

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 - 20260178NX000000E816

Date of Order: 30.01.2026

F. No. S/10-191/2024-25/CC/Gr.VB/NS-V/CAC/JNCH

Date of Issue: 30.01.2026

SCN No.: 1776/2024-25/COMMR./NS-V/CAC/JNCH

SCN Date: 11.03.2025

Passed by: Sh. Anil Ramteke

Commissioner of Customs, NS-V, JNCH

Order No: 375/2025-26/COMMR/NS-V/CAC/JNCH

Name of Noticee: M/s. Mahindra and Mahindra Limited (IEC: 0388033878)

**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. 1776/2024-25/COMMR/GR-VB/NS-V/CAC/JNCH  
dtd. 11.03.2025 issued to M/s Mahindra and Mahindra Limited – reg.**

- 1.1. A specific intelligence gathered by the officers of the Directorate of Revenue Intelligence, Indore Zonal Unit (hereinafter referred to as “the DRI”) indicated that M/s. Mahindra and Mahindra Limited (holder of IEC No. 0388033878), having its registered office at Gateway Building, Apollo Bunder, Bhagat Singh Road, Fort, Mumbai-400 001 (hereinafter referred to as ‘Mahindra Limited’), engaged in the import of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers)(hereinafter referred to as ‘the said goods’)classifiable under Customs Tariff Item (CTI)8714 10 90of the first schedule of the Customs Tariff Act, 1975 (hereinafter referred to as ‘the CTA’),was evading Customs duty by way of mis-classification/ mis-declaration of the said goods under Customs Tariff Item (CTI) 84831099 of the CTA.
- 1.1.1 The intelligence further suggested that whereas the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly are for use with the two-wheelers, which merits classification under Customs Tariff Item (CTI)8714 10 90of the CTA, however, Mahindra Limited was classifying the said goods under Customs Tariff Item (CTI) 84831099of the CTA.As a result, Mahindra Limited was classifying the said goods under Sub-heading 84831099by paying BCD at the rate of 7.5% and IGST at the rate of 18%. However, the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly for use with the two-wheelers are correctly classifiable under CTI8714 10 90 of the First Schedule of the Customs Tariff Act, 1975 which attracts BCD at the rate of 15% and IGST at the rate of 28%.
- 1.2. DRI IZU vide Summons dated 14.02.2024 requested Import Manager to appear for tendering statement on 20.02.2024 in respect of mis-classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers), Shri Biju Narayanan, Senior Manager (International Logistics) submitted literature dated 06.03.2024 in this regard.
- 1.3. Acting on the said intelligence, Summons were issued to the concerned persons of Mahindra Limited and statements of concerned persons were recorded under Section 108 of the Customs Act, 1962.
- 1.3.1 Shri Biju Narayanan, Senior Manager (International Logistics) tendered his voluntary statement under Section 108 of the Customs Act, 1962 on 25.04.2024, wherein he, *inter alia*, stated that:
  - his name is Biju Narayanan S/o Shri Narayanan, aged 48 years and presently residing at B-504, Mangolia Enclave, Nahar Amrit Shakti, Chandivali, Andheri East Mumbai- 400 072; he is currently working as Senior Manager (International Logistics) of Mahindra and Mahindra Limited; he completed his Graduation in Commerce in the year 1996 from Mumbai University;
  - he joined Mahindra and Mahindra Limited as Senior Manager in the year 2012;he submitted copy of AADHAAR Card in support of his identity and address proof; his official mail ID is [narayanan.biju@mahindra.com](mailto:narayanan.biju@mahindra.com).
  - Mahindra and Mahindra Limited is a Indian Multinational company having headquarters in Mumbai, Maharashtra and are engaged in the manufacture and supply of wide range of Automobiles for transportation of both passengers and goods i.e Tractors, Two-wheelers, Automotive Engines, D. G. Sets, Construction Equipment and parts, components & accessories thereof.
  - He is Senior Manager (International Logistics) of Mahindra and in charge of Import, Freight Forwarding, Insurance and Local transport; he reports to Shri Avinash Kachare, Deputy General Manager and Shri Avinash Kachare reports to Shri Chandrakant Kadam, Senior General Manager.
  - Import documents i.e. Bill of Lading, Invoice, Packing list etc. are received by Shri Rahul Patil, Deputy Manager through mail and the documents are send to their Customs Broker through mails who generate Check List; the check list is forwarded to Shri Rahul Patil for confirmation and after confirmation, the Bill of Entry is filed; They also included him in cc sometimes; the classification of the imported goods is decided by him and Shri Avinash Kachare; they also consulted with their GST Legal Team in case there was doubt.
  - On being asked to state use of Input Transmission Shaft Assembly and Output Shaft Assembly imported by Mahindra, he stated that Input Transmission Shaft Assembly and Output Shaft Assembly are used for manufacturing of Engine for Motorcycle; both these assemblies are used in JAWA motorcycle; they have submitted their reply dated 08.04.2024 in this regard; he also put his dated signature in token of having seen.

- they classified Input Transmission Shaft Assembly and Output Shaft Assembly under customs tariff item (ITC) 84831099 as there is specific heading for Transmission Shaft.
- On being asked that there is specific heading for Transmission Shaft and to state whether the imported goods are Transmission Shaft or otherwise, he stated that the imported goods are Input and Output Transmission Shaft Assembly.
- On being asked to peruse the exclusions to the explanatory notes to heading 8483 (which are produced below) wherein transmission equipment for vehicle have been excluded and state how the imported Input Transmission Assembly and Output Transmission Shaft Assembly are classifiable under heading 8483.

