

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 – 20260178NX0000111F77

Date of Order: 05.01.2026

F. No. S/10-167/2024-25/Commr/Gr.VB/CAC/JNCH

Date of Issue: 05.01.2026

SCN No.: 1555/2024-25/Commr./NS-V/CAC/JNCH

SCN Date: 07.01.2025

Passed by: Sh. Anil Ramteke

Commissioner of Customs, NS-V, JNCH

Order No: 338/2025-26/COMMR/NS-V/CAC/JNCH

Name of Noticee: M/s. Mercedes Benz India Private Limited (IEC: 3194008714)

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 -फ़ीस-

(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. 1555/2024-25/COMMR. /NS-V/CAC/JNCH dated 07.01.2025 issued to M/s. Mercedes-Benz India Private Limited (IEC: 3194008714) - reg.

Brief Fact of the Case

Subject: Mis-Classification of the goods which specially/specifically designed to be used in automobiles under various chapter instead of CTH 8708 and availing wrong IGST benefit-reg.

M/s. Mercedes-Benz India Private Limited (IEC: 3194008714) (hereinafter referred to as the 'Importer' or the 'importer' or the 'Importer') having address at E 3, MIDC, Chakan Phase III, Chakan, Industrial Area, Kuruli & Nighoje, Chakan, Pune, Maharashtra-410501., had filed Bills of Entry as detailed in Annexure-A to the show cause notice at Nhava Sheva, JNCH, Mumbai for clearance of "EXHAUST GAS LINE , AXLES ASSEMBLY TROLLEYS INCL. RIGGING PARTS , SUPPORT BUSHING, WINDSHIELD, SIDE WINDOW FIXED, ELECTRICAL WIRING HARNESS. CONTROL UNIT. CU COMPL AIRBAG, MAT, BRAKE UNIT, FRONT WINDOW, ACCELERATOR PEDAL MODULE, SHOCK ABSORBER. BRACKET , TRIM BUMPER, SPARK-IGNITION E CONTROL UNIT OTTO ENGINES, BRAKE PAD WEAR SENSOR, AXLE SUBFRAME SUSPENSION , SEALING REAR DOOR, SEAT BELT BUCKLE , ENGINE WIRING HARNESS , DOOR DRIVE , GAUGE INTERLAYER FRONT BUMPER , PRESSURE RESERVOIR BRAKE , FEED-THROUGH GROMMET, CLUTCH , SUSPENSION RING , GUARD PLATE REAR DOOR, INTERMEDIATE LAYER RH FENDER, DOOR HOLDER , ZB SCHARNIER UT LI F-TUER , SEALING REAR DOOR, FRAME RADIATOR , COVER STRIP LH RR-DOOR etc" having assessable value of Rs. 76,57,54,069/- (Rupees Seventy-Six Crore Fifty-Seven Lakh Fifty-Four Thousand and Sixty-Nine only) hereinafter referred as 'imported goods' and classified them under Chapter 39, 40, 70, 73, 83, 84, 85, 90 & 94 of the first Schedule to Customs Tariff Act, 1975 through Customs Broker M/s. Man Logistics (India) Pvt. Ltd.

2. During the course of Post Clearance Audit of Bills of Entry, it has been prima-facie noticed that importer had imported above mentioned subject goods on payment of lower rate of BCD @5%, @7.5% and @10% with IGST @18% & @28% under Serial no., detailed at Table-A, of Schedule-III & Schedule-IV of the IGST levy Notification No. 01/2017 dated 28.06.2017 by classifying under wrong Chapter 39, 40, 70, 73, 83, 84, 85, 90 & 94 instead of the correct classification in Chapter 87 in various sub-heads which attracts BCD @15% with IGST @ 28% under Sr. No. 170 of Schedule IV of Notification No. 01/2017 dated 28.06.2017.

3. Relevant CTH of BCD for the items imported is as given bellow:

Declared CTH	BCD% as per Declared CTH	Correct CTH	BCD% as per correct CTH
39, 40, 70, 73, 83, 84, 85, 90 & 94	7.5, 10, 15	8708	15

4. The relevant parts of the IGST levy Notification No. 01/2017- Integrated Tax (Rate) dated 28.06.2017 are reproduced as under:

Claimed IGST Schedule

Table-A

IGST Schedule	Schedule Sr. No
Sch-III-18%	III104, III105, III107, III108, III111, III118, III119, III121B, III123A, III123B, III138, III189B, III189E, III189G, III238, III250, III253, III265, III274, III275A, III276, III303, III303A, III305, III306, III308A, III308B, III317, III317A, III317B, III320, III322, III325, III327B, III328, III352, III362, III366, III368, III369, III369A, III369B, III372, III374, III375, III376, III376B, III379, III380, III381, III381A, III382, III382A, III383A, III383B, III384A, III388, III388A, III388B, III389, III390, III393, III394, III395, III408, III413, III416, III417, III419, III420, III421, III422, III435A, III437, III453
Sch-IV-28%	IV117, IV154

Correct IGST Schedule

Table-B

IGST Schedule	Schedule Sr. No	Description
Sch-IV -28%	170	Parts and accessories of the motor vehicles of heading 8701 to 8705 (other than specified parts of tractors);

5. Hon'ble Supreme Court in various cases held that parts & accessories which are known to be used with automobiles in commercial parlance, and specially/specifically designed to be used in automobiles and accessories which give vehicles inalienable identity are not the parts of general use and deserve classification under Chapter 87.

6. In the case of M/s. Asian Paints India Ltd reported at 1988(35) E.L.T. 31 (SC), Hon'ble Supreme Court has held that *"It is well settled that the commercial meaning has to be given to the expression in tariff items: Where definition of a word has not been given. It must be construed in its popular sense. Popular sense means that sense which people conversant with the subject matter with which the statute is dealing would attribute to it"*

7. In the case of M/s. G.S. Auto International Ltd. reported at 2003(152) E.L.T.3(S.C), Hon'ble Supreme Court has held that to determine the applicability of the item under particular head, the test of commercial identity of the goods would be the relevant test and not the functional test. It was also held that the expression 'Parts of general use' would not apply to parts

or accessories which are not suitable for use solely or primarily with articles of Chapter Heading 8708 which pertains to parts and accessories of motor vehicles of chapter heading 8701 to 8705. The court was also categorical that in such a case the test that is to be applied is: “whether the goods are suitable for use solely or primarily with articles of chapter Heading 8701 to 8705. It is observed that the parts and accessories of the vehicles and are sold in unit and as per part numbers of the original vehicle manufactures. They are not inter-changeable and can be marketed only by auto-vehicle part dealers.”

8. Applying the same principle, Ho’ble Supreme Court, in case of M/s. Cast Metal Industries Pvt. Ltd., reported at 2015(325) E.L.T 471(S.C) has held that “Door Handles and hinges for automobiles”, being specifically meant for and use in motor vehicles as its parts and accessories, are classifiable under heading 8708.

9. Accordingly, a Consultative Letter No. 338/2024-25/C1 vide F.No. CADT/CIR/ADT /TBA/2362/2023-PBA-CIR-B3 dated 25.07.2024 was issued to the importer for payment of short levied duty along with applicable interest and penalty (for the Bills of Entry covered from 01.01.2020 to 30.05.2024).

10. As per explanatory note 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 comply with following conditions:

- (a) They must not be excluded by the terms of Note 2 to section XVII.
- (b) They must be suitable for use solely or principally with the articles of Chapter 86 to 88 and
- (c) They must not be more specifically included elsewhere in the nomenclature.

