

OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V)
सीमाशुल्कआयुक्त (एनएस - V) कार्यालय
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,
TALUKA – URAN, DISTRICT - RAIGAD, MAHARASHTRA -400707
तालुका - उरण, जिला - रायगढ़, महाराष्ट्र 400707

DIN – 20260578NX0000616890 **Date of Orde:12.05.2026**
F. No. S/10-48/2025-26/COMMR/GR-VA/NS-V/CAC/JNCH **Date of Issue: 12.05.2026**
SCN No.: 120(a)/2025-26/COMMR/GR-VA/CAC/JNCH
SCN Date: 13.05.2025
Passed by: Sh. Anil Ramteke
Commissioner of Customs, NS-V, JNCH
Order No:34/2026-27/COMMR/GR-VA/NS-V/CAC/JNCH
Name of Noticees: M/s. TATA AUTOCOMP SYSTEMS LIMITED(IEC-3196022064)

ORDER-IN-ORIGINAL

मूल - आदेश

1. The copy of this order in original is granted free of charge for the use of the person to whom it is issued.

1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।

2. Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D'Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम 1962 की धारा 129 (ए) के तहत इस आदेश के विरुद्ध सी.ई.एस.टी.ए.टी., पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीजनल बेंच), 34, पी. डी.मेलो रोड, मस्जिद (पूर्व), मुंबई - 400009 को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

3. Main points in relation to filing an appeal:-

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Form - Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy).

फार्म - सीए3, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए).

Time Limit - Within 3 months from the date of communication of this order.

समय सीमा - इस आदेश की सूचना की तारीख से 3 महीने के भीतर

Fee - फीस-

- (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less.
- (क) एक हजार रुपये जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये या उस से कम है।
- (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 Lakh.

- (ख) पाँच हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये से अधिक परंतु 50 लाख रुपये से कम है।
- (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
- (ग) दस हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 50 लाख रुपये से अधिक है।

Mode of Payment - A crossed Bank draft, in favor of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.

भुगतान की रीति – क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीय कृत बैंक द्वारा सहायक रजिस्ट्रार, सी.ई.एस.टी.ए.टी., मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

General - For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, 1962, सीमाशुल्क (अपील) नियम, 1982, सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, 1982 का संदर्भ लिया जाए।

4. Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129E of the Customs Act 1962.

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्गृहीत शास्ति का 7.5 % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, 1962 की धारा 129 E के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

Subject - Adjudication of Show Cause Notice No. 120(a)/2025-26/COMMR./GR-VA/CAC/JNCHdtd. 13.05.2025 issued to M/s Tata Autocomp Systems Limited(IEC: 3196022064) under Section 28(8) read with Section 122 of the Customs Act, 1962-reg.

1. BRIEF FACTS OF THE CASE

1.1 On the basis of the data analysis, during premise based audit from 13.01.2025 to 15.01.2025, it is observed that M/s Tata Autocomp Systems Limited(IEC: 3196022064) (now hereinafter referred to as 'the Importer') having address as Taco House, Plot No. 20/B FPN085, V.G. Damle Path, Off Law College Road Erandwane, Pune, Maharashtra, 411004 have imported following items:

- (i) Lithium Ion Accumulator
- (ii) Parts of Lithium accumulator
- (iii) Primer surface base
- (iv) Outlet pile
- (v) Monolithic ceramic capacitor
- (vi) Module upper Panel
- (vii) Relay
- (viii) Lithium battery Cell

1.2. However, on scrutiny it appears that the imports were not proper in as much as:

A. Wrong Availment of benefit under Notification No.050/2017 – Cus dtd 30.06.2017

(i) The following Bills of Entry (Table I) were filed by the Importer at JNCH (INNSA1) for clearance of "LITHIUM ION ACCUMULATOR (BATTERY PACK)" (hereinafter referred to as 'the goods').

Table I

Sr no	BE Number and date	Full Item Description	CTH Code	Assessable Value Amount (Rs.)
1	9672681/ 23-11-2020	LITHIUMION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (BATTERY PACK AND PARTS THEREOF FOR ELECTRICALLY	85076000	5111735.0 4

		OPERATED VEHICLES) (LITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (BATTERY PACK AND PARTS		
2	2175553/ 30-12-2020	LITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (BATTERY PACK AND PARTS THEREOF FOR ELECTRICALLY OPERATED VEHICLES) (LITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (BATTERY PACK AND PARTS	85076000	40486029. 12
3	9931544/ 12-12-2020	LITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (INVOICE NO: GXGK20201123- IN01) (BATTERY PACK AND PARTS THEREOF FOR ELECTRICAL LITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (INVOICE NO	85076000	20310989. 76
4	7932343/ 17-06-2020	LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1 (BATTERY PACK FOR ELECTRICALLY OPERATED VEHICLE) LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1	85076000	48940079. 1
5	7053001/ 12-01-2022	LITHIUM ION BATTERY PACK [FOR ELECTRICALLY OPERATED VEHICLE] [REF. NO. TASL/ANNEXURE- III/2021-22/141 DT.11/01/2022] LITHIUM ION BATTERY PACK [FOR ELECTRICALLY OPERATED VEHICLE]	85076000	4598320.2 7

6	6660140/ 13-12-2021	LITHIUM ION BATTERY PACK (FOR ELECTRICALLY OPERATED VEHICLE) LITHIUM ION BATTERY PACK (FOR ELECTRICALLY OPERATED VEHICLE)	85076000	1157203.2 8
7	8792158/ 12-09-2020	PARTS FOR LITHIUM ION BATTERY PACK CKD DJ1828 NEXON-EV1 PARTS FOR LITHIUM ION BATTERY PACK CKD DJ1828 NEXON-EV1	85076000	3547161.0 7
8	9323663/ 26-10-2020	LITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (BATTERY PACK AND PARTS THEREOF FOR ELECTRICALLY OPERATED VEHICLES) LITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (BATTERY PA	85076000	90088226. 63
9	8445198/ 11-08-2020	LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1(BATTERY PACK FOR ELECTRICALLY OPERATED VEHICLE) (CE CERT NO VIII/LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON- EV1(BATTE	85076000	42320276. 64
10	9871473/ 08-12-2020	LITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (INVOICE NO: GXGK20201110- IN01) (BATTERY PACK AND PARTS THEREOF FOR ELECTLITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (INVOICE NO	85076000	20310989. 76
11	4397226/ 21-06-2021	CELL FOR LITHIUM ION ACCUMULATOR (BATTERY PACK AND PARTS THEREOF	85076000	978110.91

		FOR ELECTRICALLY OPERATED VEHICLE) CELL FOR LITHIUM ION ACCUMULATOR (BATTERY PACK AND PARTS THE		
12	8379195/ 05-08-2020	LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1 [BATTERY PACK FOR ELECTRICALLY OPERATED VEHICLE] LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1 [BATT	85076000	127547447 .6
13	2172200/ 30-12-2020	LITHIUM ION ACCUMULATOR MODEL: CELL (FOR ELECTRICALLY OPERATED VEHICLES) (FILE NO. (FILE NO.CUS/ICFS/MISC/6/2020-CFR AKLITHIUM ION ACCUMULATOR MODEL: CELL (FOR ELECTRICALLY OPERA	85076000	34052162. 28
14	8190310/ 16-07-2020	LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1 (BATTERY PACK FOR ELECTRICALLY OPERATED VEHICLE) LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1 (BATT	85076000	128050262 .8
15	7503482/ 22-04-2020	LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1 [BATTERY PACK FOR ELECTRICALLY OPERATED VEHICLE] LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1	85076000	21690887. 66
16	9918154/ 11-12-2020	LITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (INVOICE NO:1704600024/28-	85076000	71088464. 16

		IN01) (BATTERY PACK AND PARTS THEREOF FOR ELECLITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (INVOICE NO		
17	8112614/ 08-07-2020	LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1 (BATTERY PACK FOR ELECTRICALLY OPERATED VEHICLE) LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1	85076000	105819314 .4
18	9672681/ 23-11-2020	LITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (INVOICE NO:1704600024/14-IN01) (BATTERY PACK AND PARTS THEREOF FOR ELECLITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (INVOICE NO	85076000	57383976. 96
19	7717028/ 21-05-2020	LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1 (BATTERY PACK FOR ELECTRICALLY OPERATED VEHICLE) LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1	85076000	42851025. 98
20	9110228/ 14-06-2022	5040016180 2P 8S MODULE_VECV (LITHIUM ION BATTERY PACK) (FORELECTRICALLY OPERATOR VEHICLE) (TASL/ANNEXURE-III/2022-23/05040016180 2P 8S MODULE_VECV (LITHIUM ION BATTERY PACK) (FOR	85076000	291158.07

21	8445198/ 11-08-2020	LITHIUM ION ACCUMULAT OR (BATTERY PACK) DJ1828 NEXON-EV1(BATTERY PACK FOR ELECTRICALLY OPERATED VEHICLE) (CE CERT, NO VILITHIUM ION ACCUMULAT OR (BATTERY PACK) DJ1828 NEXON-EV1(BA	85076000	84640553. 28
22	8957565/ 26-09-2020	LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1(BATTERY PACK FOR ELECTRICALLY OPERATED VEHICLE) (CE CERT NO VIILITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1 (BATTERY	85076000	122578733 .4
23	8112614/ 08-07-2020	LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1 (BATTERY PACK FOR ELECTRICALLY OPERATED VEHICLE) LITHIUM ION ACCUMULATOR (BATTERY PACK) DJ1828 NEXON-EV1	85076000	889237.94
2 4	2456478/ 22-01-2021	LITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (BATTERY PACK AND PARTS THEREOF FOR ELECTRICALLY OPERATED VEHICLES) (FILITHIUM ION ACCUMULATOR MODEL: DJ1828 NEXON-EV1 (BATTERY PA	85076000	14223244. 14
T ot al				108,89,55, 590

(ii) The goods were classified under CTI 85076000 which covers “**Lithium-ion batteries (or Lithium Accumulators)**”. The Importer had availed benefit of

Notification No. 050/2017-Cus dated 30.06.2017, S.No. 528A and paid BCD @ 5%.

(iii) Notification No. 050/2017 - Cus dtd 30.06.2017 provides customs duty exemptions for certain goods, Serial number 528A covers “Battery Pack for use in manufacture of electrically operated vehicle or hybrid vehicle”, this includes **lithium-ion batteries** (also referred to as **lithium accumulators**), which are eligible for exemptions when imported for use in the manufacturing of electric vehicles (EVs). This entry is subject to condition 9 of the notification i.e., the importer has to follow the procedure set out in the Customs (Import of goods at concessional rate of duty or specific end use) Rules 2022 (IGCR Rules). The relevant Rules of the said ICGR Rules are reproduced below:

5(2)*the importer who intends to avail the benefit of an exemption notification shall submit a continuity bond with such surety or security as deemed appropriate by the Deputy Commissioner of Customs or Assistant Commissioner of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, with an undertaking to pay the amount equal to the difference between the duty leviable on inputs but for the exemption and that already paid, if any, at the time of importation, along with interest, at the rate fixed by notification issued.*

7(2)*The importer who has availed benefit of an exemption notification, prescribing observance of these rules may also clear the un utilised or defective imported goods, with the permission of the jurisdictional Deputy Commissioner of Customs or, as the case may be, Assistant Commissioner of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, within a period of six months from the date of import on payment of import duty equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest, at the rate fixed by notification issued under section 28AA of the Act, for the period starting from the date of importation of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay.”,*

The availed serial number 528A of Notification 50/2017 states “Battery Pack for use in manufacture of electrically operated vehicle or hybrid vehicle”

(iv) Accordingly, on the basis of above said notification and condition of the notification, the importer of the subject goods has to ensure the manufacture of electric vehicle at their end using the imported goods. However, in the instant case, it is found that the importer is not manufacturing any electric vehicle rather the importer has a battery manufacturing unit and not an Electric

Vehicle Manufacturing Unit. Hence, it can be inferred that they do **not meet the eligibility criteria** for the **exemption**.

(v) In this regard it is observed that Lithium Ion Accumulator is rightly classified under CTI 85076000. However, the imported goods are not eligible for benefit of Notification No. 050/2017 - Cus dtd 30.06.2017 (Sr No. 528A). Therefore, BCD is chargeable @ 20%. Accordingly, the importer is liable to pay differential duty of **Rs. 21,11,07,836/- (Rs. Twenty-One Crore Eleven Lakh Seven Thousand Eight Hundred Thirty Six only)**. Detailed calculation of differential duty is given in Table II below:

Table II

BE Number & Date	Assessable Value Amount	Total Duty paid	BCD 20%	SWS 10%	IGST Sch-III, S.No.37 6AAA 18%	Total Duty Payable	Differential Duty Payable
9110228 /14.06.2022	291158.07	109097	58232	5823	63938.31	127993	18896
4397226 /21.06.2021	978110.91	366498	195622	19562	214793.2	429978	63479
8445198 /11.08.2020	84640553.28	20728471	16928111	1692811	18587066	37207987	16479516
2172200 /30.12.2020	34052162.28	8339375	6810432	681043	7477855	14969331	6629956
2456478 /22.01.2021	14223244.14	3483272	2844649	284465	3123424	6252538	2769266
2175553 /30.12.2020	40486029.12	9915029	8097206	809721	8890732	17797658	7882630
9672681 /23.11.2020	5111735.04	1251864	1022347	102235	1122537	2247119	995255
9323663 /26.10.2020	90088226.63	22062607	18017645	1801765	19783375	39602784	17540178

9672681 /23.11.2 020	57383976 .96	140533 36	11476 795	11476 80	1260152 1	252259 96	11172660
9918154 /11.12.2 020	71088464 .16	174095 65	14217 693	14217 69	1561102 7	312504 89	13840924
9871473 /08.12.2 020	20310989 .76	497416 1	40621 98	40622 0	4460293	892871 1	3954550
9931544 /12.12.2 020	20310989 .76	497416 1	40621 98	40622 0	4460293	892871 1	3954550
8112614 /08.07.2 020	10581931 4.4	259151 50	21163 863	21163 86	2323792 1	465181 71	20603021
8112614 /08.07.2 020	889237.9 4	217774	17784 8	17785	195276. 7	390909	173135
7717028 /21.05.2 020	42851025 .98	104942 16	85702 05	85702 1	9410085	188373 11	8343095
7932343 /17.06.2 020	48940079 .1	119854 25	97880 16	97880 2	1074724 1	215140 59	9528633
8190310 /16.07.2 020	12805026 2.8	313595 09	25610 053	25610 05	2811983 8	562908 96	24931386
7503482 /22.04.2 020	21690887 .66	531209 8	43381 78	43381 8	4763319	953531 4	4223216
8379195 /05.08.2 020	12754744 7.6	312363 70	25509 490	25509 49	2800941 9	560698 58	24833488
8957565 /26.09.2 020	12257873 3.4	300195 32	24515 747	24515 75	2691829 0	538856 11	23866079
8445198 /11.08.2 020	42320276 .64	103642 36	84640 55	84640 6	9293533	186039 94	8239758
6660140	1157203.	433604	23144	23144	254121.	508707	75102

/13.12.2 021	28		1		8		
7053001 /12.01.2 022	4598320. 27	172299 1	91966 4	91966	1009791	202142 2	298431
8792158 /12.09.2 020	3547161. 07	868700	70943 2	70943	778956. 6	155933 2	690632
TOTAL							21,11,07,8 36

B. Wrong Classification of goods and availment of benefit under Notification No. 050/2017 - Cus dtd 30.06.2017

(i) During premise visit by the Audit Team of JNCH it is noticed that:

The Bills of Entry (as per **Annexure-I**) were filed by Importer for clearance of **“Cooling Pipe/Inlet Pipe/Outlet Pipe (Parts Of Lithium Ion Accumulator) (For Electrically Operated Vehicle)”** (hereinafter referred to as ‘the goods’). These goods have been classified under CTH 85076000 and the importer availed benefit of Sr. no. 512 of Notification no 50/2017. The availed serial number 512 of Notification 50/2017 states:

“a) Parts, components and accessories except Lithium-Ion cell and Printed Circuit Board Assembly (PCBA), for use in manufacture of Lithium-ion battery and battery pack.

b) Sub-parts for use in manufacture of items mentioned at a) above.”

(ii) During the Premises visit, it is learned that these pipes, though fitted adjacent to the Lithium-ion cell (**refer to image A**), are actually part of Heat Control unit. The cooling pipe is not a part of the battery accumulator itself, but rather a component of the broader Heat Control System in an electric vehicle (EV). Major components of it are as below:

a. Battery Accumulator (Battery Pack):

- o The battery accumulator, or battery pack, is the storage system that contains the cells or modules that store energy in an EV.
- o The primary purpose of the battery accumulator is to store and discharge electrical energy, which powers the vehicle's motors.
- o While the battery itself generates heat during charging and discharging, it does not include cooling mechanisms directly within

the cells. Instead, the cooling systems are external components designed to maintain optimal operating temperatures for the battery.

b. Cooling System in an EV:

- The cooling pipe is part of the vehicle's Heat Control Unit, which is crucial for maintaining the temperature of the battery pack within a safe operating range.
- The cooling system typically uses a liquid coolant that flows through pipes around or in contact with the battery pack. These cooling pipes help dissipate the heat generated by the battery and keep it at a consistent, safe temperature.
- The inlet/outlet pipes are connected to the Heat Control unit outside the Battery. Cool water/Coolant is taken in the battery from Heat Control Unit and Hot water/Coolant is taken out from the Heat Control Unit by the Outlet pipes.
- The cooling system can be integrated with the battery housing or placed around the pack, but it is not an intrinsic part of the battery's energy storage function. The cooling system is more about regulating the temperature for efficiency and safety.

(iii) As per explanatory notes to Section XVII of the HSN;

“Parts and accessories of the vehicles, aircraft or equipment concerned should be classified under headings of section XVII, only if they are suitable for use solely or principally with the articles of Chapters 86 to 88.”