*The heading also excludes:*

*(a) Pieces roughly shaped by forging, of heading 72.07.*

*(b) Transmission equipment of the kinds described above (gear boxes, transmission shafts, clutches, differentials, etc.), but which are designed for use solely or principally with vehicles or aircraft (Section XVII); it should, however, be noted that this exclusion does not apply to internal parts of vehicle or aircraft engines - these parts remain classified in this heading.*

*Thus a crank shaft or a cam shaft remains in this heading even if it is specialised for a motor car engine; but motor car transmission (propeller) shafts, gear boxes and differentials fall in heading 87.08. It should further be noted that transmission equipment of the type described in this heading remains classified here even if it is specially designed for ships.*

*(c) Parts of clocks or watches (heading 91.14).*

he stated that as the Input Transmission Shaft Assembly and Output shaft Assembly are integral parts of engine, they are not excluded, therefore, they classified these parts under customs tariff item (CTI) 84831099.

- On being asked to peruse their reply dated 08.04.2024 wherein they submitted Input Transmission Shaft and Output Transmission Shaft are both critical and integral parts of the engine which are used for controlling the vehicle speed as per rider demand via gear shifting and to state whether there is any difference between internal and integral parts of engine, he stated that in his point of view, there is no difference between internal and integral parts of engine and both have same meaning.
- On being asked to peruse their reply dated 08.04.2024 wherein they submitted various parts of engine, and to state whether the motorcycle manufactured by their company has gearing, gearing boxes, clutches and other transmission equipment, he stated that they have one component known as Engine Crankcase Assembly which includes engine, gearing, clutches and Input and Output Transmission Shaft Assembly; Motorcycle manufactured by their company does not have any parts namely gearing, gearing boxes, clutches outside of Engine Crankcase Assembly.
- On being asked to peruse the explanatory notes to heading 8407 which are produced below and state whether the functions of engines submitted by you is similar to functions given in the explanatory notes.

*This heading covers spark-ignition reciprocating internal combustion piston engines and rotary internal combustion piston engines (Wankel engines having a trilobal disc type "piston"), other than those of Chapter 95. It includes such engines for motor vehicles.*

*These engines generally have the following elements: cylinder, piston, connecting-rod, crank shaft, flywheel, inlet and exhaust valves, etc. They make use of the expansion force of a charge of inflammable gas or vapour flurned inside a cylinder.*

*The characteristic feature of these engines is that they are equipped with sparking plugs fitted into the cylinder head and with electrical devices (such as magnetos, coils and contact breakers) synchronised with the motor, for supplying high tension current. In the more common types the fuel and air are mixed (e.g., in a carburettor) before induction into the cylinder by the suction stroke of the piston, but in some cases (e.g., certain aircraft engines and motor car engine) the fuel is introduced into the cylinder head directly by an injector.*

*The most usual fuel is petrol, but others include kerosene, alcohol, hydrogen, coal gas, methane etc.*

he stated that the functions and parts in explanatory notes are limited to cylinder, piston, connecting-rod, crank shaft, flywheel, inlet and exhaust valves etc only however, the functions of engine given by them vide their reply dated 08.04.2024 have other functions also which includes transmission through clutch and Input and Output Transmission Shaft Assembly.

➤ Kindly peruse the explanatory notes to heading 8409 which are produced below and to state whether Input Transmission Shaft Assembly and Output Shaft Assembly exist in the explanatory notes.

8409.10 - For aircraft engines

- Other

8409.91 - - Suitable for use solely or principally with spark-ignition internal combustion piston engines

8409.99 - - Other

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), this heading covers parts of internal combustion piston engines of heading 84.07 or 84.08 (e.g., pistons, cylinders and cylinder blocks; cylinder heads; cylinder liners; inlet or exhaust valves; inlet or exhaust manifolds; piston rings; connecting-rods; carburettors; fuel nozzles).

However, the heading excludes:

(a) Injection pumps (heading 84.13).

(b) Engine crank shafts and cam shafts (heading 84.83); and gear-boxes (heading 84.83).

(c) Electrical ignition or starting equipment (including sparking plugs and glow plugs) (heading 85.11).

he stated that Input Transmission Shaft Assembly and Output Shaft Assembly do not exist in the aforesaid explanatory notes to heading 8409.

➤ On being asked to peruse Para 9 of their reply dated 08.04.2024 wherein they submitted that Input Transmission Shaft Assembly is the core part of motorcycle engine which receives power generated by compression of fuel by the piston in the cylinder. This energy is transmitted to the Input Transmission Shaft Assembly by the clutch which in turn drives the countershaft gears and power the final drive via sprocket and Output Transmission Shaft Assembly and to state whether transmission of energy also takes by the details / functions of engine submitted by their reply dated 08.04.2024, he agreed that as per their reply dated 08.04.2024, there is transmission of energy from Engine to the Input Transmission Shaft Assembly by the clutch which to the Output Transmission Shaft Assembly within engine.

➤ On being asked to peruse explanatory notes to heading 8714 which are produced below and state whether Gearing, gear boxes, clutches mentioned at Point No. (3) exist in the motorcycles manufactured by Mahindra and Mahindra Limited.

**Parts and accessories of this heading include:**

(1) Bodies and parts thereof for delivery tricycles, side-cars or carriages for disabled persons (hoods, doors, floors, etc.).

(2) Chassis and frames, and parts thereof.

(3) Gearing, gear boxes, clutches and other transmission equipment, and parts thereof, for motorcycles.

(4) Wheels and parts thereof (hubs, rims, spokes, etc.).

(5) Free-wheel sprocket-wheels.

(6) Derailleurs and other gear mechanisms, and parts thereof.