10.1 Explanatory notes are illustrated below:

87.08 - Parts and accessories of the motor vehicles of headings 87.01 to 87.05.

8708.10 - Bumpers and parts thereof

- Other parts and accessories of bodies (including cabs):

8708.21 - - Safety seat belts

8708.22 - - Front windscreens (windshields), rear windows and other windows specified in Subheading Note I to this Chapter

8708.29 - - Other

8708.30 - Brakes and servo-brakes; parts thereof

8708.40 - Gear boxes and parts thereof

8708.50 - Drive-axles with differential, whether or not provided with other transmission components, and non-driving axles; parts thereof

8708.70 - Road wheels and parts and accessories thereof

8708.80 - Suspension systems and parts thereof (including shock-absorbers)

- Other parts and accessories:

8708.91 - - Radiators and parts thereof

8708.92 - - Silencers (mufflers) and exhaust pipes; parts thereof

8708.93 - - Clutches and parts thereof

8708.94 - - Steering wheels, steering columns and steering boxes; parts thereof

8708.95 - - Safety airbags with inflator system; parts thereof

8708.99 - - Other

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05, provided the parts and accessories fulfil both the following conditions:

(i) **They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles;**

and

(ii) **They must not be excluded by the provisions of the Notes to Section XVII**

Parts and accessories of this heading include:

(A) *Assembled motor vehicle chassis-frames (whether or not fitted with wheels but without engines) and parts thereof (side-members, braces, cross-members; suspension mountings; supports and brackets for the coachwork, engine, running-boards, battery or fuel tanks, etc.).*

(B) *Parts of bodies and associated accessories, for example, floor boards, sides, front or rear panels, luggage compartments, etc.; **doors and parts thereof**; bonnets (hoods); **framed windows**, windows equipped with heating resistors and electrical connectors, window frames; running-boards; wings (**fenders**), **mudguards**; dashboards; radiator cowlings; number-plate brackets; bumpers and over-riders; steering column brackets; exterior luggage racks; visors; non-electric heating and defrosting appliances which use the heat produced by the engine of the vehicle; **safety seat belts** designed to be permanently fixed into motor vehicles for the protection of persons; **floor mats** (other than of textile material or unhardened vulcanised rubber), etc. Assemblies (including unit construction chassis-bodies) not yet having the character of incomplete bodies, e.g., not yet fitted with doors, wings (fenders), bonnets (hoods) and rear compartment covers, etc., are classified in this heading and not in heading 87.07.*

(C) **Clutches** (cone, plate, hydraulic, automatic, etc., but not the electro-magnetic clutches of heading 85.05), clutch casings, plates and levers, and mounted linings.

(D) **Gear boxes** (transmissions) of all types (mechanical, overdrive, preselector, electro-mechanical, automatic, etc.); torque converters; gear box (transmission) casings; shafts (other than internal parts of engines or motors); gear pinions; direct-drive dog-clutches and selector rods, etc.

(E) **Drive-axles**, with differential; non-driving axles (front or rear); casings for differentials; sun and planet gear pinions; hubs, stub-axles (axle Journals), stub-axle brackets.

(F) Other **transmission parts** and components (for example, propeller shafts, half-shafts; gears, gearing; plain shaft bearings; reduction gear assemblies; universal joints). But the heading excludes internal parts of engines, such as connecting-rods,

push-rods and valve lifters of heading 84.09 and crank shafts, cam shafts and flywheels of heading 84.83.

- (G) **Steering gear parts** (for example, steering column tubes, steering track rods and levers, steering knuckle tie rods; casings; racks and pinions; servo-steering mechanisms).*
- (H) **Brakes** (shoe, segment, disc, etc.) and parts thereof (plates, drums, cylinders, mounted linings, oil reservoirs for hydraulic brakes, etc.); servo-brakes and parts thereof.*
- (I) **Suspension shock-absorbers** (friction, hydraulic, etc.) and other suspension parts (other than springs), torsion bars.*
- (K) Road wheels (pressed steel, wire-spoked, etc.), whether or not fitted with tyres; tracks and sets of wheels for tracked vehicles; rims, discs, hub-caps and spokes.*
- (L) **Control equipment**, for example, steering wheels, steering columns and steering boxes, steering wheel axles; gear-change and hand-brake levers; accelerator, brake and clutch pedals; connecting-rods for brakes, clutches.*
- (M) **Radiators**, silencers (mufflers) and exhaust pipes, fuel tanks, etc.*
- (N) Clutch cables, brakes cables, accelerator cables and similar cables, consisting of a flexible outer casing and a moveable inner cable. They are presented cut to length and equipped with end fittings.*
- (O) **Safety airbags** of all types with inflater system (e.g., driver-side airbags, passenger-side airbags, airbags to be installed in door panels for side-impact protection or airbags to be installed in the ceiling of the vehicle for extra protection for the head) and parts thereof. The inflater systems include the igniter and propellant in a container that directs the expansion of gas into the airbag. The heading excludes remote sensors or electronic controllers, as they are not considered to be parts of the inflater system.*

The heading does not cover hydraulic or pneumatic cylinders of heading 84.12.

11. The SCN also referred the Sub Heading Note of Chapter 87 which states as:

Sub-heading 8708 22 covers:

- (a) front windscreens (**windshields**), rear windows and other windows, framed; and*
- (b) front windscreens (windshields), rear windows and other windows, whether or not framed, incorporating heating devices or other electrical or electronic devices, when suitable for use solely or principally with the motor vehicles of headings 8701 to 8705.*

12. Therefore, the parts and accessories specially/specifically designed for motor vehicle for example: Motor vehicle radiators and part thereof, Pipe-Hose/Exhaust Pipe for Motor Vehicle, Gear Boxes and part thereof (other than internal part of engines or motors), Silencers, clutches, safety seat belts, bumpers and parts thereof, Automotive door lock components, Door handle and hinges, control equipment, steering wheels, steering column, steering boxes, steering wheel axles, gear-change, hand-brake levers, brakes system and part thereof (plates, drums, cylinders, mounted linings, oil reservoirs etc.), brake pad, connecting-rods, road wheels, rims, discs, hub-

caps, suspension, shock-absorbers, other suspension parts, torsions bars, transmission parts and components, chassis frames, radiator, cowlings, front or rear panels, doors and parts thereof, seat recliner & parts thereof, bonnets, hoods, framed windows, windows equipped with heating resistors, electrical connectors, window frames, mudguards, number plate brackets, bumpers, brackets for engine mounting, other brackets specifically designed for vehicles, other insulator/cover/connector/fixer specifically designed for vehicles luggage racks, moulding assembly for door/electric components, wire/cable & their assembly (cut to the length and equipped with end fittings), etc. are classified under CHT 8708.

13. In view of above, it is clear that the parts and accessories of motor vehicle (having unique part number) which have not been otherwise excluded and are specially/specifically designed to be used for/with a motor vehicle of particular model and make should be classified under chapter 87. Therefore, the imported goods under bills of entry detailed at Annexure-A are misclassified under various chapter heads of Chapter 39, 40, 70, 73, 83, 84, 85, 90 & 94 to get the benefit of lower BCD and IGST which resulted into loss to exchequer and by this way of misclassifying the imported goods purposefully, which are meant for specially/specifically used solely and principally for manufacture of motor vehicles falling under Chapter 8701 to 8705, the importer has short paid the BCD and IGST duty, which is correctly chargeable to BCD @15% with IGST @ 28% under Sr. No. 170 of Schedule IV of Notification No. 01/2017 dated 28.06.2017.