(iv) Since, cooling pipes are typically made of materials like aluminium, plastic, or copper, and are primarily used for circulating coolant to prevent overheating. Hence, they are mechanical components and not electrical, further justifying their classification under CTH 8708. This fact is further corroborated as the importer themselves have classified the cooling pipes under CTI 87089900 which includes “Other parts and accessories of Motor Vehicles” under following Bills of Entry (Table III):

Table III

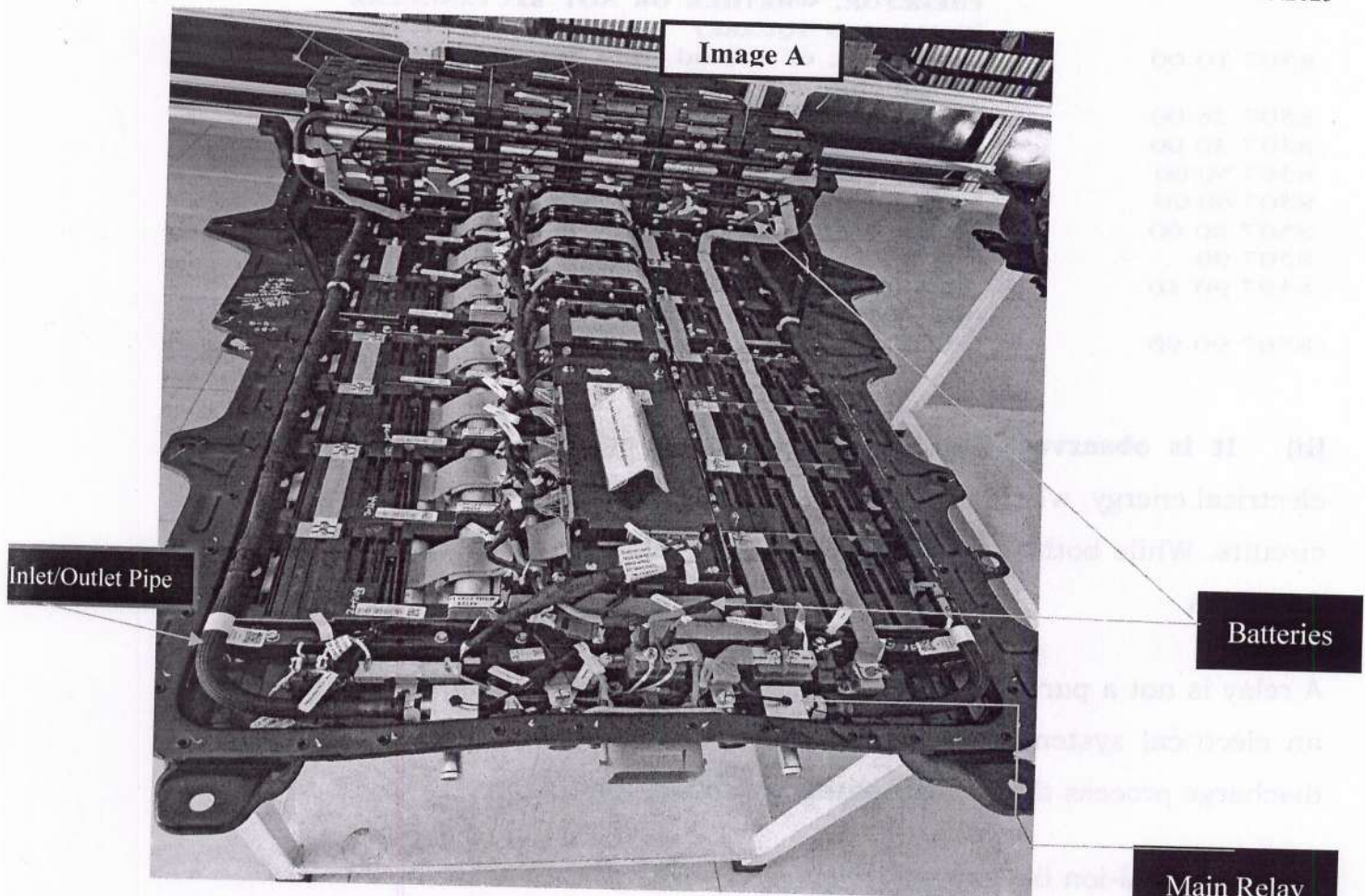
Sl No	BE number and date	Item Description	CTH	Assessable Value (in Rs)
1	4180866/ 14-01-2023	VEHICLE PARTS- COOLING PIPES PLASTIC (RE-IMPORT S/B NO.4069109 DT.09.09.22) (EXHIBITION GOODS)	87089900	388.32

2	4180866/ 14-01-2023	VEHICLE PARTS- COOLING PIPE1(RE- IMPORT S/B NO.4069109 DT.09.09.22) (EXHIBITION GOODS) EXHIBITION GOODS	87089900	1058.04
3	9407333/ 02-11-2020	WATER PIPE (AUTOMOTIVE PARTS) (30 M) PLASTIC PARTS	87089900	2227.5

(v) Further, Cooling pipes are typically designed for use within the vehicle's structure as part of the Heat Control Unit. This places them directly under the category of parts and accessories for motor vehicles.

(vi) Similarly, the importer has filed Bills of entry for the clearance of "**Water Inlet Unit/Water Outlet Unit**" (as per Annexure II). In vehicles, water inlet units are commonly used to control the flow of coolant/water to critical components of vehicles like batteries, engines, etc and further these water inlet units are connected to the Coolant/inlet/ outlet pipes making them part of the broader Heat Control unit. The water inlet/outlet unit serves a mechanical function in the vehicle, such as directing coolant/water to various components. Since, it is directly involved in maintaining the vehicle's performance and operational safety, it is rightly categorized under parts and accessories for vehicles, as per the **CTI 87089900**.

(vii) Since they are essential components in the vehicle but don't fit into more specific subcategories, they are classified under the more general **8708.99** category as "other parts and accessories."



From the above image (A) it is evident that Inlet/ Outlet Pipes are not a part of the battery, since they are fitted adjacent to the batteries.

(viii) Thus, it appears that the imported goods are correctly classifiable under CTI 87089900 attracting BCD @ 15% under first schedule to the Customs Tariff Act, 1975. The benefit of Notification no. 050/2017, Sr. No. 512 is not available to the imported goods as pipes are not used to manufacturing of the Lithium ion battery as stated in the availed notification rather they are components of a motor vehicle (electric vehicle).

(ix) Accordingly, the Importer is liable to pay differential duty of **Rs. 49,86,55,778/- (Rs. Forty-Nine Crore, Eighty-Six Lakh, Fifty-Five Thousand, Seven Hundred Seventy-Eight Only)**.

C. Misclassification and Wrong Availment of benefit under Notification No. 050/2017 - Cus dtd 30.06.2017

(i) During premise visit by the Audit Team of JNCH it is noticed that the Bills of Entry detailed in Annexure III were filed by the Importer for clearance of “**Main Relay/Relay**” (hereinafter referred to as ‘the goods’). The importer has classified Relay under CTH 85079090 which covers parts of lithium ion accumulator.

8507	ELECTRIC ACCUMULATORS, INCLUDING SEPARATORS THEREFOR, WHETHER OR NOT RECTANGULAR (INCLUDING SQUARE)
8507 10 00	- Lead-acid, of a kind used for starting piston engines
8507 20 00	- Other lead-acid accumulators
8507 30 00	- Nickel-cadmium
8507 50 00	- Nickel-metal hydride
8507 60 00	- Lithium-ion
8507 80 00	- Other accumulators
8507 90	- Parts :
8507 90 10	--- Accumulator cases made of hard rubber and separators
8507 90 90	--- Other

(ii) It is observed that Li-ion battery is primarily a **storage device** for electrical energy, whereas a **relay** is a **control device** used to manage electrical circuits. While both are used in electrical systems, they perform very different functions.

A relay is not a part of a Li-ion battery because it serves a different function in an electrical system, and it is not directly involved in the energy storage or discharge process that occurs within a lithium-ion (Li-ion) battery.

Function of Li-ion battery and relay is as below:

1. Li-ion Battery:

- A Li-ion battery is designed to store electrical energy chemically in its cells and release it as electrical power when required.
- Its main components are the anode, cathode, electrolyte, and separator. These parts work together to allow lithium ions to move between the electrodes during charging and discharging, facilitate storage and release of energy.

2. Relay:

- A relay is an electrical switch that is typically used to control a high-power circuit with a low-power signal. It allows a control circuit to turn on or off a high-power load without physically connecting the low-power control to the load.
- In the context of an electric vehicle (EV) or other systems, a relay may be used for functions such as disconnecting or reconnecting the battery from the rest of the system, controlling the charging circuit, or switching on/off the power supply to various components of the vehicle.

(iii) In vehicles, relays are used to control components like headlights, horns, and fuel pumps, enabling the vehicle's low-power systems (like switches) to control high-power systems (like motors and lights). Their main role in the

present case context is to control and protect the electrical circuit between the vehicle's powertrain (battery) and other vehicle systems.

(iv) Attention is invited to **Image A** wherein it is evident that Relays are placed at the end of the Wiring/Harness that connects the Batteries to the vehicle. This fact is further corroborated as the importer themselves have classified the imported goods under 85364900 which covers "Other Relays" in Bill of entry no **7993305** dated **24/06/2020** (Item description: GER200-12LSST Relay - Part of Li-Ion Accumulator Ger200-12lsst Relay - Part Of Li-Ion Accumulator) Chapter Subheadings of CTI 8536 is attached below for ready reference:

8536	ELECTRICAL APPARATUS FOR SWITCHING OR PROTECTING ELECTRICAL CIRCUITS, OR FOR MAKING CONNECTIONS TO OR IN ELECTRICAL CIRCUITS (FOR EXAMPLE, SWITCHES, RELAYS, FUSES, SURGE SUPPRESSORS, PLUGS, SOCKETS, LAMP-HOLDERS AND OTHER CONNECTORS, JUNCTION BOXES), FOR A VOLTAGE NOT EXCEEDING 1,000 VOLTS: CONNECTORS FOR OPTICAL FIBRES, OPTICAL FIBER BUNDLES OR CABLES.			
8536 10	- Fuses :	u	10%	-
8536 10 10	--- For switches having rating upto 15 amps, rewirable	u	10%	-
8536 10 20	--- For switches having rating above 15 amps, high rupturing capacity or rewirable	u	10%	-
8536 10 30	--- Other rewirable fuses	u	10%	-
8536 10 40	--- Other high rupturing capacity fuses	u	10%	-
8536 10 50	--- Fuses gear	u	10%	-
8536 10 60	--- Electronic fuses	u	10%	-
8536 10 90	--- Other	u	10%	-
8536 20	- Automatic circuit breakers :	u	10%	-
8536 20 10	--- Air circuit breakers	u	10%	-
8536 20 20	--- Moulded case circuit breakers	u	10%	-
8536 20 30	--- Miniature circuit breakers	u	10%	-
8536 20 40	--- Earth leak circuit breakers	u	10%	-
8536 20 90	--- Other	u	10%	-

SECTION-XVI

CHAPTER-85

(1)	(2)	(3)	(4)	(5)
8536 30 00	- Other apparatus for protecting electrical circuits	u	10%	-
8536 41 00	- Relays:	u	15%	-
8536 49 00	--- For a voltage not exceeding 60 V	u	15%	-
8536 50	--- Other	u	10%	-
8536 50 10	- Other switches :	u	10%	-
8536 50 20	--- Control and switch gears	u	10%	-
8536 50 90	--- Other switches of plastic	u	10%	-
	--- Other	u	10%	-

(v) Thus, it appears that the imported goods are correctly classifiable under CTI 85364900 attracting BCD @ 10%. Further, the benefit of Notification no. 050/2017 Sr. no. 512 is not available to the importer as relay is not used in the manufacture of Lithium-ion battery and battery pack as stated in the availed notification. Accordingly, the Importer is liable to pay differential duty of Rs. **1,67,92,384/- (Rupees One Crore Sixty-Seven Lakhs Ninety-Two Thousand Three Hundred Eighty-Four Only)**.

D. Short Payment of IGST on Parts of Li-ion accumulators.

During premise visit by the Audit Team of JNCH it is noticed that the Bills of Entry as detailed in annexure-IV (copy enclosed) were filed by the Importer for clearance of various Parts, sub-parts and components of Lithium ion Accumulator/Battery. The items imported are Harness, Busbar, Fixing plates, Bolts, Thermal insulation pads etc.

Parts of Li-ion accumulators are correctly classifiable under CTI 85079090 which attracts BCD @10%, however, the said goods attract IGST @ 28% under schedule IV Sr. no. 139, but the importer has paid IGST @ 18% under Schedule III Sr. no.376AAA.

This fact is further corroborated as the importer themselves have paid IGST@28% in certain bills of entry (**Details in Annexure IV**). Accordingly, the Importer is liable to pay the differential duty of **Rs.14,55,65,107/- (Rupees Fourteen Crore Fifty-Five Lakh Sixty-Five Thousand One Hundred and Seven only) (Details as per Annexure IV)** (copy attached).

E. Mis-classification of WELDING MACHINE under CTI 84688000, 90308400 instead of CTI 85158090.

(i) During premise visit by the Audit Team of JNCH it is noticed that the Bills of Entry were filed by the Importer (hereinafter referred to as the 'Importer') for clearance of "WELDING MACHINES" (hereinafter referred to as 'the goods').

TABLE IV

Sl No	Custo ms Site	BE Number and Date	Full Item Description	CTH Code	Assessable Value Amount (Rs.)
1	INCC U1	5595300/ 27-09-2021	VIBRATION WELDING MACHINE M624H VIBRATION WELDING MACHINE M624H	846880 00	7084368
2	INNSA 1	8879058/ 28-05-2022	PRISMATIC MODULE LASER WELDING PRISMATIC MODULE LASER WELDING	903084 00	20259507

(ii) A Vibration welding machine and flexible module welding operates primarily using **electricity**, specifically through electric motors that generate high-frequency vibrations to create friction between the materials being welded.

(iii) Similarly, A **laser welding machine** uses a **laser beam** as its heat source to melt and fuse materials. The laser beam is highly focused and generates

intense heat at the point of contact with the material. However, the importer has classified the said machine under CTH 846820 which covers gas operated welding machines.

(iv) Explanatory Notes for Chapter Heading 8515 are produced below for ready reference;

85.15 •ELECTRIC (INCLUDING ELECTRICALLY HEATED GAS), LASER OR OTHER LIGHT OR PHOTON BEAM, ULTRASONIC, ELECTRON BEAM, MAGNETIC PULSE OR PLASMA ARC SOLDERING, BRAZING OR WELDING MACHINES AND APPARATUS, WHETHER OR NOT CAPABLE OF CUTTING; ELECTRIC MACHINES AND APPARATUS FOR HOT SPRAYING OF METALS OR CERMETS.

• **Brazing or soldering machines and apparatus:**

8515.11 • • **Soldering irons and guns**

8515.19 • • **Other**

• **Machines and apparatus for resistance welding of metal:**

8515.21 • • **Fully or partly automatic**

8515.29 • • **Other**

• **Machines and apparatus for arc (including plasma arc) welding of metals:**

8515.31 • • **Fully or partly automatic**

8515.39 • • **Other**

8515.80 • **Other machines and apparatus**

8515.90 • **Parts**

(I) SOLDERING, BRAZING OR WELDING MACHINES AND APPARATUS

This group covers certain soldering, brazing or welding machines and apparatus, whether portable or fixed. They are also classified here when they are capable of cutting.

Welding operations may be performed manually or be fully or partly automatic.

These include:

(A) Brazing or soldering machines and apparatus.

The heat is normally generated by induction or conduction using electrical power sources.

Brazing and soldering are operations in which metal parts are joined by means of a filler metal with a lower melting point that wets the parent metal(s). The parent metal(s) does(do) not participate by fusion in making the joint. The filler metal is usually distributed between the surfaces of the joint by capillary attraction. Brazing can be distinguished from soldering by the melting point temperature of filler metals used. In brazing it is generally above 450 °C, whereas in soldering the melting point is achieved at a lower temperature. Only machines and apparatus which, by reason of their special equipment (for

example, a system for feeding in solder wire), are identifiable as solely or principally intended for brazing or soldering belongs to this group. Other appliances are to be considered as furnaces, ovens or heating equipment within the meaning of **heading 85.14**.

This heading also covers electrically heated hand soldering irons and guns.

(B) Machines and apparatus for resistance welding of metal.

The heat required for forming welded joints is produced by the resistance to the flow of an electric current through the parts to be joined (Joule heat). During welding the parts are held together under pressure and fluxes or filler metals are not used. These machines are of many kinds varying according to the type of article to be welded. They include, for example, butt welding or flash butt welding machines; single-spot welding machines comprising guns with or without built-in power sources; multi-spot machines and associated equipment; projection welding machines; seam welding machines; high-frequency resistance welding apparatus.

(C) Machines and apparatus for arc or plasma arc welding of metals, whether or not capable of cutting.

(1) Arc welding.

The source of heat is an electric arc struck either between two electrodes or between one such electrode and the work piece.

There are many machines of this kind, e.g., for manual metal arc welding with coated electrodes; for gas-shielded arc welding; for welding or cutting with consumable or non-consumable electrodes or with covered arc (inert-gas metal arc welding (MIG Metal Inert Gas); active-gas metal arc welding (MAG- Metal Active Gas); inert-gas tungsten arc welding (TIG-Tungsten Inert Gas); submerged arc welding (SA), electro-slag or electro-gas welding, etc.).

(2) Plasma arc welding.

The source of heat is a constricted arc which, by ionisation and dissociation, converts auxiliary gas into a plasma (plasma jet). The gas may be inert (argon, helium), polyatomic (nitrogen, hydrogen) or a mixture of the two.

(D) Machines and apparatus for induction welding of metals.

The heat is produced by passing a current through one or more inductor coils.

(E) Machines and apparatus for electron beam welding, whether or not capable of cutting.

The heat is produced in the piece(s) to be welded or cut by impact of the electrons of a focussed electron beam generated in vacuum.

(F) Machines and apparatus for vacuum diffusion welding.

The heat is generally produced by induction but may be produced by electron beam or resistance. The apparatus consists essentially of a vacuum chamber, vacuum pump, means of exerting pressure and heating equipment.

(G) Machines and apparatus for photon beam welding, whether or not capable of cutting.

Photon beam welding may be divided into:

(1) Laser beam welding.

The heat is derived from a source of essentially **coherent**, monochromatic radiation, which can be focussed into a high intensity beam. It is produced by the impact of this beam on the piece to be welded.

(v) As per above explanatory notes, it appears that Vibration Welding Machines, Laser Welding Machines and Flexible Module Welding Machines are correctly classifiable under **CTI 8515 80 90** and attract **BCD @10%**.

8515	ELECTRIC (INCLUDING ELECTRICALLY HEATED GAS), LASER OR OTHER LIGHT OR PHOTO BEAM, ULTRASONIC, ELECTRON BEAM, MAGNETIC PULSE OR PLASMA ARC SOLDERING, BRAZING OR WELDING MACHINES AND APPARATUS, WHETHER OR NOT CAPABLE OF CUTTING; ELECTRIC MACHINES AND APPARATUS FOR HOT SPRAYING OF METALS OR CERMETS - Brazing or soldering machines and apparatus:		
8515 11 00	-- Soldering irons and guns	u	10%
8515 19 00	-- Other - Machines and apparatus for resistance welding of metal :	u	10%
8515 21	-- Fully or partly automatic:		
8515 21 10	--- Automatic spot welding machinery	u	10%
8515 21 20	--- Automatic butt welding machinery	u	10%
8515 21 90	--- Other	u	10%
8515 29 00	-- Other - Machines and apparatus for arc (including plasma arc) welding of metals :	u	10%
8515 31 00	-- Fully or partly automatic	u	10%
8515 39	-- Other :		
8515 39 10	--- AC arc welding machinery	u	10%
8515 39 20	--- Argon arc welding machinery	u	10%
8515 39 90	--- Other	u	10%
8515 80	-- Other machines and apparatus:		
8515 80 10	--- High-frequency plastic welding machine	u	10%
8515 80 90	--- Other	u	10%
8515 90 00	- Parts	kg.	7.5%

(vi) Accordingly, it appears that the importer is liable to pay Differential duty of Rs. **8,87,309/- Rupees Eight Lakh Eighty-Seven Thousand Three Hundred and Nine Only**). The details are as below in Table V:

S	Custo	BE	Assessa	Total	BCD	SWS	IGST	Total	Differe
l	ms	Numbe	ble	Duty	10%	10%	Sch-III,	Duty	ntial
N	Site	r and	Value	paid			S.No.	Payab	Duty

o		date	Amount				378, 18%	le	Payabl e
1	INCC U1	559530 0/ 27.09.2 021	7084368	1964 849	7084 36	7084 3	14154 56.7	2194 737	22988 7.7
2	INNS A1	887905 8/ 28.05.2 022	2025950 6.97	5618 974	2025 950	2025 95	40478 49.5	6276 395	65742 1
								TOTA L	88730 9

Table V

F. Mis-classification of LATEX TUBE WITH FABRIC COVER under CTI 84242000 instead of CTI 40093200.

(i) The following Bills of Entry (as per Annexure VI) were filed by the Importer (hereinafter referred to as the 'Importer') for clearance of "**Latex Tube With Fabric Cover**" (hereinafter referred to as 'the goods') under CTI 8424 20 00 which covers spray guns and similar appliances. Further, **CTI 4009 32 00** specifically applies to **tubes, pipes, and hoses made of vulcanized rubber**, including **latex tubes** (rubber tubes). The product is primarily made from **vulcanized rubber** (in this case, latex), which is the main characteristic of **CTH 4009**.