(7) Crank-gear and parts thereof (crank-wheels, cranks, axles, etc.), pedals and parts thereof (axles, etc.); toe-clips.

(8) Kickstarters, levers and other control gear.

(9) Brakes of all kinds (cantilever brakes, calliper brakes, drum brakes, hub brakes, disc brakes, coaster braking hubs, etc.), and parts thereof (levers, block-holder levers, drums and shoes for hub brakes, yokes for cantilever brakes).

(10) Handle-bars, handle-bar stems, and handle-bar grips (of cork, plastics, etc.).

(11) Saddles (seats) and saddle-pillars (seat-posts); saddle-covers. (12) Forks, including telescopic forks, and parts thereof (fork crowns and blades, etc.).

(13) Tubes and lugs for cycle frames.

(14) Hydraulic shock-absorbers and parts thereof. (15) Mudguards and their supports (stays, fastening rods, etc.). (16) Reflectors (mounted).

(17) Clothes protectors (other than nets of beading 56.08); transmission-chain covers; foot-rests and leg-protectors.

(18) Stands for motorcycles.

(19) Tilting cowls and spare-wheel covers, for scooters. (20) Silencers (mufflers) and parts thereof.

(21) Fuel tanks.

(22) Windscreens (windshields).

(23) Luggage racks; lamp brackets; water-bottle brackets.

(24) Propelling levers and crank-handles, back-rests and back-rest steering columns, foot-rests, leg-supports, armrests, etc., for carriages for disabled persons.

(25) Clutch cables, brake 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.

he stated that Gearing, gear boxes, clutches mentioned at Point No. (3) to the explanatory notes of heading 8714 exist in the engine of the motor cycles manufactured by Mahindra and Mahindra Limited; Gearing, gear boxes, clutches mentioned at Point No. (3) to the explanatory notes of heading 8714 do not exist outside the engine.

- On being asked to peruse their submission dated 06.03.2024 duly signed by him wherein it was submitted that input shaft is driven by the crankshaft and it transfers energy to the output shaft. The output shaft is driven by input shaft and it transfers energy to the rear wheel via output shaft. Further, they submitted that the input shaft and output shaft is part of transmission system. Both are used for varied vehicle speed as per rider demand via gear shifting and to state whether they agree with the submission dated 06.03.2024, he agreed with PPT submission dated 06.03.2024.

1.3.2 Shri Avinash Kachare, Deputy General Manager (International Logistics) of Mahindra and Mahindra Limited tendered his voluntary statement under Section 108 of the Customs Act, 1962 on 10.07.2024, wherein he, inter alia, stated that:

- his name is Avinash Kachare, aged 59 years and presently residing at 110/B, MitNiketanSanskriti Layout, 90 Feet Road, Thakur Complex, Kandivali East S.O. Mumbai, Maharashtra – 400 101; he is currently working as Deputy General Manager (International Logistics) of Mahindra and Mahindra Limited; he completed his Graduation in Mechanical Engineering in the year 1989 from Mumbai University.
- He joined Mahindra and Mahindra Limited as Management trainee in the year 1989; he submitted copy of AADHAAR Card in support of his identity and address proof; his official mail ID is [kachare.avinash@mahindra.com](mailto:kachare.avinash@mahindra.com).
- Mahindra and Mahindra Limited is an Indian Multinational company headquarters in Mumbai, Maharashtra and are engaged in the manufacture and supply of wide range of Automobiles for transportation of both passengers and goods i.e. Tractors, Two-wheelers, Automotive Engines, D. G. Sets, Construction Equipment and parts, components & accessories thereof.
- he is Deputy General Manager (International Logistics) of Mahindra and in charge of Import, Freight Forwarding, Insurance and Local transport; he reports to Shri C R Kadam, Senior General Manager (International Logistics and Service contracts) and Shri Biju Narayanan, Senior Manager (International Logistics) reports to him.
- Bill of Lading, Invoice, Packing list etc. are received by Shri Rahul Patil, Deputy Manager through mail and the documents are sent to their Customs Broker through e-mails who generates Check List; the check list is forwarded to Shri Rahul Patil for confirmation and after confirmation, the Bill of Entry is filed; the classification of the imported goods is decided by him and Shri Biju Narayanan, Senior Manager (International Logistics).
- Input Transmission Shaft Assembly and Output Shaft Assembly are used for manufacturing of Engine for Motorcycle; these both assemblies are used in JAWA motorcycle; they submitted their reply dated 08.04.2024 in this regard.
- they classified Input Transmission Shaft Assembly and Output Shaft Assembly under customs tariff item (ITC) 84831099 as there is specific heading for Transmission Shaft.
- On being asked that is specific heading for Transmission Shaft and to state whether the imported goods are Transmission Shaft or otherwise, he stated that the imported goods are Input and Output Transmission Shaft Assembly.

- On being asked to peruse the exclusions to the explanatory notes to heading 8483 which are produced below wherein transmission equipment for vehicle have been excluded and state how the imported Input Transmission Assembly and Output Transmission Shaft Assembly are classifiable under heading 8483.

*The heading also excludes:*

(a) Pieces roughly shaped by forging, of heading 72.07.

(b) Transmission equipment of the kinds described above (gear boxes, transmission shafts, clutches, differentials, etc.), but which are designed for use solely or principally with vehicles or aircraft (Section XVII); it should, however, be noted that this exclusion does not apply to internal parts of vehicle or aircraft engines - these parts remain classified in this heading.

*Thus a crank shaft or a cam shaft remains in this heading even if it is specialised for a motor car engine; but motor car transmission (propeller) shafts, gear boxes and differentials fall in heading 87.08. It should further be noted that transmission equipment of the type described in this heading remains classified here even if it is specially designed for ships.*

(c) Parts of clocks or watches (heading 91.14).

he stated that as the Input Transmission Shaft Assembly and Output Shaft Assembly are integral parts of engine, they are not excluded, therefore, they classified these parts under customs tariff item (CTI) 84831099.