14. Therefore, on the basis of legal position as laid down by Hon'ble Supreme Court in the above said cases, it is clear that the parts & accessories of motor vehicles (having unique part number) which have not been otherwise excluded and are specially/specifically designed to be used for/with a motor vehicle of particular model and make should be classified under chapter 87.

15. Statutory Provisions

The extracts of the relevant provisions of following laws relating to self-assessment, import of goods in general, the liability of the goods to confiscation and person concerned to penalty for illegal importation under the Customs Act, 1962 and other laws for the time being in force, were mentioned in the subject SCN. The same are not reproduced in this Order-in-Original for the sake of brevity:

- (i) Section 17- Assessment of duty leviable on any imported goods.
- (ii) Section 28- Recovery of duties not levied or not paid or short-levied or short-paid] or erroneously refunded.
- (iii) Section 46 -Entry of goods on importation.
- (iv) section 28AA — Interest on delayed payment of duty.

- (v) Section 46(4)- 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.
- (vi) Section 46(4A)— Importer who presents a Bill of entry shall ensure the accuracy and completeness of the information given in the Bill of entry.
- (vii) Section 111 Confiscation of improperly imported goods,
- (viii) Section 112(a) & 112(b) - Penalty for improper importation of goods.
- (ix) Section 114A- Penalty for short-levy or non-levy of duty in 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 by reason of collusion or any wilful misstatement or suppression of facts.
- (x) Section 114AA- Penalty for use of false and incorrect material.

16 Further, it is also found that the Importer wilfully/deliberately claimed lower rate of BCD @5%, @7.5% and @10% with IGST @18% & @28% under Serial no., detailed at Table-A, of Schedule-III & Schedule-IV of the IGST levy Notification No. 01/2017 dated 28.06.2017 by classifying under wrong Chapter 39, 40, 70, 73, 83, 84, 85, 90 & 94 instead of the correct classification in Chapter 87 in various sub-heads which attracts BCD @15% with IGST @ 28% under Sr. No. 170 of Schedule IV of Notification No. 01/2017 dated 28.06.2017 which resulted into short payment of customs duty. All the aforesaid facts, discussed above about the manner in which the Importer has misclassified and paid lower rate of BCD and IGST have come to light only after Audit of the import documents of the Importer. In view of the same, it appears that in-spite of having knowledge, the Importer wilfully mis-stated and suppressed these vital facts from the department and paid lower rate of BCD and IGST which was not admissible to them. Therefore, extended period of 5 years as provided under 28(4) of the Customs Act, 1962, is applicable for recovery of the short-paid Customs duty under Section 28(4) of the Customs Act, 1962, along with applicable interest thereon, under Section 28AA of the Customs Act, 1962. Therefore, for same reasons stated hereinabove, the Importer warrants action for recovery of duty under Section 28(4) of the Customs Act, 1962, and has also rendered themselves liable for penalty under Section 114A of the Customs Act, 1962.

17. From the foregoing Para, it appears that the Importer has not paid appropriate duty on the goods imported in respect of Bill of Entry as detailed in Annexure-A to the show cause notice. Consequently, differential duty amounting to Rs. 11,67,92,690/- (Rupees Eleven Crore Sixty-Seven Lakh Ninety-Two Thousand Six Hundred and Ninety Only) appears liable to be paid by the Importer in respect of Bill of Entry relating to the impugned goods as detailed in the Annexure-A attached to the Show Cause Notice.

18. It, therefore, appears that:

- (i) Above mentioned goods were incorrectly levied to lower rate of BCD @5%, @7.5% and @10% with IGST @18% & @28% under Serial no., detailed at Table-A, of Schedule-III & Schedule-IV of the IGST levy Notification No. 01/2017 dated 28.06.2017 instead of correct

classification in Chapter 87 in various sub-heads which attracts BCD @15% with IGST @ 28% under Sr. No. 170 of Schedule IV of Notification No.01/2017 dated 28.06.2017. Consequently, differential duty amount of Rs. 11,67,92,690/- (Rupees Eleven Crore Sixty-Seven Lakh Ninety-Two Thousand Six Hundred and Ninety Only) along with applicable interest, if any, thereon appears recoverable under Section 28(4) of the Customs Act, 1962 from the Importer.

(ii) The intention of the Importer to evade duty thereon appears to have contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, and which in turn appears to have rendered the subject goods liable to confiscation in terms of the provisions of Section 111(m) of the Customs Act, 1962 and also appears to have made the Importer liable for penal action in terms of the provisions of Section 114A of the Customs Act, 1962.

(iii) Now, therefore, in exercise of powers conferred upon in Section 28(4) and Section 124 of the Customs Act, 1962, M/s. Mercedes-Benz India Private Limited (IEC: 3194008714) having address at E 3, MIDC, Chakan Phase III, Chakan, Industrial Area, Kuruli & Nighoje, Chakan, Pune, Maharashtra-410501, was called upon them to show cause, within 30 days of the receipt of this notice, to the Commissioner of Customs, NS-V, JNCH, Nhava Sheva as to why:

i. The declared CTH of goods mentioned in Annexure-A to the Show Cause Notice should not be rejected and re-assessed under CTH 8708 in various sub-heads;

ii. The levy of incorrect rate of BCD @5%, @7.5% and @10% and IGST @18% under Serial no. detailed at Table-A of Schedule-III & Schedule-IV of the IGST levy Notification No. 01/2017 dated 28.06.2017 on the impugned goods imported by them as detailed in Annexure-A to the Show Cause Notice should not be rejected and be levied to the applicable rate of BCD @15% with IGST @ 28% under Sr. No. 170 of Schedule IV of Notification No. 01/2017 dated 28.06.2017 IGST

iii. Differential duty amounting to Rs. 11,67,92,690/- (Rupees Eleven Crore Sixty-Seven Lakh Ninety-Two Thousand Six Hundred and Ninety Only) (as detailed in the Annexure-A to the Show Cause Notice should not be demanded & recovered from them under Section 28(4) of the Customs Act, 1962 along with applicable interest thereon in terms of provisions of Section 28AA of the Customs Act, 1962:

iv. The impugned goods covered under Bills of Entry as mentioned in Annexure-A to the show cause notice, valued at Rs. 76,57,54,069/- (Rupees Seventy-Six Crore Fifty-Seven Lakh Fifty-Four Thousand and Sixty-Nine Only) should not be held liable for confiscation in terms of provisions of Section 111(m) read with provisions of Section 46(4) and Section 46(4A) of the Customs Act, 1962; and

v. Penalty should not be imposed on the Importer under Section 112(a) and/or 114A and 114AA of the Customs Act, 1962.

Written Submission and Personal Hearing

19. The Noticee in their written submission dated 08.12.2025 contended that:

(i) Noticee imported various goods like windshields, mirrors, exhausts, control units, hinges, rubber products, brake servos, machines, wiring sets under its specific Heading (e.g., 39, 40, 70, 73, 74, 76, 83, 84, 85, 90, 94 correctly; that Section XVII, Note 2, excludes certain goods from Chapter 87 (vehicle parts), including vulcanised rubber, electrical machinery, and machines/apparatus under 8401–8479; that therefore, products cannot be classified under Heading 8708 (residuary for vehicle parts) when specific headings exist; that the imported goods were classified irrespective of future use.

(ii) Differential duty of Rs. 11.6 Crore has been demanded from importer for numerous goods (more than 40 products) imported for use in manufacture of cars; that the products in question were classified by Mercedes-Benz India in their own appropriate headings; that the alleged SCN that the same are classifiable under Heading 8708 as they are for use in automobiles; however, no reasoning has been given as to why the classification claimed by importer is incorrect; that in all cases the products have been classified appropriately as per the applicable Headings.