CTI head of 4009 is provided below for ready reference;

4009	TUBES, PIPES AND HOSES, OF VULCANISED RUBBER OTHER THAN HARD RUBBER, WITH OR WITHOUT THEIR FITTINGS (FOR EXAMPLE, JOINTS, ELBOWS, FLANGES)				
	- <i>Not reinforced or otherwise combined with other materials :</i>				
4009 11 00	--	Without fittings	kg.	10%	-
4009 12 00	--	With fittings	kg.	10%	-
	- <i>Reinforced or otherwise combined only with metal:</i>				
4009 21 00	--	Without fittings	kg.	10%	-
4009 22 00	--	With fittings	kg.	10%	-
	- <i>Reinforced or otherwise combined only with textile materials :</i>				
4009 31 00	--	Without fittings	kg.	10%	-
4009 32 00	--	With fittings	kg.	10%	-

(ii) From the above discussion it appears that latex tubes with fabric cover are correctly classifiable under CTI 40093200 attracting BCD @ 10%. Accordingly, it appears that the importer is liable to pay Differential Duty of Rs. 22,83,566 (Rupees Twenty-Two Lakh Eighty-Three Thousand Five hundred and Sixty-Six only) **(Calculations in Annexure V)**.

G. Mis-classification of Latch and Lock under CTI 8431 49 20 instead of CTI 8301 30 00.

(i) During premise visit by the Audit Team of JNCH it is noticed that the Bills of Entry were filed by the Importer for clearance of **“Hardware Item Latch And Lock”** as below:

Table VI

Sl No	Custom s Site	BE Number and Date	Full Item Description	CTH Code	Assessable Value Amount (Rs.)
1	INNSA1	5976311/ 05-10-2024	50763-01 15061597 080-0200, LCH, CPRSN (HARDWARE ITEM LATCH AND LOCK -FOR PART MANUFACTURING)50 763-01 15061597 080-0200, LCH, CPRSN (HARDWARE ITEM LATCH AN	843149 20	4733803.7
2	INNSA1	4311607/ 03-07-2024	50763-01 15061597 080-0200, LCH, CPRSN (HARDWARE ITEM LATCH AND LOCK -FOR PART MANUFACTURING)50 763-01 15061597 080-0200, LCH, CPRSN (HARDWARE ITEM LATCH AN	843149 20	749198.25
3	INBOM 4	6879014/ 25-11-2024	4759343 SMALL LATCH PLATE 4759343 SMALL LATCH PLATE	843149 90	60265.06
4	INNSA1	2862449/ 03-04-2024	50763-01 15061597 080-0200, LCH, CPRSN (HARDWARE ITEM LATCH AND LOCK -FOR PART MANUFACTURING)50 763-01 15061597	843149 20	1118819.9

			080-0200, LCH, CPRSN (HARDWARE ITEM LATCH AN		
5	INNSA1	8978151/ 28-11-2023	50763-01 15061597 080-0200, LCH, CPRSN (Hardware item Latch and lock - For part manufacturing)50763 -01 15061597 080- 0200, LCH, CPRSN	843149 20	487024.17
6	INBOM 4	8424208/ 21-10-2023	50763-01 15061597 080-0200, LCH, CPRSN (Hardware item Latch and lock - For part manufacturing)50763 -01 15061597 080- 0200, LCH, CPRSN	843149 20	256226.75

- (ii) The imported items were classified under CTI 84314920 which includes parts of Parts of boring or sinking machinery like ships derricks and cranes. Further, locks and latches are covered under CTH 8301 and their primary function is to secure or fasten objects. They are not parts of machinery or industrial equipment. Locks and latches are not components of machinery but rather stand-alone hardware items used in a variety of applications, from securing doors to fastening containers. CTH 8301 specifically covers locks, padlocks, and locking mechanisms used for securing doors, vehicles, safes, cabinets, and other items. It also includes various locking devices and latches that serve the purpose of fastening or securing objects.
- (iii) In this regard it appears that Hardware item Latch and lock are correctly classifiable under CTI 83014090 which includes Other Locks attracting BCD @ 20%. Hence, it appears that the importer is liable to pay Differential Duty amounting to **Rs.12,01,516 (Rupees Twelve Lakh One Thousand Five Hundred Sixteen only)**. Detailed calculation is provided in the **Table VII** below;

Table VII

S l N o	Cust oms Site	BE Number and Date	Assessa ble Value Amount	Total Duty paid	BCD 20%	SWS 10%	IGST Sch- III, S.No. 303, 18%	Total Duty Payable	Diffe renti al Duty Paya ble
1	INNS A1	5976311 05/10/2024	473380 3.68	13129 20	9467 60.7	9467 6.07	1039 543	208098 0	7680 59.6
2	INNS A1	4311607 03/07/2024	749198. 25	20779 0.1	1498 39.7	1498 3.97	1645 23.9	329347 .6	1215 57.4
3	INBO M4	6879014 25/11/2024	60265.0 6	16714. 51	1205 3.01	1205. 301	1323 4.21	26492. 52	9778 .006
4	INNS A1	2862449 03/04/2024	111881 9.89	31030 4.7	2237 64	2237 6.4	2456 92.8	491833 .2	1815 28.5
5	INNS A1	8978151 28/11/2023	487024. 17	13507 6.2	9740 4.83	9740. 483	1069 50.5	214095 .8	7901 9.67
6	INBO M4	8424208 21/10/2023	256226. 75	71064. 49	5124 5.35	5124. 535	5626 7.39	112637 .3	4157 2.79
								TOTAL	1201 516

1.3 During the exit Conference with the Importer, the above objections/ findings were brought to the notice of the importer.

Total duty difference from the calculation Annexures and tables is **Rs. 87,64,93,496/- (Eighty-Seven Crore, Sixty Four Lakh, Ninety Three Thousand, Four Hundred Ninety Six Only)** (21,11,07,836+49,86,55,778 +1,67,92,384 +14,55,65,107 +8,87,309 +22,83,566 +12,01,516).

1.4. Relevant legal provisions for recovery of duty that appears to be evaded are reproduced here for the sake of brevity which are applicable in this instant case:

(i) After the introduction of self-assessment vide Finance Act, 2011, the onus is on the importer to make true and correct declaration in all aspects including classification and calculation of duty, but in the instant case the subject goods have been mis-classified and duty amount has not been paid correctly.

Section 17(Assessment of duty), subsection (1) reads as:

'An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.'

(ii) Section 28 (Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded) reads as:

'(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of-

- (a) collusion; or*
- (b) any wilful mis-statement ; or*
- (c) suppression of facts,*

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short- paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(5) Where any duty has not been levied or not paid or has been short-levied or short-paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under subsection (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

(iii) **Section 46(Entry of goods on importation)**, subsection(4) reads as:

'(4)The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.'

(iv) **Section 111 (Confiscation of improperly imported goods etc.)** reads as:

'The following goods brought from a place outside India shall be liable to confiscation:

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;'

(v) Section 112 (Penalty for improper importation of goods etc.) reads as:

'Any person,-

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable,-

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten percent of the duty sought to be evaded or five thousand rupees, whichever is higher.'

(vi) Section 114A (Penalty for short-levy or non-levy of duty in certain cases):-

'Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined.'

1.5. Whereas, consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in customs clearance. Section 17 of the Customs Act, effective from 08.04.2011 [CBEC's (now CBIC) Circular No 17/2011 dated 08.04.2011] provides for self-assessment of duty on imported goods by the Importer himself by filing a bill of entry, in the electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the Importer to make entry for the imported goods by presenting a bill of entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under

Section 157 read with Section 46 of the Customs Act, 1962), the bill of entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service center, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the Importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 08.04.2011, it is the added and enhanced responsibility of the Importer to declare the correct description, value, notification etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

1.6. Therefore, in view of the above facts, it appears that the importer has deliberately not paid the duty by willful mis-statement as it was his duty to declare correct CTH in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to ₹ **87,64,93,496/- (Rs Eighty Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only)**. Therefore, the differential duty, so not paid, appears to be liable for recovery from the Importer under Section 28(4) of the Customs Act, 1962 by invoking extended period of limitation, along with applicable interest at the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.

1.7. Section 111(m) of Customs Act, 1962 provides any goods which do not correspond in respect of value or in any other particular] [*Substituted by Act 36 of 1973, Section 2, for certain words (w.e.f. 1.9.1973).*] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54];

Section 111(o) of Customs Act, 1962 provides for confiscation of the goods if any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which condition is not observed unless the non-observance of the condition was sanctioned by the proper officer.

1.8. It appears that the Importer has failed to comply with the conditions mentioned above; therefore, it also appears that the imported goods are liable for confiscation under Section 111(m)/111(o) of the Customs Act, 1962.

1.9. It further appears that the Importer for the acts of omission and commissions mentioned above has rendered themselves liable for penal action under section 112(a) and 114A of the Customs Act, 1962.

1.10. M/s Tata Autocomp Systems Limited were issued Show Cause Notice, as to why:

- i. The subject goods imported vide Bills of Entry as detailed should not be confiscated under Section 111(m) and 111(o) of the Customs Act, 1962;
- ii. The differential duty amounting to **₹ 87,64,93,496/- (Rs Eighty Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only)** as detailed in the Annexure-A and Annexure-B together should not be demanded and recovered from them in terms of section 28(4) of the Customs Act, 1962.
- iii. The applicable interest on the amount specified above should not be recovered from them in terms of section 28AA of the Customs Act, 1962.
- iv. Penalty should not be imposed on them under section 112(a) and/or 114A of the Customs Act, 1962.

2. WRITTEN SUBMISSION OF THE NOTICEE

In response to the SCN, M/s Tata Autocomp Systems Limited vide letter/email dtd. 13.06.2025 submitted their written reply. The submissions made by them, in their words, are inter alia as under:

2.1 At the outset, it is submitted that the Noticee does not fully agree with the allegations made in the SCN and demand of differential duties, interest and penalties. The Noticee relies on the below ground in support of its contention which are without prejudice to one another as summarized in the table below for ease of reference:

Sr. No.	Issues raised in SCN	Noticee's submissions
1.	Wrong availment of benefit under	The benefit under Notification No. 50/2017 for the clearance of battery

	Notification No. 50/2017-Cus dated 30 Jun 2017	pack is correctly availed by the Noticee
2.	Misclassification of cooling/inlet/outlet pipe and availment of benefit under Notification No. 50/2017-Cus dated 30 Jun 2017	C. The classification adopted by the Noticee for imported parts of battery pack under Customs Tariff Heading ('CTH') 8507 is correct. D. Classification of parts under Customs Act, 1962 E. Cooling Pipe/Inlet Pipe/Outlet Pipe merits classification as parts of battery pack under CTH 8607
3.	Misclassification of relay and availment of benefit under Notification No. 50/2017-Cus dated 30 Jun 2017	F. Relays merit classification as parts of battery pack under CTH 8607 G. Benefit under Sr. No. 512 of Notification No. 50/2017 is correctly availed by the Noticee for the imported Cooling Pipe/Inlet Pipe/Outlet Pipe and relays
4.	Short payment of IGST on parts of Li-ion accumulators	Short-paid IGST alleged on parts of battery pack to the extent of Rs. 14,54,63,128/- has been already discharged by the Noticee
5.	Misclassification of welding machine	Demand to the extent of misclassification of imported welding machine and latex tube with fabric cover is accepted
6.	Misclassification of latex tube with fabric cover	
7.	Misclassification of latch & lock	Classification adopted by the Noticee for imported latch & lock under CTH 8431 is correct

2.2. The benefit under Notification No. 50/2017 for the clearance of battery pack is correctly availed by the Noticee:

2.2.1 It is submitted that the Noticee is part of the esteemed Tata Group and was established with a mandate to support **Tata Motors** in its foray into the passenger vehicles in India and recently its production of its first-of-its-kind automotives in the EV space.

2.2.2 The Noticee imported 'lithium-ion accumulators' or battery pack for further processing required to be fitted in 'Nexon' model of Tata EV at the manufacturing unit set-up for battery pack manufacturing for EV in Chakan, Pune. The imported goods were then cleared under Sr. No. 528A of Notification 50/2017 and claimed benefit of concessional rate available there under.

2.2.3 The impugned SCN disregards the benefit claim of the Noticee for the imported battery pack as in terms of Sr. No. 528A, benefit of concessional rate of duty is extended to import of "*battery pack for use in manufacture of electrically operated vehicle or hybrid vehicle*" whereas the Noticee has a battery manufacturing unit and the same was being used for Nexon car model of TATA Motors.

2.2.4 It is submitted by the Noticee in this regard that, the eligibility criteria laid down in the Notification No. 50/2017 is met by the Noticee for the following reasons:

- The battery pack imported during the impugned period were tailor-made battery packs for use in manufacture of specified model 'Nexon' only which is an EV of the Tata Motors
- The Noticee being part of the Tata Group and mandated to support Tata Motors in its manufacturing of EV plays a pivotal role in providing such tailor-made battery packs for use in EVs of Tata Motors
- Undertaking battery pack manufacturing and EV manufacturing on the same production line by same entities is not **feasible** due to the distinct nature of their processes, safety requirements, and technical infrastructure
- In such scenario, to support Tata Motors production of EVs in line with 'Make in India' movement, the Noticee has adopted **co-located or vertically integrated facilities** with Tata Motors to provide such battery packs for use in manufacture of EVs.

2.2.5 Further, it is also pertinent to note that while the Notification No. 50/2017 by virtue of Sr. No. 528A intends to provide benefit of concessional rate of duty to importers of battery pack who also undertake manufacture of EVs, the legislations and impugned SCN fails to consider that setting up battery pack manufacturing in the same production line as electric vehicle (EV) manufacturing presents several challenges, especially in India. Some key challenges faced are:

- **Regulatory Compliance:** Battery manufacturing involves strict regulations concerning safety, environmental impact, and quality standards. Manufacturers must comply with various laws and regulations, which can vary by state.
- **Supply Chain Complexity:** The supply chain for battery materials (like lithium, cobalt, and nickel) is complex and often involves global sourcing. Ensuring a stable supply of these materials can be challenging.
- **Technology and Expertise:** Battery technology is rapidly evolving, and manufacturers need to invest in R&D to keep up with advancements. This requires skilled labour and expertise, which may not be readily available.
- **Safety Concerns:** Battery manufacturing involves handling hazardous materials, which poses safety risks. Manufacturers must implement stringent safety protocols to protect workers and the environment.
- **Integration with Vehicle Production:** Integrating battery manufacturing with vehicle production requires careful planning and logistics. Any disruption in the battery supply can halt vehicle production.

2.2.6 With a view to overcome the above manufacturing complexities and challenges, the Noticee as part of the Tata Group to support 'Make in India' production of Tata Motors especially in the EV segment, has created vertical integration strategy to develop EV ecosystem which *inter alia* distributes activities of manufacturing of battery pack with the Noticee owing to its subject matter competency in complying with complex manufacturing, testing and supply requirements of battery packs for EVs while Tata Motors is vested with the activity of complete vehicle assembly using such components manufactured and delivered by the Noticee.

2.2.7 Therefore, in light of the above, as the battery packs were imported and processed at the Noticee's unit for manufacture of EV by its own OEM, the eligibility criteria which requires the use of such battery packs in manufacture of EV only is squarely met by the Noticee.

2.2.8 In the present case, the Noticee draws reference from the decision held in the case of **Commissioner of Customs, Chennai vs. Wipro Ltd. [2006 (206)E.L.T. 449 (Tri.-Mad) (26-09-2005)]** where benefit of exemption under Customs Notification No. 51/96, dated 23-7-96 was extended to the respondent on goods imported on behalf of M/s. Vikram Sarabhai Space

Centre (VSSC) basis letter of authority issued to them along with an end-use certificate issued by the VSSC which complies with the requirements of the exemption notification. The benefit was denied due to non-fulfilment of the conditions of the exemption notification as the importer was not the same as the end-user. The operative portion of the judgment is given below for ease of reference:

“Ld. SDR reiterated the grounds of the appeal. Ld. Counsel for the respondents defended the impugned order on the strength of the Board’s Circular No. 27/2003-Cus., dated 2-4-2003. We have given careful consideration to the submissions. The above notification exempted the goods described in Column No. 3 of the Table annexed thereto, imported by institutions named in Column No. 2, from payment of Basic Customs Duty and Additional Customs Duty. ‘Public Funded Research Institution’ was one of the importers specified in Column No. of the Table annexed to the notification. In the aforesaid circular, CBEC clarified that, even if the specified goods were imported by someone other than any institution mentioned in Column No. 2 against Sl. No. 1 of the Table annexed to the notification, the benefit of exemption could still be extended to the goods if meant for delivery to an institution specified in the notification. In the instant case, it is an admitted fact that the goods in question were imported by the respondents for and on behalf of VSSC, a Public Funded Research Institution. Hence in terms of the Board’s clarification, the benefit of the notification was available to the respondents. The impugned order is sustained and this appeal of the Revenue is dismissed.”

2.2.9 The relevant extract of the Circular No. 27/2003 dated 2 April 2003 is given below for ease of reference:

*“The matter has been examined by the Board. **Harmonious construction of provisions of the notification leads to the clear interpretation that benefit of concessional rate of duty under the said notification has to be allowed even in those cases where imports are made by importers other than the institutions specified in column (2) against Sr. No. 1 of the table, provided such imports are made for***

delivery to an institution specified in the notification”

2.2.10 In the present fact pattern, there is no dispute regarding nature of activities undertaken by the Noticee in relation to manufacture of battery packs for EV motors manufactured by Tata Motors as part of the Tata Group. Further, it is reiterated that such battery packs imported by the Noticee are tailor-made and tested for use in the EV manufactured by specified model of Tata Motors only and not elsewhere.

2.2.11 Presently, the impugned SCN seeks to deny the benefit availed by the Noticee vide Sr. No. 528A of the Notification No. 50/2017 on the following grounds:

“Accordingly, on the basis of above said notification and condition of the notification, the importer of the subject goods has to ensure the manufacture of electric vehicle at their end using the imported goods. However, in the instant case, it is found that the importer is not manufacturing any electric vehicle rather the importer has a battery manufacturing unit and not an Electric Vehicle Manufacturing Unit. Hence, it can be inferred that they do not meet the eligibility criteria for the exemption.”

2.2.12 In relation to above, the Noticee submits following reference to Circular No. 26/2024-Cus dated 21 Nov 2024 which *inter alia* clarifies applicability of IGCR benefit in certain cases involving import of notified goods in Notification No. 57/2017-Cus dated 3 Jun 2017 for the purpose of use in manufacture of cellular mobile phones. It is clarified that:

*“Accordingly, it is clarified that the expression “for use in manufacture of cellular mobile phones” is intended to convey that the component should be used in manufacturing process for cellular mobile phones. **This does not mean that the components should be imported by manufacturer of cellular mobile phones.**”*

(Emphasis supplied)

2.2.13 In the present case, while the Noticee is the importer of the battery pack notified at Sr. No. 528A of the Notification No. 50/2017, the fulfilment of intended end-use as per the exemption notification is ensured when the same

is supplied to Tata Motors for use in manufacture of its EVs as already explained in detail in the previous paragraphs.