- On being asked to peruse their reply dated 08.04.2024 wherein they submitted Input Transmission Shaft and Output Transmission Shaft are both critical and integral parts of the engine which are used for controlling the vehicle speed as per rider demand via gear shifting and to state whether there is any difference between internal and integral parts of engine, he stated that in his point of view, there is no difference between internal and integral parts of engine and both have same meaning.

- On being asked to peruse their reply dated 08.04.2024 wherein they submitted various parts of engine, and to state whether the motorcycle manufactured by their company has gearing, gearing boxes, clutches and other transmission equipment, he stated that they have one component known as Engine Crankcase Assembly which includes engine, gearing, clutches and Input and Output Transmission Shaft Assembly; Motorcycle manufactured by their company does not have any parts namely gearing, gearing boxes, clutches outside of Engine Crankcase Assembly.

- On being asked to peruse the explanatory notes to heading 8407 which are produced below and state whether the functions of engines submitted by you is similar to functions given in the explanatory notes.

*This heading covers spark-ignition reciprocating internal combustion piston engines and rotary internal combustion piston engines (Wankel engines having a trilobal disc type "piston"), other than those of Chapter 95. It includes such engines for motor vehicles.*

*These engines generally have the following elements: cylinder, piston, connecting-rod, crank shaft, flywheel, inlet and exhaust valves, etc. They make use of the expansion force of a charge of inflammable gas or vapour flured inside a cylinder.*

*The characteristic feature of these engines is that they are equipped with sparking plugs fitted into the cylinder head and with electrical devices (such as magnetos, coils and contact breakers) synchronised with the motor, for supplying high tension current. In the more common types the fuel and air are mixed (e.g., in a carburettor) before induction into the cylinder by the suction stroke of the piston, but in some cases (e.g., certain aircraft engines and motor car engine) the fuel is introduced into the cylinder head directly by an injector.*

*The most usual fuel is petrol, but others include kerosene, alcohol, hydrogen, coal gas, methane etc.*

he stated that the functions and parts in explanatory notes are limited to cylinder, piston, connecting-rod, crank shaft, flywheel, inlet and exhaust valves etc only however, the functions of engine given by us vide our reply dated 08.04.2024 have other functions also which includes transmission through clutch and Input and Output Transmission Shaft Assembly.

- Kindly peruse the explanatory notes to heading 8409 which are produced below and to state whether Input Transmission Shaft Assembly and Output Shaft Assembly exist in the explanatory notes.

8409.10 - For aircraft engines

- Other

8409.91 - - Suitable for use solely or principally with spark-ignition internal combustion piston engines  
8409.99 - - Other

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), this heading covers parts of internal combustion piston engines of heading 84.07 or 84.08 (e.g., pistons, cylinders and cylinder blocks; cylinder heads; cylinder liners; inlet or exhaust valves; inlet or exhaust manifolds; piston rings; connecting-rods; carburettors; fuel nozzles).

However, the heading excludes:

- (a) Injection pumps (heading 84.13).
- (b) Engine crank shafts and cam shafts (heading 84.83); and gear-boxes (heading 84.83).
- (c) Electrical ignition or starting equipment (including sparking plugs and glow plugs) (heading 85.11).

he stated that Input Transmission Shaft Assembly and Output Shaft Assembly do not exist in the aforesaid explanatory notes to heading 8409.

- On being asked to peruse Para 9 of their reply dated 08.04.2024 wherein they submitted that Input Transmission Shaft Assembly is the core part of motorcycle engine which receives power generated by compression of fuel by the piston in the cylinder. This energy is transmitted to the Input Transmission Shaft Assembly by the clutch which in turn drives the countershaft gears and power the final drive via sprocket and Output Transmission Shaft Assembly and to state whether transmission of energy also takes by the details / functions of engine submitted by their reply dated 08.04.2024.

they agreed that as per their reply dated 08.04.2024, there is transmission of energy from Engine to the Input Transmission Shaft Assembly by the clutch which to the Output Transmission Shaft Assembly within engine.

- On being asked to peruse explanatory notes to heading 8714 which are produced below and state whether Gearing, gear boxes, clutches mentioned at Point No. (3) exist in the motorcycles manufactured by Mahindra and Mahindra Limited.

**Parts and accessories of this heading include:**

- (1) Bodies and parts thereof for delivery tricycles, side-cars or carriages for disabled persons (hoods, doors, floors, etc.).
- (2) Chassis and frames, and parts thereof.
- (3) Gearing, gear boxes, clutches and other transmission equipment, and parts thereof, for motorcycles.
- (4) Wheels and parts thereof (hubs, rims, spokes, etc.).
- (5) Free-wheel sprocket-wheels.
- (6) Derailleurs and other gear mechanisms, and parts thereof.
- (7) Crank-gear and parts thereof (crank-wheels, cranks, axles, etc.), pedals and parts thereof (axles, etc.); toe-clips.
- (8) Kickstarters, levers and other control gear.
- (9) Brakes of all kinds (cantilever brakes, caliper brakes, drum brakes, hub brakes, disc brakes, coaster braking hubs, etc.), and parts thereof (levers, block-holder levers, drums and shoes for hub brakes, yokes for cantilever brakes).
- (10) Handle-bars, handle-bar stems, and handle-bar grips (of cork, plastics, etc.).
- (11) Saddles (seats) and saddle-pillars (seat-posts); saddle-covers. (12) Forks, including telescopic forks, and parts thereof (fork crowns and blades, etc.).
- (13) Tubes and lugs for cycle frames.
- (14) Hydraulic shock-absorbers and parts thereof. (15) Mudguards and their supports (stays, fastening rods, etc.). (16) Reflectors (mounted).
- (17) Clothes protectors (other than nets of heading 56.08); transmission-chain covers; foot-rests and leg-protectors.
- (18) Stands for motorcycles.