(iii) Heading 8708 falls in Section XVII of the Customs Tariff. Note 2 to Section XVII states that the entry “parts and accessories” will not apply to few specified goods; that the goods of chapter 85, 84,90, vulcanised rubber etc. are part of the exclusion list; that this Section note has been ignored by the SCN; that the bulk of the demand is towards few specific products, as given below:

Windshield: Major demand of Rs. 4.7 crore is for windshields imported by the noticee that these are unframed windshields made of toughened or laminated glass; that the heading 7007 specifically covers such unframed windshields for motor vehicles and HSN Explanatory Notes to Section XVII excludes such windshield from being categorised as “parts and accessories of motor vehicles”.

Exhaust for filtering:- demand of Rs. 1.3 crore is towards import of exhaust for filtering; that these are catalytic converter filters used to filter the exhaust gases released by vehicles; that such products meant for motor vehicles are specifically covered under Heading 8421 as per the HSN Explanatory Notes;

Control Units:- The demand is for Rs. 2.65 crores on this account; that these are control units of various kinds for controlling various parameters of the car and such controlling apparatus are specifically covered under Heading 9032.

Vulcanised rubber products:- the demand is for Rs. 1.55 crores; that such products made of vulcanised rubber are specifically excluded by Note 2(a) of the Section Note to Section XVII and are classifiable under Heading 40.16; that to prove the products are made of vulcanised rubber, they have enclosed a certificate from a Chartered Engineer wherein the CE has examined the

products and certified that the same are of vulcanised rubber; that the SCN has not provided any material/evidence to say why the products are not classifiable under 4016.

(iv) For all the products in question, the SCN has been issued without understanding what the products are and without seeing and examining the products; that Mercedes-Benz India has extended invitation to Customs Official or CE appointed by the Customs to visit Mercedes-Benz India factory at Pune and examine the products in question in person; that without such examination classification ought not to be changed.

(v) Extended period of Limitation is not invocable, extended limitation applies only if suppression or willful misstatement is proven beyond reasonable doubt; that they have acted in bona fide manner, with correct declarations and full disclosure; that no misstatement or misclassification occurred; that the demand of only Rs. 1.4 crore is within limitation period and the extended period of limitation for the remaining demand of Rs. 10.21 crore, cannot be invoked as:

a. Goods have been described correctly; that merely claiming an incorrect classification is not a ground for misdeclaration, even in self-assessment regime.

b. The noticee have in some cases classified goods under Heading 8708 and in some cases in their respective Headings, which shows the bonafide of the Noticeee, that they have applied their mind as to which products truly should be classified under Heading 8708 and which under other relevant Headings.

c. In many cases, goods were examined by Customs officers prior to clearance; thus, classification was approved by officers of Customs; therefore, extended period cannot now be invoked.

(vi) Interest under Section 28AA is leviable only if duty demand is sustainable; that since the duty demand is unsustainable, interest cannot be imposed; that placed reliance on the decision of the Hon'ble Supreme Court of India in Prathibha Processors vs. Union of India – 1996 (88) ELT 12 (SC), wherein it was held that when the principal amount of duty is not payable due to exemption, there is no occasion or basis to levy any interest.

(vii) Section 111(m) applies only if goods are mis declared or improperly imported; that the goods were correctly described and cleared for home consumption; that penalty is not impossible under section 114AA of the Customs Act, 1962 as it applies only to deliberate fraudulent acts; that the Noticees acted in good faith, with proper declarations and no manipulations; that on this ground the SCN is liable to be dropped.

20. In order to comply the Principle of Natural Justice, opportunities for personal hearing before the undersigned were granted to the noticee on 04.11.2025, 20.11.2025 and 08.12.2025. In response to PH notice, Ms. Shrinidhi Ganeshan (Advocate), Ms. Anaya Bhide (Advocate), Mr. Mahesh Gothe, Mr. Nitin Kadam & Mr. Ajay Raut Authorised Representatives on behalf of the Noticee, M/s Mercedes Benz India Ltd. (IEC-3194008714) appeared through physical mode

before me on 08.12.2025 for the personal hearing. During the PH, they reiterated the written submissions dated 08.12.2025.

21. The Noticee subsequently submitted, vide letter dated 17.12.2025, a report from the Chartered Engineer dated 15.12.2025 concluding that windshields and windows imported by the Noticee are unframed and are made of toughened or laminated glass. Further, they clarified that the demand of differential duty of Rs 4.7 Cr is pertaining to all products classified under CTH 7007, out of which the demand pertaining to windshield and front windows is Rs. 3,98,76,290/-.

DISCUSSION AND FINDINGS

22. I have carefully gone through the SCN, facts of the case, available records and evidences referred in the investigation. The case was examined in the light of the evidences produced by the department, written submissions made by the noticee and applicable laws/rules.

23. On a careful perusal of the subject show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided:

23.1 Whether the declared CTH of the goods in Annexure-A is liable to rejection and re-classification under CTH 8708, attracting BCD @ 15% and IGST @ 28% under Sr. No. 170 of Schedule-IV of IGST Notification No. 01/2017 dated 28.06.2017, in place of the concessional rates availed, or otherwise;

23.1.1 The present proceedings arose out of the import of various motor vehicle parts and accessories by M/s Mercedes-Benz India Private Limited (IEC: 3194008714). The imported goods comprise a wide range of automobile components, including but not limited to radiators, clutches, gearboxes, braking systems, airbags, bumpers, steering and suspension assemblies, windows, doors, electronic control units, wiring harnesses, and other specialized automotive parts, all supplied with OEM-specific part numbers. The importer declared the said goods under Chapters 39, 40, 70, 73, 83, 84, 85, 90, and 94 of the Customs Tariff Act, 1975, and availed concessional rates of Basic Customs Duty @5%, @7.5%, and @10% along with IGST @18% and @28% under Schedules III and IV of IGST Notification No. 01/2017 dated 28.06.2017.

For clarity, the relevant heading 8708 of the Customs Tariff Act, 1975, is reproduced below: -

8708 PARTS AND ACCESSORIES OF THE MOTOR VEHICLES OF HEADINGS 8701 TO 8705

8708 10 - Bumpers and parts thereof

8708 21 00 -- Safety seat belts

8708 22 00 -- Front windcreens (windshields), rear windows and other windows

8708 30 00 - Brakes and servo-brakes; parts thereof

8708 40 00 - Gear boxes and parts thereof

8708 50 00 - Drive-axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof

- 8708 80 00 - *Suspension systems and parts thereof*
 8708 91 00 -- *Radiators and parts thereof*
 8708 92 00 -- *Silencers (mufflers) and exhaust pipes; parts thereof*
 8708 93 00 -- *Clutches and parts thereof*
 8708 94 00 -- *Steering wheels, steering columns and steering boxes; parts thereof*
 8708 95 00 -- *Safety airbags with inflater system; parts thereof*
 8708 99 00 -- *Other*

It is evident from the provisions of heading 8708 and the corresponding Customs Tariff classification that this heading specifically encompasses all parts and accessories designed solely or principally for motor vehicles of headings 8701 to 8705. The scope of CTH 8708 clearly includes components that are integral to the functioning, safety, and structural integrity of such vehicles, including specialized assemblies, body parts, control units, and other model-specific automotive parts. These items, by their very nature and design, are intended exclusively for use in motor vehicles and cannot be classified under general-purpose headings covering machinery, electrical equipment, or other materials. Therefore, heading 8708 provides the precise legal and technical framework for the classification of the imported goods in question.