2.2.14 Therefore, basis inference from the clarification issued vide aforementioned Circular vis-à-vis present fact pattern of the Noticee, it is clear that the intention of the Notification No. 50/2017 to provide concessional rate of duty to imported battery packs is so that it is used in the manufacture of EV and does not imply that the importer and manufacturer to the extent of availing the duty benefit should be same.

2.2.15 Therefore, drawing analogy from the judgment held in the case of **Commissioner of Customs, Chennai vs. Wipro Ltd.** (*ibid*) and Circular No. No.26/2024-Cus (*ibid*), the benefit of Notification No. 50/2017 should be extended to the Noticee as the end-use as specified therein in relation to use of such imported battery packs towards manufacture of Tata EVs is adequately fulfilled by the Noticee basis co-relation with Tata Motors.

2.2.16 Further, without prejudice to the above, it is pertinent to note that the demand to the extent of BoE filed during 2020-2021/2021-2022 is not tenable. It is submitted that the period of issuing SCN can only be extended beyond the period of two years, to five years when there is a reason of collusion, wilful misstatement, and suppression of facts with an intent to evade payment of duty as per Section 28 (4). Therefore, it is submitted that invocation of an extended period is not automatic, but essentially requires the existence of fraud, wilful-misstatement, suppression etc. with an intent to evade payment of duty. Further, **the onus to prove the existence of fraud, wilful-misstatement, suppression etc. is that of the authorities, which is absent in the present case.**

2.3 The classification adopted by the Noticee for imported parts of battery pack under Customs Tariff Heading ('CTH') 8507 is correct.

2.3.1 It is submitted that the parts namely cooling pipe/inlet pipe/outlet pipe and relays ('impugned goods') imported by the Noticee are tailor-made, model-specific items for use in manufacture of battery packs for corresponding models of EVs.

2.3.2 It is submitted that at the time of import, the Noticee analysed the use of the impugned goods which were having sole and principle use in the manufacture of battery packs and accordingly classified the said goods under chapter 85.

2.3.3 In the impugned SCN, the classification of impugned goods is challenged stating that the goods are not parts of battery pack but parts of heat control system in EV (cooling pipe/inlet pipe/outlet pipe) and standalone electrical device (for relays), respectively.

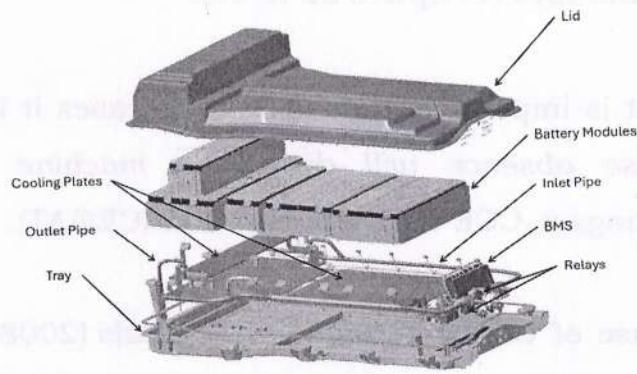
2.3.4 However, the Noticee submits that the issue of imported cooling pipe/inlet pipe/outlet pipe and relays and classification thereof has already been investigated by the DRI, Hyderabad through issuance of inquiry letters and summons proceedings (*ibid*). Basis such investigation and responses submitted by the Noticee, the classification adopted by the Noticee for such imported goods as parts of battery pack was accepted on account of which IGST at the rate of 28% was demanded instead of 18% which has been duly discharged by the Noticee(*ibid*).

2.3.5 In addition to above, the following is submitted in this regard by the Noticee:

Impugned goods are specifically tailor-made to battery packs and are not parts of heat control system/stand-alone electrical device in EV:

Cooling Pipes/Inlet Pipes/Outlet Pipes are integral part of the thermal management system, **which are integrated into the battery pack**. They maintain optimal battery pack temperature by carrying liquid coolant to the inside of battery packs via. Cooling plates. It ensures enhanced performance, prolong lifespan of individual cells, and prevent thermal runaway due to overheating of cells. Detailed write-up on use and assembly of the items is enclosed as **Annexure-8**.

2.3.6 Reference is made to Automotive Industry Standards ('AIS') 038, which are technical automotive standards followed by India to elaborate on battery packs and its essential components and systems. In this regard, Definition 2.37A of the AIS, 038 states that *a pack or Battery pack consists of multiple battery modules connected in series, each made up of individual lithium-ion cells. A Battery Pack includes **Battery Management System (BMS), Thermal Management System, Electrical connections (Busbars), Cooling system, electrical-electronics components** (Emphasis supplied). Refer exploded view of battery below for ease of reference:*



2.3.7 It can be observed from the above exploded view that the Cooling Pipe/Inlet Pipe/Outlet Pipe are integral and critical part of the EV Lithium-Ion Battery Pack used in electric vehicles. These enable precise control of battery temperature by circulating coolant fluid around the modules of lithium-ion cells. These connect with HVAC or thermal management system in the vehicle to the inside of the battery pack connecting multiple cooling channels beneath the lithium-ion modules.

2.3.8 Further, with reference to relays, it is submitted that it is an integral & essential part of a high-voltage Lithium-Ion battery pack because it enables safe and controlled switching of high voltage and high current flow. EV Lithium-ion battery pack typically operates at high voltages ranging from 300V to 800V, and currents can exceed 300A under peak loads (e.g., fast acceleration or DC fast charging). Directly switching (turning ON or OFF) these voltages and currents is dangerous without a robust mechanism. Further, relays are operated by low voltage electrical signal receiving from Battery Management control module or Battery Management System (BMS) that engages relays only when required.

2.3.9 In view of the above elaborate technical specifications of the impugned goods, it is pertinent to note that in the case of EV, the Lithium-ion Battery or Battery Pack is referred as a whole complete single unit that stores and discharges the electrical energy that is responsible to deliver energy for vehicle propulsion. Apart from cells, all other components and systems in the Battery Pack unit are significant functional elements which are inherent part of the Battery pack without which the Battery pack cannot perform its function.

2.4 Classification of parts under Customs Act, 1962:

2.4.1 It is settled law that classification of parts under Customs Act, 1962 is subject to notes in Sections and Chapters. Question of classification of parts is

relevant for parts of machinery, electrical equipment, vehicles, instruments, arms, furniture and toys (Chapters 82 to 96).

2.4.2 However, it is imperative that in various cases it is held that “*part* is a component whose absence will disable a machine or appliance”. Refer *Electrosteel Castings v. CCE 1989(43) ELT 305 (CEGAT)*.

2.4.3 Also, in case of *CCE v. Insulation Electricals (2008) 224 ELT 512 (SC)* it was held that a part is an essential component of the whole without which whole cannot function. Accessory is something supplementary or subordinate in nature and need not be essential for actual functioning of the product.

2.4.4 Therefore, basis the above submission it is clear that without the inlet, outlet pipe and relays, the battery pack would not function and hence, they merit classification as parts of battery pack.

2.5 Cooling Pipe/Inlet Pipe/Outlet Pipe merits classification as parts of battery pack under CTH 8607:

2.5.1 The impugned SCN alleges misclassification of Cooling Pipe/Inlet Pipe/Outlet Pipe (‘pipes’) imported by the Noticee for use in manufacture of battery pack as parts thereof instead of classification of such pipes under CTH 8708 as part of Heat Control Unit of a vehicle.

2.5.2 It is submitted that the impugned SCN relies on generic description and understanding of a battery pack and describes its function to the extent of the following:

“During the Premises visit, it is learned that these pipes, though fitted adjacent to the Lithium-ion cell (refer to image A), are actually part of Heat Control unit. The cooling pipe is not a part of the battery accumulator itself, but rather a component of the broader Heat Control System in an electric vehicle (EV). Major components of it are as below:

1. Battery Accumulator (Battery Pack):

- *The battery accumulator, or battery pack, is the storage system that contains the cells or modules that store energy in an EV.*

- The primary purpose of the battery accumulator is to store and discharge electrical energy, which powers the vehicle's motors.
- While the battery itself generates heat during charging and discharging, it does not include cooling mechanisms directly within the cells. Instead, the cooling systems are external components designed to maintain optimal operating temperatures for the battery.

2. Cooling System in an EV:

- The cooling pipe is part of the vehicle's Heat Control Unit, which is crucial for maintaining the temperature of the battery pack within a safe operating range.
- The cooling system typically uses a liquid coolant that flows through pipes around or in contact with the battery pack. These cooling pipes help dissipate the heat generated by the battery and keep it at a consistent, safe temperature.
- The inlet/outlet pipes are connected to the Heat Control unit outside the Battery. Cool water/Coolant is taken in the battery from Heat Control Unit and Hot water/Coolant is taken out from the Heat Control Unit by the Outlet pipes.
- The cooling system can be integrated with the battery housing or placed around the pack, but it is not an intrinsic part of the battery's energy storage function. The cooling system is more about regulating the temperature for efficiency and safety.

2.5.3 The impugned SCN bases the classification of the pipes under CTH 8708 as parts of automobile on the above understanding that it forms part of the vehicle's Heat Control Unit which is crucial for maintaining the temperature of the battery pack within a safe operating range.

2.5.4 Further, basis the above understanding, the impugned SCN relies upon explanatory notes to Section XVII and contends the following in support of its view to classify the pipes into CTH 8708:

"Parts and accessories of the vehicles, aircraft or equipment concerned should be classified under headings of Section XVII, only if they are suitable for use solely or principally with the articles of Chapters 86 to 88"

“since, cooling pipes are typically made of materials like aluminium, plastic, or copper and are primarily used for circulating coolant to prevent overheating. Hence, they are mechanical components and not electrical, further justifying their classification under CTH 8708. This fact is corroborated as the importer themselves have classified the cooling pipes under CTI 87089900 which includes “Other parts and accessories of Motor Vehicles” under following Bills of Entry (Table III)”

“Further, cooling pipes are typically designed for use within the vehicle’s structure as part of the Heat Control Unit. This places them directly under the category of parts and accessories for motor vehicles”

Table III:

SI No.	BE No.	BE date	Item description	CTH	Assessable value
1.	4180866	14-01-2023	VEHICLE PARTS-COOLING PIPES PLASTIC (RE-IMPORT S/B NO. 4069109 DT. 9.09.22) (EXHIBITION GOODS)	87089900	388.32
2.	4180866	14-01-2023	VEHICLE PARTS-COOLING PIPES PLASTIC (RE-IMPORT S/B NO. 4069109 DT. 9.09.22) (EXHIBITION GOODS)	87089900	1058.04
3.	9407333	02-22-2020	WATER PIPE (AUTOMOTIVE PARTS) (30 M) PLASTIC PARTS	87089900	2227.5

2.5.5 In regard to the above allegations made in the impugned SCN, the Noticee submits the following:

- **The impugned SCN fails to appreciate that a battery pack is not just a collection of cells for storage of electrical energy but it is a complex ecosystem:** Battery pack consists of BMS, Thermal Management System, Electrical connections (Busbars), Cooling system (*supra*) which enables it to perform its pivotal role in an EV which is not only limited to its role of storing electrical energy to power the EV but extends to its ability to protect the EV from over-heating, damage to ensure optimal performance. The cooling pipe are tailor made parts designed for use with the battery pack of specified voltage and not for use within the vehicle's structure as part of the Heat Control Unit.
- **Cooling pipes do not merit classification as parts and accessories under headings of Section XVII:** The cooling pipes are integral and critical part of the **battery pack** used in EV and not EVs. The cooling pipes find its place in the BTMS of the battery pack which enables appropriate flow of cooling liquid to avoid over-heating of the battery pack which as result ensures the smooth operation of the EV. The cooling pipes being an integral part suitable for use solely and principally with machine of Chapter 85 (battery pack) is precluded from classification under Section XVII in terms of Note 2 (f) which states 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:- (f) "electrical machinery or equipment (Chapter 85).*"
- **Erroneous referencing of items in Table III to corroborate classification of pipes under CTH 8708:** The items sampled there under are merely 3 line items from only 2 BoE which describe plastic cooling pipes which were exhibition goods and re-imported thereafter as described therein. The classification declared therein under CTH 8708 was due to inadvertent error. The items merit classification under CTH 8507 as parts of battery pack only attracting IGST at the rate of 28%. The differential IGST amount (at 10%) would be duly discharged by the Noticee in this regard.
- **The impugned SCN validates the fact in Para (ii) of B. that cooling system (which includes cooling/inlet/outlet pipes) can be integrated with the battery housing or placed around it:** While the impugned SCN is not disputing the role of pipes in cooling system which are integrated with the battery pack, it fails to appreciate that the cooling system or BTMS which incorporates such pipes which are tailor-made to support the cooling of a given battery of specified voltage, is integral and essential part of the entire battery

pack ecosystem without which it cannot be put to use for the purpose of supplying electrical energy. It is pertinent to note that the battery pack's function is not merely energy storage but also ensuring efficient supply of electrical energy throughout the vehicle in which thermal management plays a pivotal role to avoid overheating of the battery pack.

2.5.6 Basis conjoint reading of the technical literature with terms of heading of Chapter 85 and corresponding Chapter notes and Section notes, it is inferred that Cooling Pipe/Inlet Pipe/Outlet Pipe being **integral** to the battery pack assembly is an inseparable part of the battery pack and cannot stand to be classified individually elsewhere. Additionally, in terms of Section XVII notes, electrical machinery or equipment's are excluded from the definition of parts and accessories of Chapter 87.

2.5.7 In relation to classification of the pipes under Chapter 85 as parts of battery pack, the Noticee refers to Note 2 (b) to Section-XVI which *inter alia* states that parts suitable for use solely and principally with a particular machine is to be classified with the machine of that kind only. The relevant extract of the section notes is given below for ease of reference:

2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules :

(a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

*(b) **other parts, if suitable for use solely or principally with a particular kind of machine**, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate.*

....(Emphasis supplied)

2.5.8 Further, the Noticee also refers to Note 3 to Chapter 85 which in the context of CTH 8507 states that:

*"For the purposes of heading 8507, **the expression "electric accumulators" includes those presented with***

ancillary components which contribute to the accumulator's function of storing and supplying energy or protect it from damage, such as electrical connectors, temperature control devices (for example, thermistors) and circuit protection devices.”

....(Emphasis supplied)

2.5.9 In view of the above technical understanding read with Section and Chapter notes, it is observed that the impugned goods namely Cooling Pipe/Inlet Pipe/Outlet Pipe contributing towards the thermal management of the battery and relays contributing safe and controlled switching of high voltage and high current flow are collectively protecting the battery pack thereby qualifying as integral and inseparable parts of the battery pack.

2.5.10 The BMS, thermal management system such as the Cooling Pipe/Inlet Pipe/Outlet Pipe are integral and essential to protect and enable safe utilization of battery pack which contributes to the overall safety of the entire EV. Such integral and essential parts for manufacture of battery pack and inseparable and cannot be classified elsewhere but as parts of battery pack under Customs Tariff Item 85079090.

2.6 **Relays merit classification as parts of battery pack under CTH 8607:**

2.6.1 The impugned SCN alleges misclassification of relays imported by the Noticee for use in manufacture of battery pack as parts thereof under CTH 8507 instead of classification of such relays under CTH 8536 as electrical apparatus for switching or protecting electrical circuits

2.6.2 The Noticee reiterates that the impugned SCN relies on generic description and understanding of a battery pack and describes its function as follows:

“..(ii) It is observed that Li-ion battery is primarily a storage device for electrical energy, whereas a relay is a control device used to manage electrical circuits. While both are used in electrical systems, they perform very different functions.

A relay is not a part of a Li-ion battery because it serves a different function in an electrical system, and it is not directly involved in the energy storage or discharge process that occurs within a lithium-ion (Li-ion) battery.

Function of Li-ion battery and relay is as below:

1. Li-ion Battery:

- A Li-ion battery is designed to store electrical energy chemically in its cells and release it as electrical power when required.
- Its main components are the anode, cathode, electrolyte, and separator. These parts work together to allow lithium ions to move between the electrodes during charging and discharging, facilitate storage and release of energy.

2. Relay:

- A relay is an electrical switch that is typically used to control a high-power circuit with a low-power signal. It allows a control circuit to turn on or off a high-power load without physically connecting the low-power control to the load.
- In the context of an electric vehicle (EV) or other systems, a relay may be used for functions such as disconnecting or reconnecting the battery from the rest of the system, controlling the charging circuit, or switching on/off the power supply to various components of the vehicle.

(v) In vehicles, relays are used to control components like headlights, horns, and fuel pumps, enabling the vehicle's low-power systems (like switches) to control high-power systems (like motors and lights). Their main role in the present case context is to control and protect the electrical circuit between the vehicle's powertrain (battery) and other vehicle systems.....”.

2.6.3 The impugned SCN while challenging the classification of relays under CTH 8507 as parts of battery pack does not dispute the fact that in the context of EV, a relay is used for disconnecting or reconnecting the battery from the rest of system, controlling the charging circuit, etc. in Para (2) of C. Therefore, by virtue of this the role of a relay in efficient switching of voltage of a battery pack is established by the impugned SCN as well.

2.6.4 In view of the above, it is reiterated that in terms of Note 2 (b) to Section XVI (*ibid*) and Note 3 to Chapter 85 (*ibid*), parts suitable for use with machine of Chapter 85 are to be classified with such machine only. The relays being integral parts of the battery pack and being tailor-made for a given battery pack of specified voltage is suitable for only such use and not a general purpose switching apparatus which are intended to be covered under CTH 8536.

2.6.5 The Noticee relies on the Hon'ble Supreme Court's ruling in **Westinghouse Saxby Farmer Ltd. v. Commissioner of Central Excise, Calcutta TS-74-SC-2021-EXC**, where the Court emphasized the "suitability for use" or "user test" under Note 3 to Section XVII.

2.7 Benefit under Sr. No. 512 of Notification No. 50/2017 is correctly availed by the Noticee for the imported Cooling Pipe/Inlet Pipe/Outlet Pipe and relays.

2.7.1 The Noticee submits that the benefit of concessional rate of duty availed on the imported Cooling Pipe/Inlet Pipe/Outlet Pipe and relays vide Sr. No. 512 of Notification No. 50/2017 is correct as they are integral and essential parts for manufacture of battery packs without which a complete battery pack with specified voltage for specified models of automobiles could not be assembled and supplied.

2.7.2 In terms of the Notification No. 50/2017, benefit of concessional rate of duty under Sr. No. 512 is extended to parts or sub-parts for use in manufacture of battery pack. The relevant extract is given below for ease of reference:

Sr. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate
512	85 or any other Chapter	"a) Parts, components and accessories except lithium-ion cell and Printed Circuit Board Assembly ('PCBA'), for use in manufacture of lithium-ion battery and battery pack b) Sub-parts for use in manufacture of items mentioned at a) above"	2.5

2.7.3. Cooling Pipe/Inlet Pipe/Outlet Pipe are integral and critical part of the EV Lithium-Ion Battery Pack used in electric vehicles. Main usage of Cooling Pipe/Inlet Pipe/Outlet Pipe in the EV Battery pack are as follows (Document enclosed)

a. **Thermal regulation of the Battery pack:** Coolant pipes are designed to maintain sufficient flow rate and pressure of the coolant for proper cooling of the Lithium-ion Battery pack.

b. **Safety, Longevity and Health of Cells & Battery Pack:** Without the Cooling Pipes, the coolant cannot flow through the cooling channels/plates which can create high heat generation inside the battery pack, high temperature gradient across the pack, thermal stress on cells, loss of life of the cells due to overtemperature of cells and increase the chances of thermal runaway.

c. **Prevent overheating and battery degradation:** During charging and discharging, lithium-ion cells generate heat due to internal resistance. Without Cooling Pipes, the cells cannot dissipate this heat efficiently.