(19) Tilting cowls and spare-wheel covers, for scooters. (20) Silencers (mufflers) and parts thereof.

(21) Fuel tanks.

(22) Windscreens (windshields).

(23) Luggage racks; lamp brackets; water-bottle brackets.

(24) Propelling levers and crank-handles, back-rests and back-rest steering columns, foot-rests, leg-supports, armrests, etc., for carriages for disabled persons.

(25) Clutch cables, brake 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.

he stated that Gearing, gear boxes, clutches mentioned at Point No. (3) to the explanatory notes of heading 8714 exist in the engine of the motor cycles manufactured by Mahindra and Mahindra Limited; Gearing, gear boxes, clutches mentioned at Point No. (3) to the explanatory notes of heading 8714 do not exist outside the engine.

- On being asked to peruse their submission dated 06.03.2024 duly signed by him wherein it was submitted that input shaft is driven by the crankshaft and it transfers energy to the output shaft. The output shaft is driven by input shaft and it transfers energy to the rear wheel via output shaft. Further, they submitted that the input shaft and output shaft is part of transmission system. Both are used for varied vehicle speed as per rider demand via gear shifting and to state whether they agree with the submission dated 06.03.2024, he agreed with PPT submission dated 06.03.2024.

1.3.3 Shri Binu Vasudevan Nair, Assistant General Manager (AGM) in Flyjac Logistics Private Limited (Customs Broker) tendered his voluntary statement under Section 108 of the Customs Act, 1962 on 16.12.2024, wherein he, *inter alia*, stated that:

- his name is Binu Vasudevan Nair and he has been working as Assistant General Manager in Flyjac Logistics Private Limited (Customs Broker) for the last 9 months; Earlier, he was working in Royal Forwarders Private Limited; he provided copy of AADHAAR card in support of his identity and put his dated signature each of these.
- he is Assistant General Manager (Customs Clearance) and look after the day-to-day operations of Flyjac Logistics Private Limited such as Customs Clearance;
- On being asked he stated that it includes any customs department Query in respect of classification or any other issue; that Flyjac Logistics Private Limited provide Customs Clearance to the Mahindra and logistics support is also provided; further, on being asked, he stated that the firm does the work of customs clearance on PAN India basis.
- he along with his documentation team look after the work of import clearance of Mahindra and Mahindra Limited; he has been looking after the customs clearance work of Mahindra and Mahindra Limited for the last 9 months.
- Mahindra and Mahindra Limited is engaged in manufacturing of Vehicles which includes Tractors, Motor car and motorcycle etc; further, Mahindra and Mahindra Limited domestically procured certain parts and also import some of the parts from overseas and they are Original Equipment Manufacturer (OEM).
- the Documents such as Invoice, Packing List, Bill of Lading etc. were received by their documentation team on the official email id of our firm; on receipt of the documents, the documentation team prepares checklist and the same is forwarded to Mahindra for confirmation; thereafter, on approval of checklist from the Mahindra, the Bill of Entry is filed by us on ICEGATE.
- The classification of all the imported products is decided by Mahindra and Mahindra Limited only. On being asked, I want to state that whenever any query for the imported goods is raised by the customs department, we intimate the same to the importer. Further, he wanted to state they have always filed the Bills of Entry under the CTH decided by Mahindra and Mahindra Limited. Further, he stated that Mahindra and Mahindra Limited is an AEO client and most of the Bills of Entry of Mahindra are cleared through RMS.
- As per his knowledge no query has been raised by customs or any other investigation agency in respect of classification of imported Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers). On being asked, he stated that no discussion with Mahindra and Mahindra Limited in respect of classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly

has taken place. Further, he will check our official mail that whether any query was raised by customs in this regard or any correspondence made with customs and Mahindra and if there is any query or correspondence, he will submit the same within one week.

- He was aware that an investigation regarding mis-classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly has been undertaken recently.

1.4. Mahindra Limited submitted a literature / PPT dated 06.03.2024 in respect of functions / working of imported Input Transmission Shaft Assembly and Output Transmission Shaft Assembly.

1.4.1 Mahindra Limited also submitted their reply dated 08.04.2024 in respect of functions / working of imported Input Transmission Shaft Assembly and Output Transmission Shaft Assembly.

1.5. **Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers);**

- The Input Shaft Assembly is assembled inside engine crankcase assembly. The input shaft is not visible from the outside of the engine and clutch is mounted on the input shaft. The input shaft is driven by the crankshaft and it transfers energy to the output shaft.
- The Output Shaft Assembly is assembled inside engine crankcase assembly. The output shaft is partially visible from the outside of engine and engine sprocket is mounted on the output shaft. The output shaft is driven by input shaft and it transfers energy to the rear wheel via output sprocket.
- The input shaft and output shaft is part of transmission system. Both are used for varied vehicle speed as per rider demand via gear shifting.

1.5.1 Images of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly submitted by Mahindra Limited are as shown below:



## 1.6. ANALYSIS OF IMPORT DATA

Analysis of import data in respect of Mahindra Limited reveals that Mahindra Limited started importing Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of two-wheelers) since December, 2018 and filed Bill of Entry No. 9275512 dated 15.12.2018 and 9693734 dated 18.01.2019 under correct Customs Tariff Item (CTI) 8714 10 90. Thereafter, changed the classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly from Customs Tariff Item (CTI) 8714 10 90 to 8483 10 99. Mahindra Limited also filed one Bill of Entry No. 7588398 dated 04.05.2020 under correct Customs Tariff Item (CTI) 8714 10 90.