23.1.2 Before proceeding to decide the issues arising in the present case, it is considered appropriate to examine the nature, technical features, intended use, and commercial identity of the impugned goods, and to undertake a comprehensive analysis of their classification in accordance with the provisions of the Customs Tariff Act, 1975, the relevant Section Notes, Chapter Notes, and HSN Explanatory Notes.

A. Windscreens and Windows: - In terms of GIR 1, classification is governed by the headings read with Section and Chapter Notes. Further, note 3 to Section XVII mandates that articles suitable for use solely or principally with motor vehicles of headings 8701 to 8705 are classifiable as “parts” thereof. I find that the windscreens and windows are manufactured to precise vehicle-specific specifications which warrants its classification under CTH 8708. Although composed of laminated safety glass, windscreens undergo functional transformation, specific curvature, dimension, mounting, features, sensor brackets, tinting and regulatory compliance rendering them incapable of general or alternative use. Consequently, heading 7007 which is general material-based entry stands excluded.

B. Suspension and Steering Components: The impugned goods i.e suspension and steering components are engineered to vehicle specific specifications, integrate functionally with the suspension/steering systems, and are not capable of general or alternative use. Reliance on HS Explanatory Notes to general headings cannot override the statutory mandate of Section XVII (Camlin Ltd. V. CCE). The settled test of principal use, functional integration, and trade parlance squarely supports the classification of suspension and steering components under CTH 8708.

C. Braking Systems and Safety Equipment: - Braking systems and safety equipment such as brakes, servo-brakes, brake assemblies, mounted brake linings, safety seat belts, and safety airbags are integral, vehicle-specific components engineered solely and principally for use with

motor vehicles falling under Headings 8701 to 8705. In terms of Heading 8708 of the Customs Tariff Act, 1975, read with the HSN Explanatory Notes, brakes and servo-brakes and their parts are specifically covered under CTH 8708.30, safety seat belts under CTH 8708.21, and safety airbags with inflator systems and parts thereof under CTH 8708.95. Section XVII, Note 2 mandates classification of such parts under Chapter 87 unless specifically excluded, and the impugned goods do not fall under any of the prescribed exclusions.

Further, as per Section XVII Note 3, parts suitable for use solely or principally with motor vehicles must be classified under Chapter 87. The HSN Explanatory Notes to Heading 87.08 expressly include brakes (disc, drum, servo-brakes) and their components, mounted brake linings, safety seat belts permanently fitted in vehicles, and safety airbags with inflator systems. Consequently, these goods cannot be regarded as “parts of general use” of Chapters 84 or 85. This position is reinforced by the judgments of the Hon’ble Supreme Court in G.S. Auto International Ltd. and Cast Metal Industries Pvt. Ltd., which affirm that automobile-specific safety and functional components are classifiable under Chapter 87. Therefore, braking systems and safety equipment imported by the importer squarely satisfy the statutory requirements under Section XVII, HSN Explanatory Notes, and CTH 8708, and are rightly classifiable as parts and accessories of motor vehicles, and not under Chapters 84 or 85.

D. Gearboxes and Clutches: The imported gearboxes and clutches, including manual, automatic, and electro-mechanical transmissions, torque converters, casings, clutch assemblies, plates, and levers, are specialised, vehicle-specific components designed solely for use in motor vehicles under Headings 8701–8705, forming an inseparable part of the transmission system. These goods also lacking in any independent or general-purpose use. As per the Customs Tariff Heading 8708 and HSN Explanatory Notes, gearboxes are classifiable under CTH 8708.40 and clutches under CTH 8708.93, with Section XVII Notes 2 and 3 confirming their classification in Chapter 87 since they are model-specific, non-interchangeable, and incapable of general-purpose use. The HSN expressly includes all types of gearboxes, torque converters, gearbox casings, and clutches with their casings, plates and levers under Heading 87.08, while excluding only internal engine parts of Chapter 84, which the impugned goods are not. Accordingly, the imported gearboxes and clutches are correctly classifiable under CTH 8708, and do not qualify as “parts of general use” or machinery components under Chapter 84, as alleged in the impugned SCN.

E. Radiators and Exhaust Systems: The imported radiators, silencers (mufflers), exhaust pipes and related exhaust system components are specialised, vehicle-specific parts designed solely for motor vehicles under Headings 8701–8705. The goods perform essential functions of cooling, emission control, noise reduction and exhaust discharge. As per Customs Tariff Heading 8708 and HSN Explanatory Notes, radiators fall under CTH 8708.91 and silencers/exhaust pipes under CTH 8708.92, with Section XVII Notes 2 and 3 confirming their classification in Chapter 87 since they are model-specific, non-interchangeable and incapable of general-purpose use, distinct from industrial heat exchangers or exhaust systems of Chapter 84. Their vehicle-specific design and commercial recognition as automobile cooling and exhaust components further confirm that they are correctly classifiable under Chapter 87. Accordingly, in light of Section XVII Notes,

HSN Explanatory Notes, and the explicit coverage under CTH 8708.91 and 8708.92, the imported radiators and exhaust system components are correctly classifiable under Chapter 87 and cannot be treated as parts of general-use machinery.

F. Control Units and Wiring Harnesses: The imported electronic control units (ECUs) and automotive wiring harness assemblies, cut to length and fitted with connectors, are integral, vehicle-specific components designed solely and principally for use in motor vehicles of Headings 8701 to 8705. In terms of Section XVII Notes 2 and 3, read with the HSN Explanatory Notes to Heading 87.08, such vehicle-specific electronic control modules and wiring harnesses are classifiable under Chapter 87, as they do not constitute independent electrical apparatus of Chapters 84 or 85 and are not excluded elsewhere. The HSN specifically covers motor vehicle ECUs under CTH 8708.99 and automotive wiring harness assemblies under CTH 8708.85, recognising their integration into the vehicle architecture. Their commercial recognition as automobile electronic parts, as affirmed by the Hon'ble Supreme Court in *G.S. Auto International Ltd.*, further confirm that the impugned goods are correctly classifiable as parts and accessories of motor vehicles under CTH 8708.

G. Body Panels, Bumpers, Doors, Hoods: The imported body panels, bumpers, doors, bonnets, hoods, mudguards (fenders), door hinges, door handles and associated body components are vehicle-specific structural parts manufactured to conform to the exact dimensions, safety standards, aerodynamics and design geometry of particular motor vehicle. These parts are neither interchangeable nor adaptable for use in other vehicles or for any general industrial application. Thus, they fully satisfy Note 3 of Section XVII of the HSN. Further, the Explanatory Notes to Heading 87.08 expressly cover bumpers under CTH 8708.10 and other body parts under CTH 8708.29, while Note 2 of Section XVII confirms they are not excluded from Chapter 87 and their classification is determined by exclusive automotive use rather than material composition. The HSN Explanatory Notes also clarify that even where such parts are made of materials such as plastic, rubber, glass or base metal, their classification is determined not by constituent material. The Hon'ble Supreme Court in *Cast Metal Industries Pvt. Ltd.* [2015 (325) ELT 471 (SC)] has categorically held that automobile door handles and hinges, being specifically designed for motor vehicles, are classifiable under Heading 8708, notwithstanding their material composition. Accordingly, in light of Section XVII Notes, HSN Explanatory Notes, and explicit coverage under CTH 8708.10 and 8708.29, the imported body panels, bumpers, doors, hoods and allied components are correctly classifiable under Chapter 87, and their classification under Chapters 39, 40, 70, 73, 83, 84, 85, 90 or 94 is legally unsustainable.