2.7.4 Further, relays are also integral and critical part for the manufacture of battery pack as it enables safe and controlled switching of high voltage and high current flow depending on the voltage of a given battery pack. It is essential for (Document enclosed)

a. **Safe Switching of High Voltage and High Current loads:** EV Lithium-ion battery pack typically operate at high voltages ranging from 300V to 800V, and currents can exceed 300A under peak loads (e.g., fast acceleration or DC fast charging). Directly switching (turning ON or OFF) these voltages and currents is dangerous without a robust mechanism

b. **Electrical Isolation and Safety:** Relays quickly disconnects the Battery Pack in the event of faults, short circuits, over-current to prevent High Voltage leakage, thereby provide safety of passengers.

c. **Significance of Relay in safety regulatory testing standards:** As per AIS 038 regulatory standard, the Relay plays a vital role in safety tests performed in the EV Battery pack. Relay protects the battery pack in the following testing conditions:

- External short circuit protection
- Over charge protection
- Over discharge protection
- Over temperature protection
- Over current protection

In each situation, the charging and discharging of the Battery system is terminated by Relay opening and protects the Battery pack.

2.7.5 In the above background, the role of impugned goods in the manufacture of a complete battery pack suitable for a given model of EV is sufficiently established and the benefit claimed by the Noticee is correct as the notified

end-use of such parts being used in manufacturing of battery pack is squarely met with by the Noticee.

2.7.6 Without prejudice to the above, assuming without accepting in the present contention, that the impugned goods don't merit classification under Chapter 85 as parts of battery pack but under respective CTH as stated in the impugned SCN, the impugned goods would still find coverage under the exemption notification as the description of the Notification No. 50/2017 clearly states that the benefit of concessional rate is eligible to parts or sub-parts for use in manufacture of battery packs classifiable under Chapter 85 or any other chapter.

2.7.7 It is pertinent to note that intention of the notification to extend the benefit of concessional rate of duty to parts or sub-parts for use in manufacture of battery pack irrespective of its placement under Chapter 85 or any other Chapter in the nomenclature is very clear and unambiguous. Therefore, the claim of the Noticee to avail benefit of Notification No. 50/2017 as per Sr. No. 512 is *bona fide* and devoid of any incorrectness.

2.8 Short-paid IGST alleged on parts of battery pack to the extent of Rs. 14,54,63,128 has been already discharged by the Noticee:

2.8.1 It is submitted that during the DRI investigation launched to scrutinize the imports of the Noticee, the short-payment of IGST on imported parts of battery packs such as harness, busbar, fixing plates, bolts, thermal insulation pads, etc. was highlighted to the Noticee.

2.8.2 On thorough analysis of such findings it was observed that while the classification of such parts was correctly adopted by the Noticee as also acknowledged during the DRI, Hyderabad investigation conducted during 2020-2021, the Noticee with a view to mitigate litigation and in light of revenue neutrality of the IGST, differential IGST payment was made by the Noticee vide TR-6 challans (*ibid*).

2.8.3 Such details of differential IGST paid by the Noticee corresponding to each BoE during investigation along with payment of Rs. 14,54,63,128 was discharged by the Noticee and duly informed to the DRI.

2.8.4 Now, in view of the impugned SCN, the short-paid IGST already discharged by the Noticee was not considered while computing the total demand of IGST to the tune of Rs. 14,55,65,107.

2.8.5 The Noticee submits that while the short-payment of IGST is acknowledged, the entire IGST demand to the tune of Rs. 14,55,65,107 is not accepted. However, the balance short-paid amount of IGST of Rs. 1,01,979 will be paid by the Noticee and intimated to the authorities accordingly.

2.9 Demand to the extent of misclassification of imported welding machine and latex tube with fabric cover is accepted

2.9.1 The Noticee submits that the classification adopted for welding machine and latex tube with fabric cover which is challenged in the impugned SCN is accepted.

2.9.2 The Noticee has thoroughly analysed the technical specifications of the welding machine and latex tube with fabric cover along with corresponding Section and Chapter notes of the Customs Tariff Nomenclature and submits that the classification proposed in the impugned SCN and corresponding demand raised as per the following is accepted:

Sr. No.	Item description	Classification adopted by Noticee	Classification accepted as per the impugned SCN	Demand raised
1.	Vibration welding machine	84688000	85158090	Rs. 8,87,309
2.	Prismatic Module Laser Welding machine	90308400		
3.	Latex tube with fabric cover	84242000	40093200	Rs.22,83,566

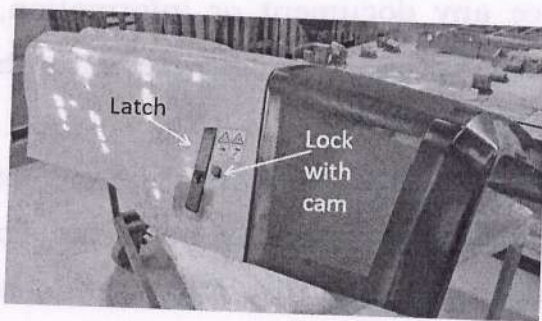
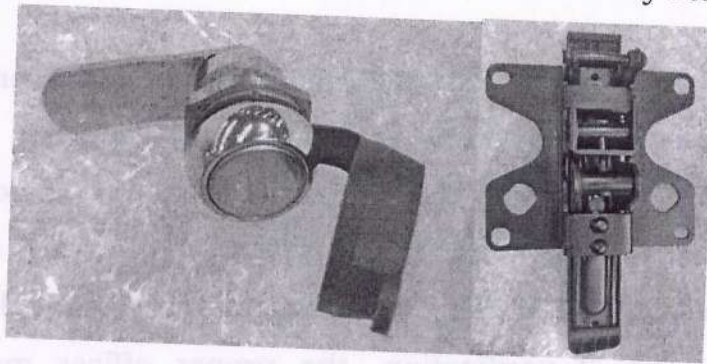
The differential duty demand with applicable interest would be duly discharged by the Noticee by 30-Jun-2025. The details of payment made towards the above items would be intimated to the department along with copies of Challans thereof.

2.10 Classification adopted by the Noticee for imported latch & lock under CTH 8431 is correct

2.10.1 It is submitted that the impugned SCN alleges misclassification of imported latch & lock merely basis description of the imported goods and the actual function, end-use, technical specifications, etc. have not been considered there under.

2.10.2 The impugned SCN thereby basis description and considering the function of the imported latch & lock to merely secure or fasten objects similar to general hardware items contended that the classification merits under CTH 8301.

2.10.3 Whereas the Noticee submits that the imported goods actually correspond to a tailor-made latch & lock used as a child part of engine hood assembly of off-road vehicle (JCB load all) (Technical literature enclosed as **Annexure-11**). Relevant pictures are given below for ready reference:



2.10.4 As evidenced by above pictures and enclosed technical literature, it is clear that the imported latch and lock is not a general use hardware item used to secure and fasten items, but a tailor-made child part for use in the hood assembly of a crane. These child parts once assembled onto the crane form part of the export product supplied to OEMs like JCB and supplied domestically in India.

2.10.5 In light of the above technical specifications read with the relevant terms of heading of Chapter 84 basis application of Rule 1 of the General Rules of Interpretation ('GRI'), the Noticee submits that the imported latch & lock being child parts of cranes merit classification under 8431 which *inter alia* covers parts of cranes.

2.10.6 Further, as alleged in the impugned SCN regarding the classification of such latch & lock under CTH 8301 it is pertinent to note that Section XVI *inter alia* precludes classifying articles of Chapter 83 there under. Therefore, the tailor-made latch & lock imported by the Noticee for hood assembly of crane is appropriately classified under CTH 8431 and more specifically under CTI 84314920 as parts of cranes only.

2.11 Provisions of section 28 are not invocable in the present case as assessment under section 17 is completed and the customs department was in knowledge of the classification practice adopted by the Noticee.

2.11.1 Without prejudice to the above, the goods in the present case were assessed under section 17 (to the extent of the bills of entry assessed finally and disputed in the present case). As per the provisions of:

- Section 17(1), an importer entering any imported goods under section 46 shall self-assess the duty, if any, leviable on such goods.
- The proper officer may verify the entries and for this purpose, examine or test any imported goods basis the selection of cases for verification primarily based on risk evaluation through appropriate selection criteria.
- For the purposes of verification, the proper officer may require the importer, to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon
- Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.
- Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry.

2.11.2 It is submitted that from the above, it is clear that the imports in the present case were under knowledge of the customs officers and customs officers could have asked for any additional documents/ information in case of any concerns about the information furnished by the Noticee. However, the powers given under section 17 were not exercised by the customs officers.

2.11.3 In such cases, the classification adopted by the Noticee after validation from the customs officers cannot be contested later by issue of SCN under section 28. Consequently, the SCN in the present case is not sustainable.

2.12 Extended period of limitation is not invokable. Hence, the substantial portion of the demand i.e., the demand relating to 2020-2021 and 2021-2022 is time barred being raised beyond normal limitation period.

2.12.1 It is submitted that as per Section 28 of the Customs Act, 1962, the SCN can be issued within two years from the relevant date in cases where non-payment or short payment of duty is not on account of fraud, wilful misstatement, suppression etc. Whereas in case the non-payment or short payment of duty is on account of fraud, wilful misstatement, suppression etc. the time limit for issuance of SCN is five years from the relevant date. The relevant portion of the provision is reproduced below:

“(1) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful misstatement or suppression of facts-

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;

Provided that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed;

...

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice."

.....(Emphasis supplied)

2.12.2 It is submitted that the period of issuing SCN can only be extended beyond the period of two years, to five years when there is a reason of collusion, wilful mis-statement, and suppression of facts with intent to evade payment of duty as per Section 28 (4).

2.12.3 It is submitted that invocation of an extended period is not automatic, but essentially requires the existence of fraud, wilful-misstatement, suppression etc. with an intent to evade payment of duty. Further, the onus to prove the existence of fraud, wilful-misstatement, suppression etc. is that of the authorities.

2.12.4 It is submitted that in the present case:

- The Noticee provided correct description of goods at the time of import.
- There was bona fide belief on part of the Noticee w.r.t. correctness of the classification adopted by it.
- The issue involved the interpretation of complex statutory provisions.
- The goods in the present case were assessed under section 17 of the customs act and the customs department were having full knowledge of the classification adopted by the Noticee.

2.12.5 Further, it is significantly important to note that during FY 2021-2022, the Noticee had been subject to an investigation by the DRI, Hyderabad into imports made by the Noticee wherein the Noticee has made a payment of differential IGST to the tune of **Rs. 18,16,62,580** during such investigation where classification of imported parts by the Noticee which *inter alia* includes pipes and relays was accepted under CTI 85079090 as parts of battery pack.

2.12.6 It is submitted that in view of the above, not only the extended period of limitation is not invocable but demand to extent of IGST already paid by the Noticee during FY 2021-2022 is not tenable and demand beyond normal

limitation period shall be dropped. The above points are explained in brief here in below.

2.13 Extended period of limitation cannot be invoked when issue is in relation to classification

2.13.1 Further, the underlying issue is in relation to classification of impugned parts of battery packs, classification of latch & lock, etc. i.e., whether the same merit classification under CTH 8507 or respective heading in terms of the Customs Tariff /CTH 8431 or CTH 8301 as proposed in the impugned SCN. It is a settled principle of law that extended period of limitation cannot be invoked for matters involving classification disputes and interpretational matters. Reliance in this regard is being place on the below jurisprudence:

2.13.1 The Gujarat High Court in case of **Commissioner of C. Ex, Cus. & S.T. vs. Agrawal Industries [2014 (5) TMI 603 – Gujarat High Court]** had held that if on any issue there is a legal dispute which involved interpretation of law the malafide intention or suppression of facts with intent to evade payment of tax cannot be attributed to the assessee.

2.13.2 In case of **Him Teknoforge Ltd Gear Division v CCE, Chandigarh [2018 (6) TMI 1072 – CESTAT Chandigarh]** the Tribunal had held that in the case involving interpretation of tariff entries, misdeclaration cannot be attributable to the assessee.

2.13.3 The present case is in relation to classification dispute which is a matter of interpretation. Thus, based on the above jurisprudence, extended period of limitation cannot be invoked in the present case. In light of the same, the impugned notice has been issued in complete defiance of the law of the land and is liable to be set aside.

2.14 Provisions of section 111 cannot be applied in the present case and the imported goods cannot be held liable for confiscation under the Section 111(m) and 111(o) of the CA, 1962

2.14.1 It is submitted that impugned SCN has been issued under section 28 of the Customs Act and it proposes confiscation of the subject goods in question in terms of Section 111 (m) of the CA, 1962 on the ground of mis-declaration of goods. Section 111 (m) of the CA, 1962 is reproduced for ready reference:

“111(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this act or in this baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with

declaration for transshipment referred to in the proviso to sub-section 1 of section 54”

2.14.2 It is submitted that:

- The confiscation cannot be ordered by issue of show cause notice under section 28 and
- The confiscation provisions are not applicable in the present case,

2.14.3 It is submitted that section 124 of the Customs Act deals with the issue of show cause notice before confiscation of goods. The relevant section is read as under:

SECTION 124. Issue of show cause notice before confiscation of goods, etc. — No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person -

(a) is given a notice in [writing with the prior approval of the officer of Customs not below the rank of [an Assistant Commissioner of Customs], informing] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter :

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral :

[Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.]

2.15 It is submitted that it is not in dispute that the SCN in the present case has not been issued under section 124 of the Customs Act. Thus, the provisions of section 111 i.e., confiscation cannot be invoked. Impugned SCN issued without appreciating the same shall be dropped. Reliance in this regard is placed on the decision in case of **M/s Fakhri Steels and Iron versus Commissioner of Customs 2022 (7) TMI 208 - CESTAT NEW DELHI.**

2.16 Without prejudice to the above, it is submitted that in the present case, there is no dispute w.r.t. the value, description of goods as made in the BoE or any other material details except classification. Thus, there is no mis-declaration therefore, the provisions of the section 111(m) are not attracted in the present case.

2.16.1 The Hon'ble High Court of Allahabad in the case of **Shahnaz Ayurveda's Vs. CCE [2004 (173) ELT 337 (All.)]**, has held that to impute 'misdeclaration' on the petitioner, it must be shown that the declaration was deliberate or intentional to evade the duty payment. The issue before the Hon'ble High Court was whether the petitioners were guilty of misdeclaration of tariff classification of products manufactured by the petitioner, since the petitioners were acting under a bona fide belief as to the tariff classification. The Court held as under:

*"78. Similarly, the wilfulness and intent refer to mental state at the time of doing or omitting to do an act by a person. Thus, it has to be gathered from assessing the overall facts and circumstances of the case as to whether the assessee intended to evade duty. **Same remained the position regarding misdeclaration and in case declaration has been made by the assessee to the best of its knowledge considering the facts and circumstances of the case and the quality of the product, the charge of misdeclaration cannot be sustained.** The concealment and suppression must be in order to deceit the Revenue keeping it in dark so that its acquiescence and endorses an unlawful act thinking that it is lawful when it approved the act in the full knowledge of the relevant particulars to it in good faith, that cannot be a case of deceit, fraud or concealment or suppression."*

..... (Emphasis Supplied)

2.16.2 The Hon'ble Court further held that whenever the Revenue alleges misdeclaration on the assessee, the initial burden of proving that the assessee deliberately acted with an intention to defraud the Revenue lies on the Revenue. Unless this burden is discharged, the assessee cannot be held guilty of misdeclaration. It is only after this burden has been discharged by the Revenue that the burden of disproving the misdeclaration shifts onto the assessee. The Hon'ble High Court further held that the evidence led by the assessee which proves the bona fide of the assessee cannot be brushed aside by the Revenue. The Hon'ble High Court in this regard held as under:

*"79. **The onus to prove fraud, misstatement is on the Revenue and not otherwise. It is only when the Revenue discharges its onus, the burden is shifted to the assessee to prove that he never intended to evade the liability.** Evidence led by the assessee cannot be brushed aside by the authority concerned rather it has to be dealt with in accordance with law.*

Nor it is permissible for the authority to ignore the relevant evidence/factors, taking into consideration irrelevant documents.”

... (Emphasis Supplied)

2.16.3 The above decision of the Hon'ble High court has been affirmed by the Hon'ble Supreme court in the case **of CCE Vs. Shahnaz Ayurvedics - 2004 (174) ELT A34 (SC)**.

2.16.4 Without prejudice to the above, in any case, the provisions w.r.t. confiscation cannot be made applicable to goods which are already cleared for home consumption.

2.16.5 Reliance in this regard is placed on the decision in case of **Bussa Overseas and Properties Pvt. Ltd. Vs. C.L. Mahar, Assistant Commissioner of Customs, Bombay 1992 (8) TMI 92 - BOMBAY HIGH COURT**, the Hon'ble Bombay High Court held that once the goods are cleared for home consumption, they cease to be imported goods as defined in section 2(25) of the CTA, 1962 and consequently are not liable to confiscation u/s 111 of the CTA,1962. The Hon'ble High Court held as under:

*“7..... The learned counsel urged that once the goods are cleared for home consumption, then the goods covered by the consignments cease to be imported goods in accordance with the definition of expression 'imported goods' under section 2 of the Act and consequently such goods are not liable for confiscation. There is considerable merit in the submission of the learned counsel. **The goods lose its character of imported goods on being granted clearance for home consumption and thereafter the power to confiscate can be exercised only in cases where the order of clearance is revised and cancelled...**”*

...Emphasis supplied

The SLP filed against the said decision was dismissed by the Hon'ble Supreme Court **[1996 (1) TMI 477 - SC ORDER]**.

2.16.6 Further, the condition subject to which benefit of concessional rate of duty was extended to the imported goods cleared by the Noticee has been duly met in all cases as elucidated and elaborated in the above points.

2.16.7 It is submitted that, from the above, it is apparent that the Noticee cannot be held guilty of misdeclaration only for the reason of classification

where there has been no suppression in the concerned BoEs, therefore, the goods could not be confiscated under Section 111(m) of the CA, 1962.

2.17 Penalty cannot be imposed under the Section 112(a) of the CA, 1962 for the alleged omission and commission on the part of Noticee for the misclassification of the imported goods.

2.17.1 The Noticee submits that the impugned SCN, alleges that the Noticee deliberately altered the classification of imported goods and filed BoEs with incorrect tariff headings during the relevant period to avail concessional rates of CVD, SAD, Cess, SWS, and IGST. This is alleged to be a wilful misstatement intended to evade applicable customs duties on parts and accessories of rolling stock, thereby attracting the provisions of Section 112 of the CA, 1962.

2.17.2 It is submitted that section 112 of the CA, 1962 provides for penalties in two scenarios:

- a) Where a person commits or omits any act that renders goods liable for confiscation under Section 111 or abets such an act;
- b) Where a person knowingly deals with goods that are liable for confiscation under Section 111.

2.17.3 It is submitted that as explained above, the provisions of section 111 i.e., confiscation cannot be invoked in the present case. Hence, the provisions of section 112 and penalty thereof are not invocable. Impugned SCN issued without appreciating the same shall be dropped.