1.7. E-mails exchanged between Mahindra Limited and Customs Broker in respect of classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of two-wheelers) and analysis thereof.

1.7.1 Binu Vasudevan Nair, Assistant General Manager (AGM) in Flyjac Logistics Private Limited (Customs Broker), in his statement recorded on 16.12.2024 under Section 108 of the Customs Act, 1962, on being

asked stated that no discussion with Mahindra and Mahindra Limited in respect of classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly has taken place. Further, he assured that he would check their official mail that whether any query was raised by customs in this regard or any correspondence made with customs and Mahindra and if there is any query or correspondence, he would submit the same within one week.

- 1.7.2 DRI IZU vide Summons dated 31.01.2024 requested Binu Vasudevan Nair, Assistant General Manager (AGM) to send the mail correspondence with Mahindra Limited in respect of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly for changing classification from 8714 to 8483 and to tender statement. Flyjac Logistics Private Limited (Customs Broker) vide their letter dated 06.02.2025 submitted that the Bills of Entry in question are 9275512 dated 15.12.2018, 9693734 dated 18.01.2019 and 7588398 dated 04.05.2020, and they have made significant efforts to recover the required mail correspondence and documents with their IT Team. Unfortunately, due to the age of the data and system limitation, they were not able to retrieve the necessary records within the given time frame.
- 1.7.3 Flyjac Logistics Private Limited (Customs Broker) vide their mail dated 08.02.2025 submitted that they have successfully recovered communications related to Bill of Entry No. 9925818 dated 11.12.2020 and this was the first Bill of Entry filed under HSN-8483 10 99. Further, they informed that they had sent mail dated 07.12.2020 classifying the said part under HSN-8714 10 90, however, representative of Mahindra & Mahindra instructed them to change under HSN-8483 10 99.
- 1.7.4 Mahindra Limited started importing Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of two-wheelers) since December, 2018 and filed Bill of Entry No. 9275512 dated 15.12.2018 and 9693734 dated 18.01.2019 under correct Customs Tariff Item (CTI) 8714 10 90. Thereafter, changed the classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly from Customs Tariff Item (CTI) 8714 10 90 to 8483 10 99. Mahindra Limited also filed Bill of Entry No. 7588398 dated 04.05.2020 under correct Customs Tariff Item (CTI) 8714 10 90. The importer changed the classification from 8483 1099 to 8714 10 90. **There is BCD @7.5% and IGST@ 18% under CTI 8483 10 99 and BCD@ 15% and IGST@ 28% under CTI 8714 10 90.** Their Customs Broker, Flyjac Logistics Private Limited vide their mail dated 06.02.2025 submitted that they had forwarded check list of Bill of Entry No. 9925818 dated 11.12.2020 under correct CTI 8714 1090 in respect of the said goods, however, **Mahindra Limited directed them to change the classification from 8714 10 90 to 8483 10 99.** It shows that Mahindra Limited was very well aware of the classification of the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly under CTI 8714 10 90 and had directed Customs Broker, Flyjac Logistics Private Limited to change the classification from 8714 10 90 to 8483 1099 so as to evade customs duty.
- 1.8. The present investigation is limited to mis-declaration / mis-classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) under CTI 8483 10 99 and the imported parts are correctly classifiable under tariff item 8714 10 90.

## 1.9. CLASSIFICATION OF THE IMPORTED GOODS

The classification of any product under Customs Tariff is governed by the principles contained in Rule 1 to Rule 6 of the General Rules for the Interpretation (GIR). Rule 1, inter alia, provides that "for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes".

- 1.9.1 For complete understanding of the classification of the imported goods, heading 8483 of Chapter 84 of the CTA, Explanatory Notes to the Harmonized Commodity Description and Coding System (Harmonized System) of Section XVI and CTH 8483, issued by World Customs Organization are reproduced herewith;

### *SECTION XVI*

#### ***MACHINERY AND MECHANICAL APPLIANCES; ELECTRICAL EQUIPMENT; PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, AND PARTS AND ACCESSORIES OF SUCH ARTICLES***

##### *Notes.*

1. This Section does not cover:

- (a) Transmission or conveyor belts or belting, of plastics of Chapter 39, or of vulcanised rubber (heading 40.10), or other articles of a kind used in machinery or mechanical or electrical appliances or for other technical uses, of vulcanised rubber other than hard rubber (heading 40.16);

