infirmity in the impugned orders and the same are upheld.

15. In the result, the appeals filed by the Revenue are dismissed.”

13. We find the above decision squarely covers the issue at hand and hence following the ratio of the law laid down in the cited decision, we reject the revenue’s contention in the matter.

14. We also find force with the appellant’s argument that Note No. 2(f) to Section XVII specifically excludes electrical machinery or equipment falling under Chapter 85, from being included within the Chapter 87 goods. The Hon’ble Supreme Court in the case of **CCE, Aurangabad Vs. Videocon Industries Ltd.-2023 (384) ELT 628 (SC)**, has held as under:-

28. It is, therefore, clear that when goods are excluded from a particular chapter, the “pull in” through a note has to be narrowly construed, as otherwise, the basis of exclusion would be defeated, and the earlier note (of exclusion) rendered redundant.

15. The case law in the case of YC Electric cited by the Ld A R pertains to the parts of e-rickshaw, brought in under various headings, wherein the issue was whether these parts could be classified by way of their individual headings, or as parts of Electric Rickshaw; whereas the present case is concerned with the import of Motor Controller as a stand

alone product. Hence, the cited case law is clearly distinguishable and has no application in the present case.

16. In view of the discussions aforesaid, the appeals filed by the Revenue cannot survive. The order of the lower authority is maintained and the appeals filed by the Revenue stand dismissed.

(Dictated and pronounced in the open court.)

**Sd/-
(R. Muralidhar)
Member (Judicial)**

**Sd/-
(Rajeev Tandon)
Member (Technical)**

Pooja