H. Axles, Drive Shafts, and Differential Components: The imported drive axles, non-driving axles, differential casings, half-shafts, propeller shafts, universal joints, hubs, stub axles and allied drivetrain components are specialised, vehicle-specific parts engineered solely and principally for motor vehicles of Headings 8701 to 8705. In terms of Section XVII Notes 2 and 3, read with the HSN Explanatory Notes to Heading 87.08, drive axles with differential and non-driving axles, together with parts thereof, are classifiable under CTH 8708.50, while other transmission components such as propeller shafts, half-shafts and universal joints are covered

under CTH 8708. The HSN expressly distinguishes such drivetrain and axle assemblies from internal engine parts of Chapter 84. Accordingly, in light of Section XVII Notes, HSN Explanatory Notes, and explicit coverage under CTH 8708.50 and related sub-headings of 8708, the imported axles, drive shafts and differential components are correctly classifiable under Chapter 87, and cannot be classified as generic mechanical or engineering items under any other chapter.

I. Rims, Wheels, and Tyres Assemblies: The imported rims, pressed steel wheels, wire-spoked wheels and wheel assemblies, whether or not presented with tyres, are specialised, vehicle-specific components engineered to precise specifications such as size, load capacity, bolt pattern and offset for motor vehicles under Headings 8701–8705. In terms of Section XVII Note 3 of the HSN, parts and accessories which are suitable for use solely or principally with the motor vehicles of that Section are classifiable under Chapter 87. Section XVII Note 2 does not exclude such wheels or rims from classification under Chapter 87. The subject rims and wheel assemblies satisfy this statutory condition, as they are designed exclusively for motor vehicle use and lack any independent or general-purpose application. The commercial identity test, as recognised by the Hon'ble Supreme Court in *G.S. Auto International Ltd.* [2003 (152) ELT 3 (SC)], also supports classification under Chapter 87, since these goods are traded, marketed and recognised in commercial parlance as automotive wheels and rims, identifiable by vehicle-specific design parameters.

J. Safety Systems – Airbags and Safety Seat Belts: The imported safety airbags, safety seat belts and associated inflator systems are integral, vehicle-specific safety components engineered solely and principally for motor vehicles of Headings 8701 to 8705. These are essential for occupant protection and statutory safety compliance, and lacking any independent or general-purpose use. In terms of Section XVII Notes 2 and 3, read with the HSN Explanatory Notes to Heading 87.08, safety seat belts designed to be permanently fitted in vehicles are classifiable under CTH 8708.21, while safety airbags of all types with inflator systems and parts thereof are classifiable under CTH 8708.95, with the inflator comprising the igniter and propellant assembly and excluding remote sensors or controllers. Their model-specific design, permanent integration into vehicle architecture, and exclusive commercial recognition as automotive safety systems, as affirmed by the Hon'ble Supreme Court in *G.S. Auto International Ltd.* This conclusively establish that the impugned goods are correctly classifiable as parts and accessories of motor vehicles under Chapter 87.

K. Interior Components, Mats, and Trims: The imported vehicle-specific interior components (floor mats, trims, panels, mouldings, etc.) are correctly classifiable under Chapter 87 (specifically CTH 8708.29) as parts and accessories of motor vehicles, as they are designed exclusively to OEM specifications for particular models. This classification is mandated by Section XVII Note 3, due to their sole/principal use, supported by the HSN Explanatory Notes to Heading 87.08 which explicitly list such interior fittings. The classification under Chapters 39, 40, 70 or 73, which generally cover plastics, rubber, glass and base metal articles of general use, is inappropriate where the goods are specifically designed and identifiable as motor vehicle

interior parts. Accordingly, in light of Section XVII Notes, HSN Explanatory Notes, and the specific coverage under CTH 8708.29, the imported interior components, mats and trims are correctly classifiable under Chapter 87, and their classification under Chapters 39, 40, 70 or 73 is legally untenable.

L. Grommets, Connectors, and Electrical Assemblies: The imported, vehicle-specific feed-through grommets, connectors, and wiring harness assemblies are correctly classifiable under Chapter 87 (specifically CTH 8708.85/8708.99) as motor vehicle parts, as they are exclusively designed to OEM specifications for the electrical integration of specific models, cut to length with specific fittings, and integral to the vehicle's function. The subject grommets, connectors, and wiring harness assemblies are suitable for use solely or principally with motor vehicles, thus, in terms of Section XVII Note 3 of the HSN, are classifiable under Chapter 87. The HSN Explanatory Notes to Heading 87.08 explicitly include control equipment and electrical assemblies, including wiring harnesses cut to length and equipped with end fittings, as “parts and accessories” of motor vehicles. These goods are excluded from Chapter 85, which generally covers electrical machinery and apparatus of general use, consistent with the principle laid down by the Hon'ble Supreme Court in G.S. Auto International Ltd. [2003 (152) ELT 3 (SC)]. Accordingly, in light of Section XVII Notes, HSN Explanatory Notes, and explicit coverage under CTH 8708.85 and 8708.99, the imported grommets, connectors, and wiring harness assemblies are correctly classifiable under Chapter 87.

23.1.3 A preliminary examination of the imported goods, with reference to their description, technical specifications, design features, functional characteristics, and intended end-use, reveals that the impugned items are specifically engineered and manufactured for use in motor vehicles. The goods are supplied with OEM-specific part numbers and are designed to fit particular vehicle models, systems, and assemblies. Their construction, dimensions, tolerances, and performance parameters clearly establish that they are not generic or multi-purpose items, but are suitable solely or principally for motor vehicles of headings 8701 to 8705. The nature of the goods demonstrates a direct and intrinsic linkage with the functioning, safety, structural integrity, and operational performance of motor vehicles. These parts form an integral component of vehicle assemblies such as engine cooling systems, transmission mechanisms, braking and safety systems, steering and suspension arrangements, electrical and electronic controls, and body structures. Owing to such vehicle-specific design and exclusive applicability, the imported goods lack independent commercial utility outside the automotive domain.

23.1.4 In view of the above, the goods satisfy the essential criteria laid down in Section XVII of the Customs Tariff Act, 1975, and the corresponding HSN Explanatory Notes for classification as “parts and accessories of motor vehicles.” Accordingly, they appropriately fall within the ambit of Chapter 87, and more specifically under heading 8708 of the Customs Tariff Act, 1975, which provides for parts and accessories of motor vehicles of headings 8701 to 8705.

23.1.5 The classification principles have been settled in several Supreme Court rulings and are applicable in this case:

(i) M/s Asian Paints India Ltd. (1988 (35) ELT 31 SC): Tariff terms are to be interpreted in their commercial sense; words not defined in statute should be construed in the popular sense, understood by persons conversant with the subject.

(ii) M/s G.S. Auto International Ltd. (2003 (152) ELT 3 SC): Vehicle-specific parts are not “parts of general use”. Classification must consider commercial identity, not just functional characteristics. Parts suitable solely or principally for vehicles of headings 8701–8705 fall under Chapter 87.

(iii) M/s Cast Metal Industries Pvt. Ltd. (2015 (325) ELT 471 SC): Door handles, hinges, and vehicle-specific parts with unique OEM numbers are classifiable under Chapter 87, reaffirming that vehicle-specific parts are not of general use.

