CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Early Hearing Application No. 85602 of 2023
(on behalf of Appellant)

In

Excise Appeal No. 86037 of 2016

(Arising out of Order-in-Original No. 03/CEX/2016/PC/NGP-I dated 28.01.2016 passed by Commissioner of Central Excise & Customs, Nagpur)

M/s Mahindra & Mahindra Ltd. **.... Appellant**
Attn. Mr. Arun Deshpande Sr. Manager (Excise)
Farm Equipment Sector, Plot No. F1 and F7
MIDC, Hingana Road, Nagpur- 440 016.

Versus

Commissioner of Central Excise, Nagpur **.... Respondent**
Telangkhedi Road, Civil Lines,
Post Box No. 81, Nagpur- 440 001.

WITH

Excise Early Hearing Application No. 85603 of 2023
(on behalf of Appellant)

In

Excise Appeal No. 86693 of 2018

(Arising out of Order-in-Appeal No. NGP/EXCUS/000/APPL/692/17-18/348 dated 31.01.2018 passed by Commissioner (Appeals) of Central Excise & GST, Nagpur)

M/s Mahindra & Mahindra Ltd. **.... Appellant**
(Farm Equipment Division)
Farm Equipment Sector, Plot No. F1 and F7
MIDC, Hingana Road, Nagpur- 440 016.

Versus

Commissioner of Central Excise, Nagpur **.... Respondent**
Telangkhedi Road, Civil Lines,
Post Box No. 81, Nagpur- 440 001.

AND

Excise Early Hearing Application No. 85594 of 2023
(on behalf of Appellant)

In

Excise Appeal No. 88527 of 2014

(Arising out of Order-in-Original No. 40-41/CEX/2014/C dated 10.07.2014 passed by Commissioner of Central Excise & Customs, Nagpur)

M/s Mahindra & Mahindra Ltd. **.... Appellant**
Attn. Mr. Arun Deshpande Sr. Manager (Excise)
Farm Equipment Sector, Plot No. F1 and F7
MIDC, Hingana Road, Nagpur- 440 016.

Versus

Commissioner of Central Excise, Nagpur **.... Respondent**
Telangkhedi Road, Civil Lines,
Post Box No. 81, Nagpur- 440 001.

AND

Excise Early Hearing Application No. 85604 of 2023
(on behalf of Appellant)

In

Excise Appeal No. 88528 of 2014

(Arising out of Order-in-Original No. 40-41/CEX/2014/C dated 10.07.2014 passed by Commissioner of Central Excise & Customs, Nagpur)

M/s Mahindra & Mahindra Ltd. **.... Appellant**
Attn. Mr. Arun Deshpande Sr. Manager (Excise)
Farm Equipment Sector, Plot No. F1 and F7
MIDC, Hingana Road, Nagpur- 440 016.

Versus

Commissioner of Central Excise, Nagpur **.... Respondent**
Telangkhedi Road, Civil Lines,
Post Box No. 81, Nagpur- 440 001.

Appearance:
Ms Payal Nahar, Advocate for the Appellant
Shri Sunil Katiyar, Auth. Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/87092-87095/2023

Date of Hearing: 13.10.2023

Date of Decision: 13.10.2023

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. The applicant/appellant has filed these miscellaneous applications for early hearing of appeals. On going through the averments made therein, we are of the view that the prayer made therein can be considered in the interest of justice for out of turn hearing of these appeals. Accordingly, the miscellaneous applications are allowed. Since, the issue involved in the present appeals is identical and lies in a narrow compass, with the consent of both sides, we take up the appeals for final hearing and disposal today.

3. Classification of tractors manufactured by the appellant is the subject matter of present dispute. The appellant had claimed the classification of the said goods under sub-heading No.8701 9090 of the schedule to the Central Excise Tariff Act, 1985. The goods under such sub-heading are unconditionally exempt from payment of central excise duty in terms of notification No.12/2012-C.E. dated 17/03/2012, as amended. As against the classification claimed by the appellant, the department had classified the subject goods under sub-heading No. 8429 5100 *ibid*, which attract payment of central excise duty at the applicable rate. Owing to the reason of change in classification of the subject goods, the department had initiated show cause proceedings against the appellant, which culminated into the adjudication orders, wherein the impugned demands were confirmed. The details of the orders appealed against before the Tribunal were itemised herein below:

Sl. No	Appeal No.	Impugned Order(s) No. & Date	Period
1	E/86037/2016	O-in-O No. 03/CEX/2016/ PC/NGP-I dated 28.01.2016	November, 2013 to March, 2014
2	E/86693/2018	O-in-A No. NGP/EXCUS/ 000/APPL/692/17-18/348 dated 31.01.2018	April, 2014 to November, 2014
3	E/88527/2014	O-in-O No.40-41/CEX/2014/ C dated 10.07.2014	January, 2013 to October, 2014
4	E/88528/2014	O-in-O No.40-41/CEX/2014/ C dated 10.07.2014	July, 2012 to October, 2014

4. We find that the issue with regard to the proper classification of the goods arising out of the present dispute is no more *res integra,* in view of the Final Order No. A/85076-85078/2023 dated 30.01.2023

passed by this Tribunal in the case of the appellant itself. The same order has dealt with the adjudication orders for the previous periods ranging from April, 2007 to June, 2012. On examination of the case records, the Tribunal has held that the disputed goods namely, "*Arjun Ultra* – 1 CE" merit classification under sub-heading 8701 *ibid*, and are eligible for the benefit of duty exemption provided under the notification No. 6/2006-C.E. dated 01.03.2006 (serial No.40). The relevant paragraphs in the said order are extracted herein below:

> *"4.11 Since we determine the classification of the impugned goods in the form and manner which they are clear as tractor, the fact which is well supported and certified by Central Farm Machinery Training and Testing Institute, Ministry of Agriculture and the Automotive Research Association of India. Also in terms of the provisions of the Central Motor Vehicle Rules, 1989 the said goods are considered as tractors only. Thus we conclude by holding the classification of the impugned goods under heading 8701.*
>
> *4.12 Since we have concluded that impugned goods are classifiable under heading 8701, the exemption claimed by the appellant under Sl No 40 of the exemption notification no 06/2006-CE will be admissible to them.*
>
> *4.13 Since we have held in the favour of the appellants on merit itself we are not inclined to consider the other submissions on cum duty price, admissibility of CENVAT credit, limitation, interest and penalty etc., advanced by the appellant for deciding these appeals."*

5. We find that the present of appeals were filed by the appellant against the impugned orders passed for the subsequent period. Since both the notifications dated 01.03.2006 (serial No.40) and 17.03.2012 (serial No.277) are identically worded and that based on the judgement of Hon'ble Supreme Court in the case of *LMP Precision Engineering Co. Ltd.,* and the HSN Explanatory Notes, the Tribunal had classified the subject goods under sub-heading 8701, we do not find any reason or grounds to differ with such order dated 31.01.2023 passed by the Co-ordinate Bench.

6. Therefore, we do not find any merits in the impugned orders, insofar as the classification of the goods were changed from sub-heading 8701 9090 to 8429 5100, which had resulted in confirmation of the adjudged demands. Accordingly, the impugned orders are set aside and the appeals are allowed in favour of the appellant.

(Operative portion of the order pronounced in court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

Sinha