2.18 Penalty cannot be imposed under Section 114A of the CA, 1962 for alleged wilful misstatement regarding the classification of the imported goods

2.18.1 The Noticee submits that, under Section 114A of the CA, 1962, a penalty equivalent to the amount of duty or interest determined under Section 28(8) may be imposed only if such non-levy, short-levy, or erroneous refund is attributable to collusion, wilful misstatement, or suppression of facts.

2.18.2 It is submitted that provisions of Section 114A are invocable when it is established that the short payment or non-payment of duty or interest, or its erroneous refund, occurred due to deliberate and intentional acts involving collusion, misstatement, or suppression of material facts.

2.18.3 Further, there cannot be any mala fide intention as explained in the point w.r.t. invocation of extended period of limitation. Consequently, the penalty under section 114A cannot be levied.

2.18.4 The Noticee relies on the judgment of the Hon'ble Madras High Court in **Commissioner of Customs (AIR), Chennai v. A.P. Pinherio [2014 (306) ELT 349 (Mad)]**, where it was held that a penalty under Section 114A requires a clear and specific finding of collusion, wilful misstatement, or suppression. In the absence of such a finding, no penalty can be imposed.

2.18.5 In this regard, reliance is also placed on the case law of **H.M.M. Limited [1995 (76) ELT 497 (SC)]**, wherein the Hon'ble Supreme Court held that, the question of penalty would arise only if the Department is able to sustain the demand. Similarly, in **Balakrishna Industries [2006 (201) ELT 325 (SC)]**, the Hon'ble Supreme Court held that, penalty is not imposable when differential duty is not payable.

2.18.6 The above judgment of the Hon'ble Supreme Court has been followed in several cases by the Hon'ble High Courts and Tribunals, including in the judgment of the Hon'ble Bombay High Court in the case of **Nakoda Textile Industries Ltd [2009 (240) ELT 199 (Bom.)]**.

2.18.7 It is further submitted that several judicial precedents have consistently held that an error in classification declared in the BoE, when made in good faith, does not constitute a misdeclaration made with the intent to evade duty.

2.18.8 It is again reiterated that the Noticee has established beyond the doubt that there is no collusion, wilful misstatement, or suppression of facts in the present case. Since, there is no collusion, wilful misstatement or suppression of facts, the penalty under Section 114A cannot be imposed

2.19 There is no dispute with respect to the description of goods provided by the Noticee

2.19.1 It is submitted that in the present case, there is no dispute w.r.t. the description of the goods provided by the Noticee at the time of import. This substantiates that there was no mala fide intent.

2.19.2 The Noticee emphasizes that the classification and description of the imported goods were accurately declared in all import documents, including BOEs, invoices, and packing lists, based on the product descriptions provided by the foreign supplier and recognized in international trade. The SCN does not

allege any misdeclaration of the goods' description or suppression of material facts.

2.19.3 The Noticee affirms that all relevant details such as product description, value, and origin were correctly disclosed in the BOEs and were consistent with the accompanying documents, including the supplier's invoice, packing list, and bill of lading.

2.19.4 In matters involving classification, which are inherently technical, the Noticee submits that no wilful misstatement can be presumed. Reliance is placed on the Hon'ble Supreme Court's decision in **Densons Pultretaknik v. Commissioner of Central Excise [2003 (155) ELT 211 (S.C.)]**, where it was held that merely claiming a classification under a particular heading does not constitute wilful misstatement or suppression of facts, and hence, the extended period of limitation cannot be invoked.

2.19.5 Further reliance is placed on the judgment of the Hon'ble Madras High Court in **Commissioner of Customs (Imports), Chennai-I v. G.M. Pens International [2009 (247) ELT 159 (Mad.)]**, which held that when an importer provides the correct description of goods in the import documents, no inference of suppression of material facts can be drawn.

2.19.6 It is a well-settled legal principle that where the correct description of goods is declared in the import documents, including BOEs, allegations of suppression or wilful misstatement cannot be sustained.

2.19.7 In the present case, the Noticee has consistently and accurately declared the description of the imported goods in all BOEs based on a bona fide belief and has not suppressed or misstated any material facts.

2.19.8 Accordingly, the Noticee submits that the allegations of wilful suppression or misclassification are baseless. Therefore, the invocation of the extended period of limitation under Section 28(4) of the CA, 1962, for demanding differential duties is legally untenable and should be set aside.

2.20 The acts under bonafide belief cannot result in invocation of extended period under Section 28 (4) of the CA, 1962.

2.20.1 At the outset, the Noticee submits that the imported goods (cooling pipe/inlet pipe/outlet pipe, relays, etc.) were parts specifically designed for use in the manufacture battery pack. The impugned goods, being suitable for

exclusive use in manufacture of battery pack were correctly classified under CTH 8507 as parts of battery pack.

2.20.2 The *bona fide* belief of the Noticee is also supported by various decisions including the decisions of the Supreme Court.

2.20.3 Without prejudice and assuming without admitting that the classification proposed in the SCN is correct, the Noticee submits that a classification made in good faith based on a *bona fide* belief does not amount to a wilful misstatement.

2.21 The goods in the present case were assessed under section 17 of the customs act and the customs department were having full knowledge of the classification adopted by the Noticee.

2.21.1 The goods in the present case were assessed under section 17 (to the extent of the bills of entry assessed finally and disputed in the present case). As per the provisions of:

- Section 17(1), an importer entering any imported goods under section 46 shall self-assess the duty, if any, leviable on such goods.
- The proper officer may verify the entries and for this purpose, examine or test any imported goods basis the selection of cases for verification primarily based on risk evaluation through appropriate selection criteria.
- For the purposes of verification, the proper officer may require the importer, to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon
- Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.
- Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the

re-assessment, within fifteen days from the date of re-assessment of the bill of entry.

2.21.2 It is submitted that from the above, it is clear that the imports in the present case were under knowledge of the customs officers and customs officers could have asked for any additional documents/ information in case of any concerns about the information furnished by the Noticee. However, the powers given under section 17 were not exercised by the customs officers. In such cases, the extended period of limitation cannot be invoked. It is submitted that in view of the above, the demand in the present case raised beyond normal limitation period is not sustainable and impugned SCN shall be dropped to the extent it raised demand beyond normal limitation period.

3. RECORDING OF PERSONAL HEARINGS

3.1 There is a single Noticee in the subject SCN viz. M/s Tata Autocomp Systems Ltd. In compliance of provisions of Section 28(8) read with Section 122A of the Customs Act, 1962 and in terms of the principle of natural justice, the Noticee was granted opportunity of Personal Hearing (PH). Personal Hearing was scheduled on 18.03.2026, 02.04.2026, 15.04.2026, 22.04.2026 for the Noticee.

3.2 In response to PH notice, Mr. Ajay Maheshwari, GM Commercial, Mrs. Ruchi Bhat, consultant and Mr. Mehul Kumar, consultant, authorised representatives appeared virtually before the Adjudicating Authority on 22.04.2026 on behalf of the Noticee. During the PH, Mrs. Ruchi Bhat reiterated the submissions made vide their reply dated 13.05.2025 and further advanced the following submissions:

- a) They submitted that they have correctly availed the benefit under Notification under Notification 50/2017 for battery packs as the same used for manufacture of EVs by Tata Motors.
- b) In respect of misclassification of cooling/inlet/outlet pipe and subsequent availment of Notification benefit, they submitted that as the goods are parts of battery pack, they merit classification under CTH 8507.

- c) In respect of mis-classification of relay and subsequent availment of Notification benefit, they submitted that as the goods are parts of battery pack they merit classification under CTH 8507.
- d) In respect of short payment of IGST on parts of Li-ion accumulators, misclassification of welding machine and mis-classification of welding machine and mis-classification of latex tube with fabric cover they accept the observation of the department and are ready to pay the differential duty/paid the differential duty.
- e) In respect of mis-classification of latch & lock, they submitted as the goods are parts of engine hood assembly of off-road vehicle and not general hardware item and merit classification under CTH 8431.

4. DISCUSSION AND FINDINGS

4.1 I have carefully gone through the subject Show Cause Notice (SCN) and its enclosures, material on record and facts of the case, as well as oral and written submissions made by the Noticee. Accordingly, I proceed to decide the case on merit.

4.2 In compliance to provisions of Section 28(8) and Section 122A of the Customs Act, 1962 and in terms of the principles of natural justice, opportunity for Personal Hearing (PH) was granted on 18.03.2026, 02.04.2026, 15.04.2026, 22.04.2026 to the Noticee. Availing the said opportunity, the Noticee attended the PH on 22.04.2026. Having complied with the requirement of the principle of natural justice, I proceed to decide the case on merits, bearing in mind the submission / contention made by the Noticee.

4.3 The fact of the matter is that a Show Cause Notice No. 120(a)/2025-26/COMMR./GR-VA/CAC/JNCH dtd. 13.05.2025, was issued to M/s Tata Autocomp Systems Limited (IEC: 3196022064), on the basis of Premises Based Audit. As per the SCN, the importer has misclassified the goods namely "Cooling Pipe/Inlet pipe/Outlet Pipe (parts of Lithium Ion Accumulator) (For Electrically Operated Vehicle), Main relay/Relay, Welding machine, Latex Tube with Fabric Cover, Latch and Lock".

4.4 Further as per the SCN, the importer has short paid the IGST on Parts of Li-ion Accumulators and wrongly availed the benefit of Notification No. 50/2017 dated 30.06.2017 (as amended). Accordingly, the SCN proposes demand of differential duty to the tune of Rs. 87,64,93,496/- (Rupees Eighty

Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only) in terms of Section 28(4) of the Customs Act, 1962 along with applicable interest in terms of Section 28AA *ibid*; confiscation of the impugned imported goods under Section 111(m)/111(o) *ibid*; and imposition of penalty on M/s Tata Autocomp Systems Limited (IEC: 3196022064) under Section 112(a) and/or 114A *ibid*.

4.5 Before delving into the substantive allegations made in the SCN, I will discuss and give my findings on the issues raised by M/s Tata Autocomp Systems Limited (IEC: 3196022064), in their submissions. The Noticee made following submissions regarding classification and wrong availment of notification benefits:-

Sr. No.	Issues raised in SCN	Noticee's submissions
1.	Wrong availment of benefit under Notification No. 50/2017-Cus dated 30 Jun 2017	The benefit under Notification No. 50/2017 for the clearance of battery pack is correctly availed by the Noticee
2.	Misclassification of cooling/inlet/outlet pipe and availment of benefit under Notification No. 50/2017-Cus dated 30 Jun 2017	The classification adopted by the Noticee for imported parts of battery pack under Customs Tariff Heading ('CTH') 8507 is correct.
3.	Misclassification of relay and availment of benefit under Notification No. 50/2017-Cus dated 30 Jun 2017	Cooling Pipe/Inlet Pipe/Outlet Pipe merits classification as parts of battery pack under CTH 8607 Relays merit classification as parts of battery pack under CTH 8607 Benefit under Sr. No. 512 of Notification No. 50/2017 is correctly availed by the Noticee for the imported Cooling Pipe/Inlet Pipe/Outlet Pipe and relays
4.	Short payment of IGST on parts of Li-ion accumulators	Short-paid IGST alleged on parts of battery pack to the extent of Rs. 14,54,63,128/- has been already discharged by the Noticee
5.	Misclassification of welding machine	Demand to the extent of misclassification of imported welding machine and latex tube
6.	Misclassification of latex	

	tube with fabric cover	with fabric cover is accepted
7.	Misclassification of latch & lock	Classification adopted by the Noticee for imported latch & lock under CTH 8431 is correct

I'll take up these one by one:-

4.5.1 The benefit under Notification No. 50/2017 for the clearance of battery pack availed by the Noticee:-

(i) The Noticee contended that they are part of the esteemed Tata Group with a mandate to support **Tata Motors** in its foray into the passenger vehicles in India. The Noticee imported 'lithium-ion accumulators' or battery pack for further processing required to be fitted in 'Nexon' model of Tata EV at the manufacturing unit set-up for battery pack manufacturing for EV in Chakan, Pune. The imported goods were then cleared under Sr. No. 528A of Notification 50/2017 and claimed benefit of concessional rate available there under. The noticee also submitted copies of PO from Tata Motors. The impugned SCN disregards the benefit claim of the Noticee for the imported battery pack as in terms of Sr. No. 528A, benefit of concessional rate of duty is extended to import of *"battery pack for use in manufacture of electrically operated vehicle or hybrid vehicle"* whereas the Noticee has a battery manufacturing unit and the same was being used for Nexon car model of TATA Motors. The Noticee further submitted that, the eligibility criteria laid down in the Notification No. 50/2017 is met by the Noticee for the following reasons:

- The battery pack imported during the impugned period were tailor-made battery packs for use in manufacture of specified model 'Nexon' only which is an EV of the Tata Motors
- The Noticee being part of the Tata Group and mandated to support Tata Motors in its manufacturing of EV plays a pivotal role in providing such tailor-made battery packs for use in EVs of Tata Motors
- Undertaking battery pack manufacturing and EV manufacturing on the same production line by same entities is not **feasible** due to the distinct nature of their processes, safety requirements, and technical infrastructure
- In such scenario, to support Tata Motors production of EVs in line with 'Make in India' movement, the Noticee has adopted **co-located or vertically integrated facilities** with Tata Motors to provide such battery packs for use in manufacture of EVs

The Noticee further submitted that the Notification No. 50/2017 by virtue of Sr. No. 528A intends to provide benefit of concessional rate of duty to importers of battery pack who also undertake manufacture of EVs, the legislations and impugned SCN fails to consider that setting up battery pack manufacturing in the same production line as electric vehicle (EV) manufacturing presents several challenges, especially in India.

(ii) In view of these submissions, I find that the goods were classified under CTI 85076000 which covers "**Lithium-ion batteries** (or **Lithium Accumulators**)". The Importer had availed benefit of Notification No. 050/2017-Cus dated 30.06.2017, S.No. 528A and paid BCD @ 5%. **Notification No. 050/2017** provides customs duty exemptions for certain goods, Serial number 528A covers "Battery Pack for use in manufacture of electrically operated vehicle or hybrid vehicle", this includes **lithium-ion batteries** (also referred to as **lithium accumulators**), which are eligible for exemptions when imported for use in the manufacturing of electric vehicles (EVs). This entry is subject to condition 9 of the notification i.e., the importer has to follow the procedure set out in the Customs (Import of goods at concessional rate of duty or specific end use) Rules 2022 (IGCR Rules).

(iii) I find that on the basis of above said notification and condition of the notification, the importer of the subject goods has to ensure the manufacture of electric vehicle at their end using the imported goods. I find that the importer is not manufacturing any electric vehicle rather the importer has a battery manufacturing unit and not an Electric Vehicle Manufacturing Unit. Hence, it can be inferred that they do **not meet the eligibility criteria** for the **exemption**. It is observed that Lithium Ion Accumulator is rightly classified under CTI 85076000. However, the imported goods are not eligible for benefit of Notification No. 050/2017 (S No. 528A). In the present case, it is an admitted position on record that the Noticee is not a manufacturer of electrically operated or hybrid vehicles, but is engaged in the manufacture of battery packs which are subsequently supplied to EV manufacturers. Thus, the essential condition of the notification, namely use of imported battery packs in the manufacture of electrically operated vehicles by the importer, is not satisfied. The benefit under IGCR Rules is not a general end-use benefit but is restricted to the importer who undertakes the specified manufacturing activity, and cannot be extended merely on the basis that the goods are ultimately supplied to another entity engaged in such manufacture.

(iv) In view of the above, I hold that the Noticee is not eligible for the benefit of Sr. No. 528A of Notification No. 50/2017-Cus in respect of the goods imported.

4.5.2 The classification adopted by the Noticee for imported parts of battery pack namely "Cooling Pipe/Inlet Pipe/Outlet Pipe and relays" under Customs Tariff Heading ('CTH') 8507 and subsequent benefit under Sr. No. 512 of Notification No. 50/2017 for the imported goods Cooling Pipe/Inlet Pipe/Outlet Pipe and relays:

4.5.2.1 I note that the Noticee *inter-alia* has raised a point that the parts namely cooling pipe/inlet pipe/outlet pipe and relays ('impugned goods') imported by the Noticee are tailor-made, model-specific items for use in manufacture of battery packs for corresponding models of EVs. The Noticee contended that Impugned goods are specifically tailor-made for battery packs and are not parts of heat control system/stand-alone electrical device in EV, but **are integrated into the battery pack**. They maintain optimal battery pack temperature by carrying liquid coolant to the inside of battery packs via cooling plates. It ensures enhanced performance, prolong lifespan of individual cells, and prevent thermal runaway due to overheating of cells. The cooling pipes are integral and critical part of the **battery pack** used in EV and not EVs. The cooling pipes find its place in the BTMS of the battery pack which enables appropriate flow of cooling liquid to avoid over-heating of the battery pack which as result ensures the smooth operation of the EV. The cooling pipes being an integral part suitable for use solely and principally with machine of Chapter 85 (battery pack) is precluded from classification under Section XVII in terms of Note 2 (f) which states 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 :- (f) "electrical machinery or equipment (Chapter 85).*" While the impugned SCN is not disputing the role of pipes in cooling system which are integrated with the battery pack, it fails to appreciate that the cooling system or BTMS which incorporates such pipes which are tailor-made to support the cooling of a given battery of specified voltage, is integral and essential part of the entire battery pack ecosystem without which it cannot be put to use for the purpose of supplying electrical energy. It is pertinent to note that the battery pack's function is not merely energy storage but also ensuring efficient supply of electrical energy throughout the vehicle in which thermal management plays a pivotal role to avoid over-heating of the battery pack. The BMS, thermal management system such as the Cooling Pipe/Inlet Pipe/Outlet Pipe are integral and essential to protect and enable safe utilization of battery pack which contributes to the overall safety of the entire EV. Such integral and essential parts for

manufacture of battery pack and inseparable and cannot be classified elsewhere but as parts of battery pack under Customs Tariff Item 85079090.

4.5.2.2 Further, the impugned SCN alleges misclassification of relays imported by the Noticee for use in manufacture of battery pack as parts thereof under CTH 8507 instead of classification of such relays under CTH 8536 as electrical apparatus for switching or protecting electrical circuits. The impugned SCN while challenging the classification of relays under CTH 8507 as parts of battery pack does not dispute the fact that in the context of EV, a relay is used for disconnecting or reconnecting the battery from the rest of system, controlling the charging circuit. Therefore, by virtue of this the role of a relay in efficient switching of voltage of a battery pack is established by the impugned SCN as well. The Noticee further contended that the benefit under Sr. No. 512 of Notification No. 50/2017 is correctly availed by the Noticee for the imported Cooling Pipe/Inlet Pipe/Outlet Pipe and relays as they are integral and essential parts for manufacture of battery packs without which a complete battery pack with specified voltage for specified models of automobiles could not be assembled and supplied. It is pertinent to note that intention of the notification to extend the benefit of concessional rate of duty to parts or sub-parts for use in manufacture of battery pack irrespective of its placement under Chapter 85 or any other Chapter in the nomenclature is very clear and unambiguous.

4.5.2.3 I have gone through the detailed submissions and explanation provided by the Noticee in respect of the classification of the goods namely "cooling pipe/inlet pipe/outlet pipe and relays. These goods have been classified under CTH 85076000 and benefit of Sr. no. 512 of Notification no 50/2017 was availed. The serial number 512 of Notification 50/2017 states:

"a) Parts, components and accessories except Lithium-Ion cell and Printed Circuit Board Assembly (PCBA), for use in manufacture of Lithium-ion battery and battery pack.

b) Sub-parts for use in manufacture of items mentioned at a) above."