23.1.6 Applying the above principles, it is evident that the imported goods are specifically designed for use in motor vehicles, are model-specific, and form an essential part of the vehicles’ identity and functioning. The goods do not have any independent or general use outside the automotive field and are not interchangeable with parts used in other machinery. These factors clearly establish that the goods are parts and accessories of motor vehicles and are appropriately classifiable under heading 8708 of the Customs Tariff Act, 1975. I find that none of the imported goods are covered by the exclusions prescribed under Section XVII of the Customs Tariff, such as internal engine parts or hydraulic/pneumatic cylinders. All the impugned goods satisfy the conditions laid down for classification under heading 8708 as parts and accessories of motor vehicles of headings 8701 to 8705.

23.1.7 I find that the Noticee has classified a wide range of imported goods under Chapters 39, 40, 70, 84, 85, and 90 solely on the basis of material or generic descriptions, while ignoring the vehicle-specific nature of the goods. All the imported items are designed exclusively for use in motor vehicles, supplied with OEM-specific part numbers, and are not capable of any independent use outside the automotive field. Mere reference to material composition or generic chapter headings cannot override the clear applicability of Heading 8708, which specifically covers parts and accessories of motor vehicles.

23.1.8 I also find that the Noticee has wrongly relied on Section XVII Note 2 to claim exclusion from Chapter 87. The said note excludes only general-purpose goods. In the present case, the impugned goods are complete vehicle-specific parts, custom-designed for particular models, and therefore do not retain the character of general goods of Chapters 84, 85, 90, etc. Hence, the exclusion under Section XVII is not applicable.

23.1.9 Further, the presence of OEM-specific part numbers, precise dimensions, tolerances, and integration with vehicle systems clearly establishes that the goods are not generic. The Noticee has not disputed these facts. The Hon’ble Supreme Court in Asian Paints India Ltd., G.S. Auto International Ltd., and Cast Metal Industries Pvt. Ltd. has consistently held that vehicle-specific parts are classifiable under Chapter 87 and are not parts of general use.

23.1.10 I find that despite full knowledge that the goods were automobile parts, the Noticee continued to classify them under non-automotive chapters, resulting in short-payment of duty. Therefore, invocation of the extended period of limitation is justified.

23.1.11 On a holistic consideration of the HSN Explanatory Notes, technical characteristics of the goods, OEM-specific part numbers, the provisions of Section XVII of the Customs Tariff Act, 1975, and the settled judicial precedents, I find that the classification declared by the importer is unsustainable and liable to be rejected. The impugned goods are correctly classifiable under heading 8708 of the Customs Tariff Act, 1975, and accordingly attract Basic Customs Duty @15% and IGST @28%.

23.2 Whether the impugned goods covered under Bills of Entry as mentioned in Annexure-A to the show cause notice, valued at Rs. 76,57,54,069/- (Rupees Seventy-Six Crore Fifty-Seven Lakh Fifty-Four Thousand and Sixty-Nine Only) should be held liable for confiscation in terms of provisions of Section 111(m) read with provisions of Section 46(4) and Section 46(4A) of the Customs Act, 1962 or otherwise;

23.2.1 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.

23.2.2 I find that the importer while filing the Bill 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 Act and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2011 in all their import declarations. Section 17 of the Act, w.e.f. 08.04.2011, provides for self-assessment of duty on imported goods by the importer themselves by filing a Bill of Entry, in the electronic form. Section 46 of the Act makes it mandatory for the importer to make an 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 Integrated Declaration and Paperless Processing) Regulation, 2011 (issued under Section 157 read with Section 46 of the Act), the Bill of Entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic integrated 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 centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. 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. Thus, 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.

23.2.3 From the discussions, it is noted that The importer, M/s Mercedes-Benz India Pvt. Ltd., imported motor vehicle parts and accessories as detailed in Annexure-A, valued at ₹76,57,54,069/-, and declared them under Chapters 39, 40, 70, 73, 83, 84, 85, 90 & 94 of the Customs Tariff Act, 1975. The importer availed concessional BCD rates of 5%, 7.5%, and 10% along with IGST @18% and 28% under Table-A of Schedules III & IV of IGST Notification No. 01/2017, whereas the goods are correctly classifiable under CTH 8708 (Chapter 87) attracting BCD @15% and IGST @28% under Sr. No. 170 of Schedule IV. By suppressing these facts, the importer, contravened the provisions of Section 46 of the Customs Act, 1962. Therefore, I hold that the subject goods are liable for confiscation under Section 111(m) of the Customs Act, 1962.

23.2.4 However, I find that the goods imported are not available for confiscation, but I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited [reported in 2018 (9) G.S.T.L. 142 (Mad.)] wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

“23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, “Whenever confiscation of any goods is authorised by this Act ..”, brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (iii).”

23.2.5 I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.).

23.2.6 I also find that the decision of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) and the decision of Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.) have not been challenged by any of the parties and are in operation.

23.2.7 In view of above, I find that any goods improperly imported as provided in any subsection of the Section 111 of the Customs Act, 1962, the impugned goods become liable for confiscation. I opine that merely because the importer was not caught at the time of clearance of the imported goods, cannot be given different treatment. Accordingly, I observe that the present case also merits imposition of Redemption Fine having held that the impugned goods are liable for confiscation under Section 111(m) of the Customs Act, 1962.

23.3 Whether the differential duty amounting to Rs. 11,67,92,690/- (Rupees Eleven Crore Sixty-Seven Lakh Ninety-Two Thousand Six Hundred and Ninety Only), as detailed in the Annexure-A to the Show Cause Notice should be demanded & recovered from them under Section 28(4) of the Customs Act, 1962 along with applicable interest thereon in terms of provisions of Section 28AA of the Customs Act, 1962 or otherwise;

23.3.1 After having determined the correct classification of the impugned imported goods, it is imperative to determine whether the demand of differential Customs duty as per the provisions of Section 28(4) of the Customs Act, 1962, in the subject SCN is sustainable or otherwise.

23.3.2 I find that, 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 calculation of duty. Section 17(1) Assessment of duty, 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.

23.3.3 In the instant case, the imported goods, having unique part numbers and specifically designed for particular vehicle models, were misclassified under Chapters 39, 40, 70, 73, 83, 84, 85, 90 & 94. This was done to avail lower BCD and IGST rates, resulting in short levy of customs duty. The goods are intended solely or principally for use in motor vehicles of headings 8701-8705 and are not of general use. In view of this fact, the importer deliberately mis-declared the goods with an intention to evade correct duty in order to get financial benefits and thus suppressed the facts with intention to evade duties of customs. Therefore, the matter falls under the purview of Section 28(4) of the Customs Act, 1962.

23.3.4 I find that, the Importer has not paid the correct duty by engaging in suppression of facts and with an intent to evade customs duty on the subject goods. The Importer have submitted a false declaration under section 46(4) of the Customs Act, 1962, due to this act of omission of Importer, there has been loss to the government exchequer equal to the differential duty as mentioned Annexure -A to the SCN.

23.3.5 In view of the foregoing, I find that the duty demand against the importer has been correctly proposed under Section 28(4) of the Customs Act, 1962 by invoking the extended period of limitation. In support of my stand of invoking extended period, I rely upon the decision of the Tribunal reported in 2013(294) E.L.T.222 (Tri.-LB) in the case of Union Quality Plastic Ltd. Versus Commissioner of C.E. & S.T., Vapi [Misc. Order Nos.M/12671-12676/2013-WZB/AHD, dated 18.06.2013 in Appeal Nos. E/1762-1765/2004 and E/635- 636/2008]

In case of non-levy or short-levy of duty with intention to evade payment of duty, or any of circumstances enumerated in proviso ibid, where suppression or wilful omission was either admitted or demonstrated, invocation of extended period of limitation was justified

23.3.6 Accordingly, the differential duty amounting to Rs. 11,67,92,690/- (Rupees Eleven Crore Sixty-Seven Lakh Ninety-Two Thousand Six Hundred and Ninety Only) resulting from correct classification under heading **8708** of the Customs Tariff Act, 1975, is recoverable from M/s. Mercedes-Benz India Private Limited (IEC: 3194008714) under extended period in terms of the provisions of Section 28(4) of the Customs Act, 1962.