- (b) *Articles of leather or of composition leather (heading 42.05) or of furskin (heading 43.03), of a kind used in machinery or mechanical appliances or for other technical uses;*
- (c) *Bobbins, spools, cops, cones, cores, reels or similar supports, of any material (for example, Chapter 39, 40, 44 or 48 or Section XV);*
- (d) *Perforated cards for Jacquard or similar machines (for example, Chapter 39 or 48 or Section XV);*
- (e) *Transmission or conveyor belts or belting of textile material (heading 59.10) or other articles of textile material for technical uses (heading 59.11);*
- (f) *Precious or semi-precious stones (natural, synthetic or reconstructed) of headings 71.02 to 71.04, or articles wholly of such stones of heading 71.16, except unmounted worked sapphires and diamonds for styli (heading 85.22);*
- (g) *Parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);*
- (h) *Drill pipe (heading 73.04);*
- (ij) *Endless belts of metal wire or strip (Section XV);*
- (k) *Articles of Chapter 82 or 83;*
- (l) *Articles of Section XVII;*
- (m) *Articles of Chapter 90;*
- (n) *Clocks, watches or other articles of Chapter 91;*
- (o) *Interchangeable tools of heading 82.07 or brushes of a kind used as parts of machines (heading 96.03); similar interchangeable tools are to be classified according to the constituent material of their working part (for example, in Chapter 40, 42, 43, 45 or 59 or heading 68.04 or 69.09);*
- (p) *Articles of Chapter 95; or*
- (q) *Typewriter or similar ribbons, whether or not on spools or in cartridges (classified according to their constituent material, or in heading 96.12 if inked or otherwise prepared for giving impressions), or monopods, bipods, tripods and similar articles, of heading 96.20.*
- 2.- *Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) 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 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) 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 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 85.17 and 85.25 to 85.28 are to be classified in heading 85.17.*
- (c) *All other parts are to be classified in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate or, failing that, in heading 84.87 or 85.48.*
- 3.- *Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.*
- 4.- *Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.*
- 5.- *For the purposes of these Notes, the expression "machine" means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of Chapter 84 or 85.*

**GENERAL**

**(I) GENERAL CONTENT OF THE SECTION**

(A) Subject to certain exclusions provided for in the Notes to this Section and to Chapters 84 and 85 and apart from goods covered more specifically in other Sections, this Section

covers all mechanical or electrical machinery, plant, equipment, apparatus and appliances

and parts thereof, together with certain apparatus and plant which is neither mechanical nor electrical (such as boilers and boiler house plant, filtering apparatus, etc.) and parts of such apparatus and plant.

The main exclusions from the Section are :

(a) Spools, cops, bobbins, reels, etc., of any material (classified according to their constituent material). However, warp beams should not be regarded as bobbins, spools or similar supports and fall in heading 84.48.

(b) Parts of general use as defined in Note 2 to Section XV, such as wire, chains, bolts, screws and springs, of iron or steel (heading 73.12, 73.15, 73.18 or 73.20) and similar articles of other base metals (Chapters 74 to 76 and 78 to 81), locks of heading 83.01, fittings and mountings for doors, windows, etc., of heading 83.02. Similar goods of plastics are also excluded from this Section and fall in Chapter 39.

(c) Interchangeable tools of heading 82.07; other similar interchangeable tools are classified according to the constituent material of their working part (e.g., in Chapter 40 (rubber), Chapter 42 (leather), Chapter 43 (fur), Chapter 45 (cork) or Chapter 59 (textile) or in heading 68.04 (abrasive, etc.), or heading 69.09 (ceramics), etc.).

(d) Other articles of Chapter 82 (e.g., tools, tool-tips, knives and cutting blades, non-electrical hair clippers, and certain mechanical domestic appliances) and articles of Chapter 83.

(e) Articles of Section XVII.

(f) Articles of Section XVIII.

(g) Arms and ammunition (Chapter 93).

(h) Machinery and apparatus having the character of toys, games or sports requisites and identifiable parts and accessories thereof (including non-electric motors and engines but excluding pumps for liquids and filtering or purifying machinery for liquids or gases, which fall in heading 84.13 or 84.21, respectively, and also excluding electric motors, electric transformers and radio remote control apparatus, which fall in heading 85.01, 85.04 or 85.26, respectively) which are suitable for use solely or principally with toys, games or sports requisites (Chapter 95).

Brushes of a kind used as parts of machines (heading 96.03).

(B) In general, the goods of this Section may be of any material. In the great majority of cases they are of base metal, but the Section also covers certain machinery of other materials (e.g., pumps wholly of plastics) and parts of plastics, of wood, precious metals, etc.

The Section does not, however, cover:

(a) Transmission or conveyor belts or belting, of plastics (Chapter 39); articles of unhardened vulcanised rubber (e.g., transmission or conveyor belts or belting) (heading 40.10), rubber tyres, tubes, etc. (headings 40.11 to 40.13) and washers, etc. (heading 40.16).

(b) Articles of leather or composition leather (e.g., pickers for textile looms) (heading 42.05), or of furskin (heading 43.03).

(c) Textile articles, e.g., transmission or conveyor belts (heading 59.10), felt pads and polishing discs (heading 59.11).

(d) Certain ceramic goods of Chapter 69 (see General Explanatory Notes to Chapters 84 and 85).

(e) Certain glass articles of Chapter 70 (see General Explanatory Notes to Chapters 84 and 85).

(f) Articles wholly of precious or semi-precious stones (natural, synthetic or reconstructed) (heading 71.02, 71.03, 71.04 or 71.16), except unmounted worked sapphires or diamonds for styli (heading 85.22).

(g) Endless belts of metal wire or strip (Section XV).

(Section Note 2)

In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in

*the same heading, are classified in the same heading as those machines or apparatus subject, of course, to the exclusions mentioned in Part (I) above. Separate headings are, however, provided for:*

- (A) Parts of the engines of heading 84.07 or 84.08 (heading 84.09).*
- (B) Parts of the machinery of headings 84.25 to 84.30 (heading 84.31).*
- (C) Parts of the textile machines of headings 84.44 to 84.47 (heading 84.48).*
- (D) Parts of the machines of headings 84.56 to 84.65 (heading 84.66).*
- (E) Parts of the office machines of headings 84.70 to 84.72 (heading 84.73).*
- (F) Parts of the machines of heading 85.01 or 85.02 (heading 85.03).*
- (G) Parts of apparatus of headings 85.19 or 85.21 (heading 85.22).*
- (H) Parts of apparatus of headings 85.25 to 85.28 (heading 85.29).*
- (I) Parts of apparatus of heading 85.35, 85.36 or 85.37 (heading 85.38).*