(i) I find that during the Premises visit, the audit team found that these pipes, though fitted adjacent to the Lithium-ion cell are actually part of Heat Control unit. The cooling pipe is not a part of the battery accumulator itself, but rather a component of the broader Heat Control System in an electric vehicle (EV). I find that Heat control system and battery pack are two different systems in Electric vehicle and serve different purposes.

(ii) The Heat Control System in electric vehicle controls and route heat through thermal regulation. It actively controls, conditions, and distributes heat across vehicle subsystems such as the cabin, battery, motor and all other subsystems using components including the compressor, refrigerant circuit, coolant pumps, valves, pipes, heat exchangers, and thermal ECU to maintain optimal operating temperatures and efficiency.

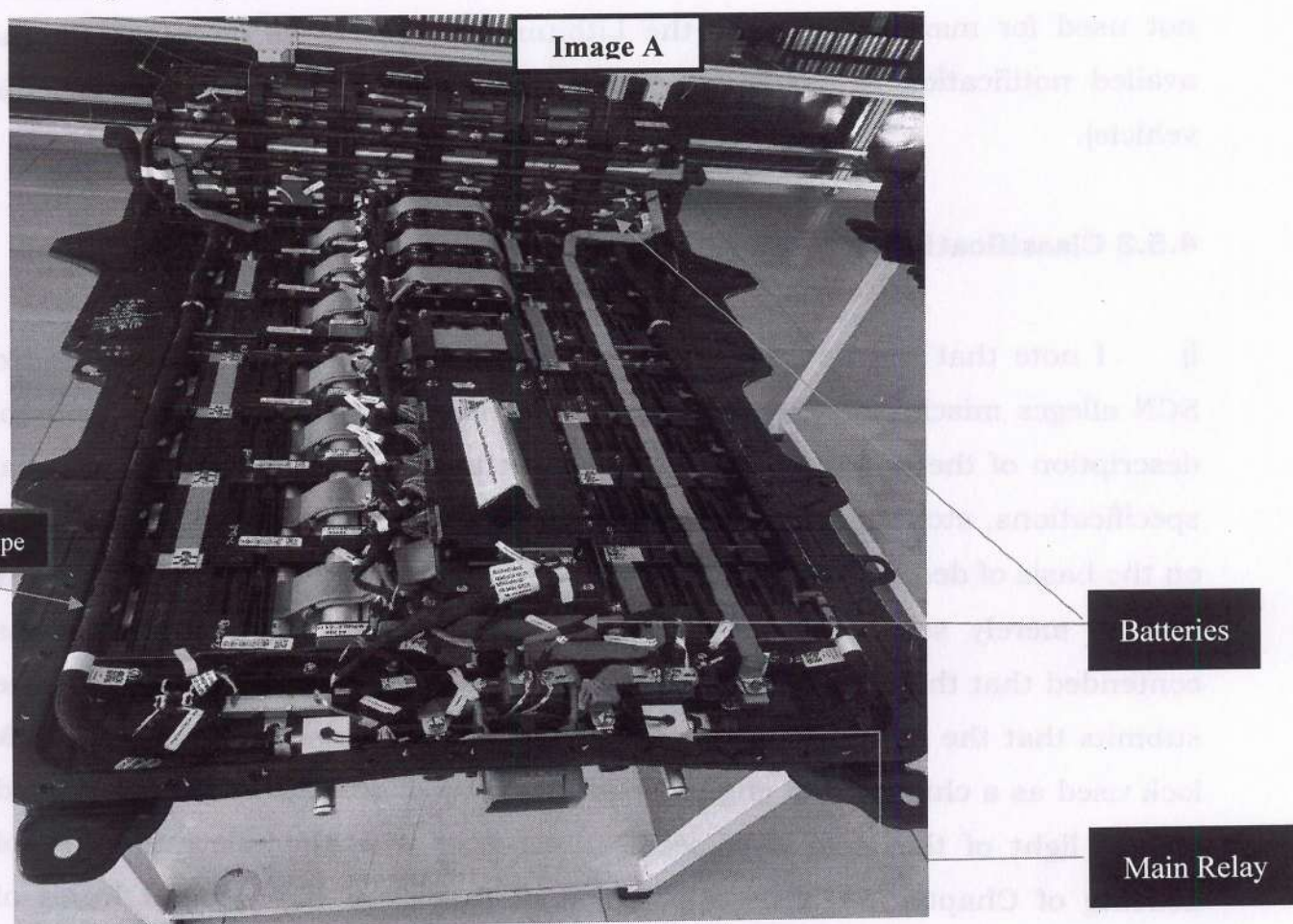
(iii) I find that the battery itself generates heat during charging and discharging, it does not include cooling mechanisms directly within the cells. Instead, the cooling systems are external components designed to maintain optimal operating temperatures for the battery. I find that the cooling pipe is part of the vehicle's Heat Control Unit, which is crucial for maintaining the temperature of the battery pack within a safe operating range. The inlet/outlet pipes are connected to the Heat Control unit outside the Battery. Cool water/Coolant is taken in the battery from Heat Control Unit and Hot water/Coolant is taken out from the Heat Control Unit by the Outlet pipes. I find that the cooling system can be integrated with the battery housing or placed around the pack, but it is not an intrinsic part of the battery's energy storage function. The cooling system is more about regulating the temperature for efficiency and safety. The water inlet/outlet unit serves a mechanical function in the vehicle, such as directing coolant/water to various components. Since, it is directly involved in maintaining the vehicle's performance and operational safety, it is rightly categorized under parts and accessories for vehicles, as per the **CTI 87089900**. Since they are essential components in the vehicle but don't fit into more specific subcategories, they are classified under the more general 8708.99 category as "other parts and accessories."

(iv) Further as per explanatory notes to Section XVII of the HSN;

"Parts and accessories of the vehicles, aircraft or equipment concerned should be classified under headings of section XVII, only if they are suitable for use solely or principally with the articles of Chapters 86 to 88."

(v) I find that since, cooling pipes are typically made of materials like aluminium, plastic, or copper, and are primarily used for circulating coolant to prevent overheating. Hence, they are mechanical components and not electrical, further justifying their classification under CTH 8708. I find that the importer had classified the cooling pipes under CTI 87089900 which includes "Other parts and accessories of Motor Vehicles" under some of the Bills of Entry filed also.

(vi) Further, I find that the cooling pipes are typically designed for use within the vehicle's structure as part of the Heat Control Unit. This places them directly under the category of parts and accessories for motor vehicles. Similarly, the importer has filed Bills of entry for the clearance of "Water Inlet Unit/Water Outlet Unit". Electric vehicles (EVs) use electronically controlled coolant pumps to circulate a water-glycol mixture, keeping high-voltage batteries, motors, and power electronics at optimal temperatures. The water inlet directs warm coolant into the pump to be routed to the radiators, while the water outlet sends cooled fluid back into the vehicle's thermal management loops. These water inlet units are connected to the Coolant/inlet/ outlet pipes making them part of the broader Heat Control unit.



(vii) From the above image 'A', it is evident that Inlet/ Outlet Pipes are not a part of the battery, since they are fitted adjacent to the batteries. I find from the above that the imported goods are correctly classifiable under CTI 87089900 attracting BCD @ 15% under first schedule to the Customs Tariff Act, 1975. Thus, the benefit of Notification no. 050/2017, Sr. No. 512 is not available to the imported goods as pipes are not used for manufacturing of the Lithium ion battery as mandated in the availed notification rather they are components of a motor vehicle (electric vehicle).

(viii) I find that a relay is a high-voltage, electromagnetically operated switch that connects or disconnects the battery pack from the drivetrain based on

BMS signals. It acts as a safety gate, enabling power flow only when the system is secure. The relay is a safety component located outside the cell modules, enabling safe power distribution. Unlike internal battery parts like cells or modules, the relay is an *external, consumable component* mounted within the pack assembly to manage high-current circuits, preventing damage from inrush currents or welding shut during emergencies. Thus, it is evident that Relays are not a part of the battery and they are individual components which serve as connectors of the battery pack with the drive train. Thus, the imported goods are correctly classifiable under CTI 87089900 attracting BCD @ 15% under first schedule to the Customs Tariff Act, 1975. The benefit of Notification no. 050/2017, Sr. No. 512 is not available to the imported goods as Relay are not used for manufacturing of the Lithium ion battery as mandated in the aailed notification rather they are components of a motor vehicle (electric vehicle).

4.5.3 Classification of latch & lock under CTH 8431 by the Noticee.

i) I note that the Noticee *inter-alia* has raised a point that the impugned SCN alleges misclassification of imported latch & lock merely on the basis of description of the imported goods and the actual function, end-use, technical specifications, etc. have not been considered there under. The impugned SCN on the basis of description and considering the function of the imported latch & lock to merely secure or fasten objects similar to general hardware items contended that the classification merits under CTH 8301. Whereas the Noticee submits that the imported goods actually correspond to a tailor-made latch & lock used as a child part of engine hood assembly of off-road vehicle (JCB load all). In light of the technical specifications read with the relevant terms of heading of Chapter 84 basis application of Rule 1 of the General Rules of Interpretation ('GRI'), the Noticee submitted that the imported latch & lock being child parts of cranes merit classification under 8431 which *inter alia* covers parts of cranes. Further, as alleged in the impugned SCN regarding the classification of such latch & lock under CTH 8301, it is pertinent to note that Section XVI *inter alia* precludes classifying articles of Chapter 83 there under. Therefore, the tailor-made latch & lock imported by the Noticee for hood assembly of crane is appropriately classified under CTH 8431 and more specifically under CTI 84314920 as parts of cranes only.

ii) I find that the imported items were classified under CTI 84314920 which includes parts of parts of boring or sinking machinery like ships derricks and cranes. Further, locks and latches are covered under CTH 8301 and their primary function is to secure or fasten objects. They are not parts of machinery

or industrial equipment. Locks and latches are not components of machinery but rather stand-alone hardware items used in a variety of applications, from securing doors to fastening containers. I find that latch in a vehicle works through a ratchet-and-pawl system, to secure the vehicle, using a latch mechanism to grip a striker on the frame while a mechanical rod or actuator controls the locked/unlocked state. When locked, the handle mechanism is disengaged from the latch; when unlocked, the handle activates the latch to release the object. CTH 8301 specifically covers locks, padlocks, and locking mechanisms used for securing doors, vehicles, safes, cabinets, and other items. It also includes various locking devices and latches that serve the purpose of fastening or securing objects. The relevant portion of Customs Tariff is reproduced below for ease of reference:

8301 PADLOCKS AND LOCKS (KEY, COMBINATION OR ELECTRICALLY OPERATED), OF BASE METAL; CLASPS AND FRAMES WITH CLASPS, INCORPORATING LOCKS, OF BASE METAL; KEYS FOR ANY OF THE FOREGOING ARTICLES, OF BASE METAL

- 8301 10 00 - Padlocks

- 8301 20 00 - Locks of a kind used for motor vehicles

- 8301 30 00 - Locks of a kind used for furniture

- 8301 40 - Other locks :

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Thus, in view of the above, I find that the locking devices and latches that serve the purpose of fastening or securing objects are specifically covered under CTH 8301 as illustrated above.

4.5.4 I note that the Noticee in his submission accepted the Short-payment of IGST on parts of Li-ion accumulators, misclassification of welding machine and latex tube with cover.

4.5.5 The importer contended that the provisions of section 28 and extended period of limitation are not invocable in the present case as assessment under section 17 is completed and the customs department was in knowledge of the classification practice adopted by the Noticee.

i) I note that the importer had imported goods namely "Lithium Ion accumulator" and claimed the customs duty exemption as per Notification no. 50/2017, Serial number 528A. This entry is subject to condition 9 of the notification i.e., the importer has to follow the procedure set out in the Customs (Import of goods at concessional rate of duty or specific end use)

Rules 2022 (IGCR Rules). I find that the importer is not manufacturing any electric vehicle rather the importer has a battery manufacturing unit. Hence, it can be inferred that they do not meet the eligibility criteria for the exemption. I note that the noticee has also categorically admitted that they do not undertake manufacturing of electric vehicles. Thus, the essential condition of the notification, namely use of imported battery packs in the manufacture of electrically operated vehicles by the importer, is not satisfied. The benefit under IGCR Rules is not a general end-use benefit but is restricted to the importer who undertakes the specified manufacturing activity, and cannot be extended merely on the basis that the goods are ultimately supplied to another entity engaged in such manufacture. I further note that the importer has imported goods namely "cooling pipe/inlet pipe/outlet pipe and relays (Parts Of Lithium Ion Accumulator) (For Electrically Operated Vehicle)". These goods have been classified under CTH 85076000, however they are to be classified under CTI 87089900 as explained supra.

In view of the above, I find that the importer has willfully suppressed the facts that they are not electrical vehicle manufacturing unit while filing the bill of entry which is a condition as per serial no. 528A of Notification 50/2017. Further, I find that the importer has misclassified the imported goods namely cooling inlet/outlet pipes, relay, lock and latches, welding machine, latex tube with cover and short paid the duty. The importer deliberately mis-declared the wrong Sr. No. of Notification to gain monetary benefits. By resorting to the deliberate acts of mis-classifying the goods and suppressing the fact that they are not electrical vehicle manufacturing unit, the importer has not paid the correctly leviable duty on the imported goods resulting in loss to the government exchequer. This wilful and deliberate act was done with the fraudulent intention to pay lower rate of duty. Therefore, the matter falls under the purview of Section 28(4) of the Customs Act, 1962.

(ii) The relevant legal provision for recovery of duty under Section 28(4) is as under:

SECTION 28(4) of the Customs Act, 1962

Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded. –

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, -

(a) collusion; or

(b) any wilful mis-statement; or

(c) **suppression of facts,**

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, **within five years from the relevant date**, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(iii) It is evident that in case of demand of short-levied or short-paid duty or interest, Show Cause Notice can be served by the proper officer within five years from the relevant date. The 'relevant date' has been explained in Explanation 1 to Section 28 of the Customs Act, 1962, which reads as under:

Explanation 1. - For the purposes of this section, "relevant date" means, -

(a) **in a case where duty is not levied or not paid or short-levied or short-paid, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;**

(b) **in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof or re-assessment, as the case may be;**

(c) **in a case where duty or interest has been erroneously refunded, the date of refund;**

(d) **in any other case, the date of payment of duty or interest.**

(iv) I find that as per aforesaid Explanation to Section 28, for the purposes of Section 28, in a case where duty is not levied or not paid or short-levied or short-paid, or interest is not charged, the 'relevant date' means, the date on which the proper officer makes an order for the clearance of goods. As the instant case involves recovery of short paid duty, I find that the demand can be made within five years from the date of order for the clearance of goods i.e. 'Out of Charge' Order made by the proper officer. Further, I find that in a case where duty is provisionally assessed under Section 18, the 'relevant date' means, the date of adjustment of duty after the final assessment thereof or re-assessment, as the case may be.

(v) The issue is well settled by the higher judicial fora wherein it is held that Section 28 can be invoked for short-levy or non-levy of customs duty even if assessment order is not appealed under Section 129 of the Act. The Hon'ble High Court of Madras in the case of M/s. Venus Enterprise V/s. CC, Chennai, reported as 2006 (199) ELT 405 (Mad.) and affirmed by the Hon'ble Supreme

Court [2007 (209) ELT A61 (S.C.)], after considering the Apex Court's earlier judgment in the case of M/s. Priya Blue Ind [2004 (172) E.L.T. 145 (S.C.)] has held that in case of short levy, there is no lack of jurisdiction on the part of the adjudicating authority to issue Show Cause Notice under Section 28 of the Act after clearance of the goods.

(vi) The power to issue a show cause notice under Section 28 is specifically intended to address such situations where short-levy of duty comes to light subsequent to the clearance of goods. If the contention of the noticee is accepted, it would render the provisions of Section 28 otiose and defeat the very purpose of the recovery mechanism provided under the Customs Act. Accordingly, I hold that the proceedings initiated under Section 28 of the Customs Act, 1962 for recovery of differential duty are legally sustainable, notwithstanding the fact that the Bills of Entry had earlier been assessed and cleared under Section 47 of the Act.

4.5.6 The contention of the importer that the provisions of section 111 cannot be applied in the present case and the penalty under section 112(a) cannot be imposed. Also, the penalty under section 114A cannot be imposed in absence of any wilful mis-statement.

4.5.6.1 I note that the Noticee contended that impugned SCN has been issued under section 28 of the Customs Act and it proposes confiscation of the subject goods in question in terms of Section 111 (m)/111(o) of the CA, 1962 on the ground of mis-classification and wrongful availment of notification benefit of imported goods. The confiscation cannot be ordered by issue of show cause notice under section 28 and the confiscation provisions are not applicable in the present case. Since, the provisions of section 111 i.e., confiscation cannot be invoked in the present case. Hence, the provisions of section 112 and penalty thereof are not invocable. The Noticee further submitted that provisions of Section 114A are invocable when it is established that the short payment or non-payment of duty or interest, or its erroneous refund, occurred due to deliberate and intentional acts involving collusion, misstatement, or suppression of material facts. In the present case, there is no collusion, wilful misstatement, or suppression of facts in the present case. Since, there is no collusion, wilful misstatement or suppression of facts, the penalty under Section 114A cannot be imposed

4.5.6.2 I find that the in the Show cause notice, in para 6, 7 and 8, the provisions of confiscation and penalties were invoked, thereby attracting the provisions of section 124 of the customs act, 1962. I further find that the

noticee has mis-classified the goods which resulted in short-payment of duty and wrong availment of notification benefit which is clearly provided in section 111 (m) of the customs Act, 1962. Section 111 (m) of the CA, 1962 is reproduced below for ease of reference:

“111(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this act or in this baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with declaration for transshipment referred to in the proviso to sub- section 1 of section 54”

4.5.6.3 From the above, I find that the misclassification and wrongful availment of Notification benefit of imported goods is covered under section 111(m)/111(o) which were also invoked in the SCN. Further section 112(a) provided penalty in lieu of confiscation. Hence I find that section 111(m) and section 112(a) are correctly invoked in the SCN.

4.5.6.4 I find that the differential duty has been demanded under section 28(4) of the Customs Act, 1962 as explained in above paras and penalty under section 114A is mandatory penalty whenever the provisions of section 28(4) were invoked. Hence, as explained supra the invocation of 28(4), the penalty under section 114A is to be imposed. Hence, I find that the contention of the noticee that penalty under section 114A is not imposable is devoid of merit.

4.6 After having addressed the above point raised by the Noticee, I now proceed to identify and decide substantive issues involved in the SCN. On a careful perusal of the Show Cause Notice and case records, I find that following main issues are involved in this case which are required to be decided:

- a)** Whether the differential duty of Rs. 87,64,93,496/- (Rupees Eighty Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only)for the goods should be demanded under Section 28(4) of the Customs Act, 1962.
- b)** Whether applicable interest should be demanded under Section 28AA of the Customs Act, 1962, on the differential duty of Rs. 87,64,93,496/- (Rupees Eighty Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only)
- c)** Whether the goods imported should be held liable for confiscation under Section 111(m)/111(o) of the Customs Act 1962.

- d) Whether penalty should be imposed on M/s Tata Autocomp System Limited under Section 112(a) of the Customs Act, 1962.
- e) Whether penalty under Section 114A of the Customs Act, 1962, should be imposed on M/s Tata Autocomp System Limited.