23.3.7 As per Section 28AA of the Customs Act, 1962, the person, who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2) of Section 28AA, whether such payment is made voluntarily or after determination of the duty under that section. From the above provisions, it is evident that regarding demand of interest, Section 28AA of the Customs Act, 1962 is unambiguous and mandates that where there is a short payment of duty, the same along with interest shall be recovered from the person who is liable to pay duty. The interest under the Customs Act, 1962 is payable once demand of duty is upheld and such liability arises automatically by operation of law. In an umpteen number of judicial pronouncements, it has been held that payment of interest is a civil liability and interest liability is automatically attracted under Section 28AA of the Customs Act, 1962. Interest is always accessory to the demand of duty as held in case of Pratibha Processors Vs UOI [1996 (88) ELT 12 (SC)].

23.3.8 I have already held in the above paras that the differential duty amount of Rs. 11,67,92,690/- (Rupees Eleven Crore Sixty-Seven Lakh Ninety-Two Thousand Six Hundred and Ninety Only) as calculated and annexed as Annexure –A to the subject SCN in respect of the Bills of Entry should be demanded and recovered from M/s. Mercedes-Benz India Private Limited (IEC: 3194008714) under the provisions of Section 28(4) of the Customs Act, 1962 by invoking extended period. Therefore, in terms of the provisions of Section 28AA of the Customs Act, 1962, interest on the aforesaid amount of differential duty is liable to be recovered from M/s. Mercedes-Benz India Private Limited.

23.4 Whether penalty should be imposed on the Importer under Section 112(a) and/or 114A and 114AA of the Customs Act, 1962 or otherwise;

23.4.1 I find that the subject Bills of Entry were self-assessed by the importer. They were having knowledge of correct description of the goods, valuation etc., However, still they wilfully undervalued the imported goods and thereby paid lower rate of duty. Under the self-assessment scheme, it is obligatory on the part of importers to declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the importer clearly failed to do with malafide intention. They suppressed the fact before the Customs Department regarding correct valuation of the goods to claim the undue duty benefit at the time of clearance of the said imported goods.

23.4.2 In this regard, I observe that self-assessment has been introduced on 08.04.2011 vide Finance Act, 2011 wherein under Section 17(1) of the Customs Act, 1962 an importer is required to do self-assessment, thus placing more reliance on the importers. Further, as per the provisions of Section 46 (4) of the Customs Act, 1962, the importer of any goods is required to file a Bill of Entry before the proper officer mentioning therein the true and correct quality, quantity and value of the goods imported and subscribe to a declaration as to the truth and accuracy of the contents of such Bill of Entry. It is an admitted fact that the benefit of lower rate of duty on account of claim of inadmissible benefits by mis-declaring the description/valuation accrued to the importer.

23.4.3 Under the self-assessment scheme, it is obligatory on the part of importers to declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the importer clearly failed to do with malafide intention. They suppressed the fact before the Customs Department regarding correct classification of the goods to claim the undue duty benefit at the time of clearance of the said imported goods. Taking all the issues, relating to subject imports, into account and in view of my finding that goods were mis-declared by suppressing correct classification of the goods by the importer, I find that the importer M/s. Mercedes-Benz India Private Limited, has by his acts of commission and omission, as discussed above, has rendered the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and thereby made themselves liable for penalty under Section 112 *ibid*.

23.4.4 Since the improper importation of goods has resulted in short levy of Customs duty, which is recoverable under Section 28(4) of the Customs Act, 1962, the Importer is also liable for penalty under Section 114A *ibid*. However, I note that penalties under Section 112 and Section 114A are mutually exclusive. Therefore, as penalty is imposed under Section 114A of the Customs Act, 1962, no penalty is imposable under Section 112 in terms of the fifth proviso to Section 114A *ibid*.

23.4.5 Further, in the present case, I find that there was deliberate intent on the part of the importer to evade the appropriate customs duty by intentionally misclassifying the imported goods. By declaring the goods under incorrect tariff headings, the importer knowingly made a false and misleading declaration, which directly resulted in the non-payment of the differential customs duty and IGST that was otherwise payable. These acts, both of omission and

commission, demonstrate a clear breach of legal and regulatory obligations under the Customs Act, 1962. The submission of such incorrect declarations for the clearance of goods constitutes a serious violation of customs law. In view of these facts, the importer is liable for penal action under Section 114AA of the Customs Act, 1962.

In view of the facts of the case, the documentary evidences on record and findings as detailed above, I pass the following order:

ORDER

(i). I reject the classification of the imported goods declared as “various parts of motor vehicle, as detailed in Annexure–A to the Show Cause Notice which have been claimed under Chapter 39, 40, 70, 73, 83, 84, 85, 90 & 94 at various CTH as detailed in Annexure-A, and I order their reclassification under heading 8708.

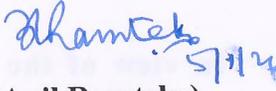
(ii). I order to confiscate the goods having a total assessable value of Rs. 76,57,54,069/- (Rupees Seventy-Six Crore Fifty-Seven Lakh Fifty-Four Thousand and Sixty-Nine Only) as mentioned in Annexure-A to the subject Show Cause Notice (SCN) under Section 111(m) of the Customs Act, 1962. However, I give an option to the importer to redeem these goods on payment of redemption fine of Rs. 7,50,00,000/- (Rupees Seven Crore Fifty Lakhs Only) under Section 125 of the Customs Act, 1962.

(iii). I confirm the demand of differential duty amounting to Rs. 11,67,92,690/- (Rupees Eleven Crore Sixty-Seven Lakh Ninety-Two Thousand Six Hundred and Ninety Only) in respect of Bills of Entries as mentioned in Annexure-A to the SCN under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962.

(iv). I impose a penalty of 11,67,92,690/- (Rupees Eleven Crore Sixty-Seven Lakh Ninety-Two Thousand Six Hundred and Ninety Only) along with applicable interest on M/s. Mercedes-Benz India Private Limited (IEC: 3194008714), under Section 114A of the Customs Act, 1962.

(v). I impose a penalty of Rs. 1,00,00,000/- (Rupees One Crore Only) on M/s. Mercedes-Benz India Private Limited (IEC: 3194008714), under Section 114AA of the Customs Act, 1962.

24. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/ firms concerned, covered or not covered by this show cause notice, under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.


(Anil Ramteke)

Commissioner of Customs,
NS-V, JNCH, Nhava Sheva

To,

M/s. Mercedes-Benz India Private Limited,
E 3, MIDC, Chakan Phase III, Chakan, Indl. Area,
Kuruli & Nighoje, Chakan, Pune,
Maharashtra-410501.
Contact No: 919822655750

Copy to:

1. The Additional Commissioner of Customs, Gr.VB, JNCH
2. Deputy/Asstt. Commissioner of Customs, Centralized Revenue Recovery Cell, JNCH.
3. The Deputy Commissioner of Customs, CCO, JNCH
4. The Deputy/Assistant Commissioner of Customs, PBA-CIR-B-3, Audit, JNCH
5. Notice Board (CHS Section)
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