4.7 Whether the differential duty of Rs. 87,64,93,496/- (Rupees Eighty Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only) for the goods should be demanded under Section 28(4) of the Customs Act, 1962.

(i) I have carefully examined the proposal in the Show Cause Notice to demand differential customs duty amounting to Rs. 87,64,93,496/- in respect of the goods imported by M/s Tata Autocomp System Limited, under Section 28(4) of the Customs Act, 1962.

(ii) I find that the goods namely "Lithium Ion accumulator" were classified under CTI 85076000 which covers "**Lithium-ion batteries (or Lithium Accumulators)**". The Importer had availed benefit of Notification No. 050/2017-Cus dated 30.06.2017, S.No. 528A and paid BCD @ 5%. **Notification No. 050/2017** provides customs duty exemptions for certain goods, Serial number 528A covers "Battery Pack for use in manufacture of electrically operated vehicle or hybrid vehicle", this includes **lithium-ion batteries** (also referred to as **lithium accumulators**), which are eligible for exemptions when imported for use in the manufacturing of electric vehicles (EVs). This entry is subject to condition 9 of the notification i.e., the importer has to follow the procedure set out in the Customs (Import of goods at concessional rate of duty or specific end use) Rules 2022 (IGCR Rules).

(iii) I find that the availed serial number 528A of Notification 50/2017 states "*Battery Pack for use in manufacture of electrically operated vehicle or hybrid vehicle*". I find that on the basis of above said notification and condition of the notification, the importer of the subject goods has to ensure the manufacture of electric vehicle at their end using the imported goods. I find that the importer is not manufacturing any electric vehicle rather the importer has a battery manufacturing unit and not an Electric Vehicle Manufacturing Unit. Hence, it can be inferred that they do **not meet the eligibility criteria** for the **exemption**. In this regard it is observed that Lithium Ion Accumulator is rightly classified under CTI 85076000. However, the imported goods are not eligible for benefit of Notification No. 050/2017 (S No. 528A). In the present

case, it is an admitted position on record that the Noticee is not a manufacturer of electrically operated or hybrid vehicles, but is engaged in the manufacture of battery packs which are subsequently supplied to Further EV manufacturers. The Noticee has also categorically admitted that they do not undertake manufacturing of electric vehicles. Thus, the essential condition of the notification, namely use of imported battery packs in the manufacture of electrically operated vehicles by the importer, is not satisfied. The benefit under IGCR Rules is not a general end-use benefit but is restricted to the importer who undertakes the specified manufacturing activity, and cannot be extended merely on the basis that the goods are ultimately supplied to another entity engaged in such manufacture. In view of the above, I find that the Noticee is not eligible for the benefit of Sr. No. 528A of Notification No. 50/2017-Cus in respect of the goods imported.

(iv) I further find that the importer has imported goods namely "cooling pipe/inlet pipe/outlet pipe and relays (Parts Of Lithium Ion Accumulator) (For Electrically Operated Vehicle)". These goods have been classified under CTH 85076000 and availing benefit of Sr. no. 512 of Notification no 50/2017. I find that during the Premises visit, the audit team found that these pipes, though fitted adjacent to the Lithium-ion cell below are actually part of Heat Control unit. I find that during the Premises visit, the audit team found that these pipes, though fitted adjacent to the Lithium-ion cell are actually part of Heat Control unit. The cooling pipe is not a part of the battery accumulator itself, but rather a component of the broader Heat Control System in an electric vehicle (EV). I find that Heat control system and battery pack are two different systems in Electric vehicle and serve different purposes as explained supra. The water inlet/outlet unit serves a mechanical function in the vehicle, such as directing coolant/water to various components. Since, it is directly involved in maintaining the vehicle's performance and operational safety, it is rightly categorized under parts and accessories for vehicles, as per the **CTI 87089900**. Since they are essential components in the vehicle but don't fit into more specific subcategories, they are classified under the more general 8708.99 category as "other parts and accessories." Thus, I find that the benefit of Notification no. 050/2017, Sr. No. 512 is not available to the imported goods as pipes are not used for manufacturing of the Lithium ion battery as mandated in the availed notification rather they are components of a motor vehicle (electric vehicle).

(v) I further find that a relay is a high-voltage, electromagnetically operated switch that connects or disconnects the battery pack from the drivetrain based on BMS signals. It acts as a safety gate, enabling power flow only when the

system is secure. The relay is a safety component located outside the cell modules, enabling safe power distribution Unlike internal battery parts like cells or modules, the relay is an *external, consumable component* mounted within the pack assembly to manage high-current circuits, preventing damage from inrush currents or welding shut during emergencies. Thus, it is evident that Relays are not a part of the battery and they are individual components which serve as connectors of the battery pack with the drive train. I find that from the above, the imported goods are correctly classifiable under CTI 87089900 attracting BCD @ 15% under first schedule to the Customs Tariff Act, 1975. The benefit of Notification no. 050/2017, Sr. No. 512 is not available to the imported goods as Relay are not used for manufacturing of the Lithium ion battery as mandated in the availed notification rather they are components of a motor vehicle (electric vehicle).

(vi) I further find that the imported items locks and latches are covered under CTH 8301 and their primary function is to secure or fasten objects. Locks and latches are not components of machinery but rather stand-alone hardware items used in a variety of applications, from securing doors to fastening containers. Locks and latches work together to secure the vehicle, using a latch mechanism to grip a striker on the door frame while a mechanical rod or actuator controls the locked/unlocked state. When locked, the handle mechanism is disengaged from the latch; when unlocked, the handle activates the latch to release the object. CTH 8301 specifically covers locks, padlocks, and locking mechanisms used for securing doors, vehicles, safes, cabinets, and other items. It also includes various locking devices and latches that serve the purpose of fastening or securing objects. Thus in view of the above, I find that the locking devices and latches that serve the purpose of fastening or securing objects are specifically covered under CTH 8301 as illustrated above.

(vii) I further find that the Noticee in his submission accepted the Short-payment of IGST on parts of Li-ion accumulators, misclassification of welding machine and latex tube with cover.

(viii) In view of the foregoing facts and findings, I hold that the differential customs duty amounting to Rs. **87,64,93,496/- (Rupees Eighty Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only)** in respect of the impugned goods is liable to be demanded and recovered from M/s Tata Autocomp System Limited under Section 28(4) of the Customs Act, 1962.

4.8 Whether applicable interest should be demanded under Section 28AA of the Customs Act, 1962, on the differential duty of Rs. 87,64,93,496/- (Rupees Eighty Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only)

4.8.1 I further find that, in terms of Section 28AA of the Customs Act, 1962, interest on the aforesaid differential/short-paid duty of Rs. 87,64,93,496/- (Rupees Eighty Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only) is mandatorily payable. Interest liability under Section 28AA arises automatically by operation of law once the duty demand is upheld and is a civil consequence of delayed payment of duty. The Hon'ble Supreme Court in *Pratibha Processors v. Union of India* [1996 (88) ELT 12 (SC)] has held that interest is compensatory in nature and is an accessory to the principal duty demand. Similar view has been taken by the Hon'ble Bombay High Court in *Directorate of Revenue Intelligence v. Valecha Engineering Ltd.*, wherein it was held that interest under Section 28AA is automatically payable on failure to pay duty within the prescribed time.

4.8.2 Accordingly, I hold that the applicable interest on differential duty of Rs. 87,64,93,496/- (Rupees Eighty Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only)- is recoverable from M/s Tata Autocomp System Limited under Sections 28AA of the Customs Act, 1962.

4.9 Whether the goods imported should be held liable for confiscation under Section 111(m)/111(o) of the Customs Act, 1962.

4.9.1 I have carefully examined the proposal in the Show Cause Notice to hold the goods imported liable for confiscation under Section 111(m)/111(o) of the Customs Act, 1962. The said proposal arises from the allegation that the importer mis-declared the classification of the impugned goods in the Bills of Entry in order to avail an ineligible exemption benefit.

4.9.2 I find from the discussion in the preceding paragraphs of this order, that the importer has misclassified the goods and availed exemption benefits which were not available to them. By declaring the goods under an incorrect tariff entry, the importer paid short-duty to Customs.

4.9.3 Section 111(m) of the Customs Act, 1962 provides that any goods which do not correspond in respect of value, quantity or any other particular with the entry made under the Act in the Bill of Entry shall be liable to confiscation. The term "any other particular" has a wide connotation and includes incorrect

declaration of classification or description of goods made in the Bill of Entry which has the effect of influencing the duty liability.

4.9.4 In the present case, the importer misclassified the goods and availed exemption benefits. Such misdeclaration of classification in the Bills of Entry constitutes a misdeclaration in a material particular within the meaning of Section 111(m) of the Customs Act, 1962, as the same directly impacted the assessment of duty. The incorrect declaration of tariff classification was not merely interpretational but resulted in wrongful availment of exemption benefit, thereby affecting duty liability and rendering the goods liable for confiscation under Section 111(m).

4.9.5 As per Section 46 of the Customs Act, 1962, the importer of any goods, while making entry on the Customs automated system to the Proper Officer, shall make and subscribe to a declaration as to the truth of the contents of such Bill of Entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed. He shall ensure the accuracy and completeness of the information given therein and the authenticity and validity of any document supporting it.

4.9.6 I find that the importer while filing the Bills of Entry for the clearance of the subject goods had subscribed to a declaration as to the truthfulness of the contents of the Bill of Entry in terms of Section 46(4) of the Customs Act, 1962 and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2011 in all their import declarations. Thus, under the scheme of self-assessment, it is the importer who has to diligently ensure that he declares all the particulars of the imported goods correctly e.g., the correct description of the imported goods, its correct classification, the applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported goods when presenting the Bill of Entry. With the introduction of self-assessment by amendment to Section 17, w.e.f. 8th April, 2011, the complete onus and responsibility is on the importer to declare the correct description, value, notification, etc. and to correctly classify, determine and claim correct exemption notification and pay the applicable duty in respect of the imported goods.

4.9.7 Prior to 08.04.2011, sub-section (2) of Section 2 of the Customs Act, 1962 read as under:

(2) "assessment" includes provisional assessment, reassessment and any order of assessment in which the duty assessed is nil;

Finance Act, 2011 introduced provision for self-assessment by the importer. Subsequent to substitution by the Finance Act, 2011 (Act 8 of 2011), (w.e.f. 08.04.2011) sub-section (2) of Section 2 ibid read as under:

Section 2 - Definitions, Sub-section (2) – assessment:

(2) "assessment" includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;

With effect from 29.03.2018, the term 'assessment' in sub-section (2) of Section 2 ibid means as follows:

(2) "assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to-

a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;

b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;

c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;

d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;

e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods,

f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods,

and includes provisional assessment self-assessment, re-assessment and any assessment in which the duty assessed is nil;

4.9.8 From a plain reading of the above provisions related to assessment, it is very clear that w.e.f. 08.04.2011, the importer must self-assess the duty under Section 17 read with Section 2(2) of the Customs Act, and since 2018 the scope of assessment has been widened. Under the self-assessment regime, it was statutorily incumbent upon the importer to correctly self-assess the goods in respect of classification, valuation, claimed exemption notification and other particulars. With effect from 29.03.2018, the term 'assessment', which includes provisional assessment also, the importer is obligated to not only establish the correct classification but also to ascertain the eligibility of the imported goods

for any duty exemptions. From the facts of the case as detailed above, it is evident that M/s Tata Autocomp System Limited has deliberately failed to discharge this statutory responsibility cast upon them.

4.9.9 In view of the above discussion, I hold that the impugned goods imported vide the Bills of Entry mentioned in the worksheets annexed to the Show Cause Notice are liable for confiscation under Section 111(m) of the Customs Act, 1962.

4.9.10 As regards applicability of actual confiscation and redemption fine in terms of Section 125 of the Customs Act, 1962, I find that it is a settled position in law that redemption fine under Section 125 of the Customs Act, 1962 can only be imposed where goods are physically available for confiscation and subsequent redemption. This principle has been categorically affirmed by the Bombay High Court in *Commissioner of Customs (Import), Mumbai v. Finesse Creation Inc.*, 2009 (248) E.L.T. 122 (Bom.), wherein the Court held that the concept of redemption fine arises only if the goods are available and can be redeemed. In the absence of the goods, no redemption fine can be imposed. The Bombay High Court distinguished the Supreme Court judgment in *Weston Components Ltd. v. Commissioner of Customs*, 2000 (115) E.L.T. 278 (S.C.), noting that in *Weston*, the goods had been released on bond and were therefore, constructively within the control of the Customs authorities. However, in *Finesse Creation Inc.*, the goods had already been cleared and were not available for seizure, nor had they been released on any bond or undertaking. The Bombay High Court further endorsed the reasoning of the Punjab and Haryana High Court in *Commissioner of Customs, Amritsar v. Raja Impex (P) Ltd.*, 2008 (229) E.L.T. 185 (P&H), which held that where goods are neither available nor covered by any bond, no redemption fine can be levied. This order of the High Court in *Finesse Creation Inc.*, stands accepted by the department, as Special Leave Petition (SLP) filed in the Supreme Court (C.A. No. 66/2009) was dismissed by order dated 12.05.2010. [2010 (255) E.L.T. A120 (S.C.)]

4.9.11 Accordingly, I am of the considered view that, since the goods in the present case have already been cleared and are no longer available for confiscation, the invocation of Section 125 of the Customs Act, 1962, lacks jurisdictional basis and is legally unsustainable. Therefore, I refrain from imposing any Redemption Fine on the impugned goods held liable for confiscation.

4.10 Whether penalty should be imposed on M/s Tata Autocomp System Limited under Section 112(a) and/or 114A of the Customs Act, 1962.

4.10.1 I have carefully examined the proposal in the Show Cause Notice for imposition of penalty on Tata Autocomp System Limited under Section 112(a) of the Customs Act, 1962 for the acts and omissions discussed in the preceding paragraphs of this order. I find that the Noticee imported goods under an incorrect tariff entry, wrong availment of notification benefit and incorrect IGST schedule entry which resulted in short payment of Customs duty. Such incorrect declaration in the import documents constitutes a material mis-declaration which directly impacted the assessment of duty and rendered the goods liable to confiscation under Section 111(m) of the Customs Act, 1962.

4.10.2 Section 112(a) of the Customs Act, 1962 provides for imposition of penalty on any person who, in relation to any goods liable to confiscation under the Act, does or omits to do any act which renders such goods liable to confiscation. In the present case, by declaring the goods under an incorrect tariff classification and availing an ineligible exemption benefit, the noticee has rendered the goods liable to confiscation under Section 111(m) of the Act.

4.10.3 Further, section 114A provides that where duty has not been levied or has been short-levied by reason of collusion or any wilful misstatement or suppression of facts, the person who is liable to pay duty under Section 28(4) shall also be liable to a penalty equal to the duty so determined. I find that as per Section 114A, imposition of penalty is mandatory once the elements for invocation of extended period is established. Hon'ble Supreme Court in *Grasim Industries Ltd. V. Collector of Customs, Bombay* [(2002) 4 SCC 297=2002 (141) E.L.T.593 (S.C.)] has followed the same principle and observed:

"Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for Court to take upon itself the task of amending or altering the statutory provisions." (para 10).

Hon'ble Supreme Court has again in *Union of India Vs. Ind-Swift Laboratories* has held: *"A taxing statute must be interpreted in the light of what is clearly expressed. It is not permissible to import provisions in a taxing statute so as to supply any assumed deficiency...."* [2011 (265) ELT 3 (SC)].

4.10.4 Thus, in view of the mandatory nature of penalty under Section 114A no other conclusion can be drawn in this regard. I also rely upon case reported in 2015 (328) E.L.T. 238 (Tri. - Mumbai) in the case of *SAMAY ELECTRONICS (P) LTD. Versus C.C. (IMPORT) (GENERAL), Mumbai*, in which it has been held:

Penalty - Imposition of - Once demand confirmed under Section 28 of Customs Act, 1962 read with Section 9A of Customs Tariff Act, 1975 on account of fraud, penalty under Section 114A ibid mandatory and cannot be waived - Therefore imposition of penalty cannot be faulted - Section 114A ibid.

4.10.5 In the present case, I have already held that the extended period under Section 28(4) is invocable on account of deliberate misclassification, which resulted in short-payment of customs duty. It is also evident that the acts and omissions of the importer directly led to confirmation of differential duty under Section 28(4). Therefore, the statutory pre-condition for invoking Section 114A stands satisfied. As I have held above, that the extended period of limitation under Section 28(4) of the Customs Act, 1962 for the demand of duty is rightly invoked in the present case. Therefore, penalty under Section 114A is rightly proposed on M/s Tata Autocomp System Limited, in the impugned SCN. Accordingly, I find that M/s Tata Autocomp System Limited is liable for a penalty under Section 114A of the Customs Act, 1962.

4.10.6 In view of the foregoing, I hold that penalty on M/s Tata Autocomp System Limited under Section 114A is legally sustainable, as the ingredients of suppression and wilful misstatement leading to short-payment of duty under Section 28(4) are established.

4.10.7 Further, I have already held above that by their acts of omission and commission, the importer has rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962, making them liable for a penalty under Section 112(a), ibid. However, I find that the penalty under Section 114A and Section 112 of the Customs Act, 1962 are mutually exclusive and both cannot be imposed simultaneously. Therefore, in view of fifth proviso to Section 114A, I hold that no penalty is imposable on the importer under Section 112(a), ibid.

5. In view of the above discussion and findings, I pass the following order.

ORDER

- (i) I confirm the differential duty amounting to Rs. 87,64,93,496/- (Rupees Eighty Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only) and order to recover the same from the importer, M/s. Tata Autocomp System Limited (IEC: 3196022064) under Section 28(4) of the Customs Act, 1962, along with applicable interest as per Section 28AA of the Customs Act, 1962.
- (ii) I hold the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962. However, I do not impose any redemption fine under Section 125(1) of the Customs Act, 1962, for the reasons cited *supra*.
- (iii) I impose a penalty equivalent to differential duty amounting to Rs. 87,64,93,496/- (Rupees Eighty Seven Crore Sixty Four Lakh Ninety Three Thousand Four Hundred Ninety Six Only) **along with applicable interest** on M/s. Tata Autocomp System Limited (IEC: 3196022064) under Section 114A of the Customs Act, 1962, for the acts of omission and commission and wilful suppression of facts.

In terms of the first and second proviso to Section 114A *ibid*, if **duty and interest is paid within thirty days** from the date of the communication of this order, the amount of penalty liable to be paid shall be **twenty-five per cent of the duty and interest**, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of this order.

- (iv) As penalty is imposed under Section 114A of the Customs Act, 1962, no penalty is imposed on M/s. Tata Autocomp System Limited (IEC: 3196022064) under Section 112(a) in terms of the fifth proviso to Section 114A *ibid*.

6. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved, under the provisions of the Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

Anil Ramteke
12/5/26

(अनिल रामटेके/ ANIL RAMTEKE)

सीमाशुल्कआयुक्त/ Commissioner of Customs,
एनएस-V, जेएनसीएच / NS-V, JNCH

To,

M/s Tata Autocomp Systems Limited

Taco House, Plot No. 20/B FPN085, V.G. Damle Path,

Off Law College Road Erandwane,

Pune, Maharashtra, 411004

Copy to:

1. The Addl. Commissioner of Customs, Group-VA, NS-V, JNCH
2. AC/DC, Review Cell, Chief Commissioner's Office, JNCH
3. The Dy. Commissioner of Customs, Circle- E, Audit, JNCH
4. AC/DC, Centralized Revenue Recovery Cell, JNCH
5. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board
6. EDI Section.
7. Office copy.