*The above rules do not apply to parts which in themselves constitute an article covered by a heading of this Section (other than headings 84.87 and 85.48); these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine. This applies in particular to:*

- (1) Pumps and compressors (headings 84.13 and 84.14).*
- (2) Filtering machinery and apparatus of heading 84.21.*
- (3) Lifting and handling machinery (heading 84.25, 84.26, 84.28 or 84.86).*
- (4) Taps, cocks, valves, etc. (heading 84.81).*
- (5) Ball or roller bearings, and polished steel balls of a tolerance not exceeding 1 % or 0.05 mm, whichever is less (heading 84.82).*
- (6) Transmission shafts, cranks, bearing housings, plain shaft bearings, gears and gearing (including friction gears and gear-boxes and other speed changers), flywheels, pulleys and pulley blocks, clutches and shaft couplings (heading 84.83).*
- (7) Gaskets and similar joints of heading 84.84.*
- (8) Electric motors of heading 85.01.*
- (9) Electrical transformers and other machines and apparatus of heading 85.04.*
- (10) Electric accumulators assembled into battery packs (heading 85.07).*
- (11) Electric heating resistors (heading 85.16).*
- (12) Electrical capacitors (heading 85.32).*
- (13) Electrical apparatus for switching, protecting, etc., electrical circuits (switches, fuses, junction boxes, etc.) (headings 85.35 and 85.36).*
- (14) Boards, panels, consoles, desks, cabinets and other apparatus for electric control or the distribution of electricity (heading 85.37).*
- (15) Lamps of heading 85.39.*
- (16) Valves and tubes of heading 85.40 and diodes, transistors, etc., of heading 85.41.*
- (17) Electrical carbons (e.g., arc lamp carbons, carbon electrodes and carbon brushes) (heading 85.45).*
- (18) Insulators of any material (heading 85.46).*
- (19) Insulating fittings for electrical machines, etc., of heading 85.47.*

*Other parts which are recognisable as such, but are not suitable for use solely or principally with a particular machine or class of machine (i.e., which may be common to a number of machines falling in different headings), are classified in heading 84.87 (if not electrical) or in heading 85.48 (if electrical), unless they are excluded by the provisions set out above.*

*The above provisions for the classification of parts do not apply to parts of the pods falling in heading 84.84 (gaskets, etc.), 85.44 (insulated wire), 85.45 (electrical carbons),*

85.46 (insulators) or 85.47 (conduit tubing); in general, such parts are classified in the appropriate materials Chapter.

Machinery parts remain classified in this Section whether or not finished ready for use.

However, rough forgings of iron or steel are classified in heading 72.07.

**Heading 8483 of the Customs Tariff Act, 1975;**

<b>8483</b>		<b>Transmission Shafts (including cam shafts and crank shafts) and crank; bearing housing and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)</b>
8483 10	-	Transmission shaft (including cam shafts and crank shafts) and crank:
8483 10 10	---	Crank shafts for sewing machines
	---	Other:
8483 10 91	----	Crank shafts for engine of heading 8407
8483 10 92	----	Crank shafts for engine of heading 8408
<b>8483 10 99</b>	----	<b>Other</b>
8483 20 00	-	Bearing housing, incorporating ball or roller bearings
8483 30 00	-	Bearing housing, not incorporating ball or roller bearings; plain shaft bearings
8483 40 00	-	Gearing and gearing, other than toothed wheels, chain sprockets and other transmission elements presented separately; ball or roller screws; gear boxes and other speed changers, including torque converters
8483 50	-	Flywheels and pulleys, including pulley blocks:
84835010	---	Pulleys, power transmission
8483 50 90	---	Other
848360	-	Clutches and shaft couplings (including universal joints):
8483 60 10	---	Flexible coupling
8483 60 20	---	Fluid coupling
8483 60 90	---	Other
<b>8483 90 00</b>	-	<b>Toothed wheels, chain sprockets and other transmission elements presented separately; parts</b>

**Explanatory notes to CTH 8483**

**CTH 8483-** Transmission Shafts (including cam shafts and crank shafts) and crank; bearing housing and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints).

8483.10- *Transmission shafts (including cam shafts and crank shafts) and cranks*

8483.20-

8483.30-

8483.40-

8483.50-

8483.60-

8483.90- *Toothed wheels chain sprockets and other transmission elements presented separately; parts.*

*The goods covered by this heading are mainly:*

- (i) *Certain mechanical parts which are used in the transmission of power from an external power unit to one or more machine.*
- (ii) *Certain internal parts of a machine, used to transmit power to the various parts of the same machine.*

### **(B) BEARING HOUSINGS AND PLAIN SHAFT BEARINGS**

*Bearing housings consist of frame or block designed to house the plain, ball, roller, etc., bearing in which (or, in the case of a thrust bearing, against which) the ends of a shaft or axle turn. They usually consist of two parts which, when fitted together, form a ring to hold the bearing. They may incorporate means of lubricating the bearing.*

*They also often incorporate a chair, plate, bracket, etc., by which they can be fixed to the machine, or to a wall or other part of a building; but chairs, plates, brackets, etc., not incorporating a bearing housing (nor themselves designed to house a bearing) are classified according to the constituent material (usually heading 73.25 or 73.26).*

*Bearing housings incorporating ball, roller or needle roller bearings remain classified in this heading; but ball, roller or needle roller bearings presented separately fall in heading 84.82.*

*On the other hand, plain shaft bearings are classified in this heading even if they are presented without housings. They consist of rings of anti-friction metal or other material (e.g., sintered metal or plastics). They may be in one piece or in several pieces clamped together, and form a smooth bearing in which a shaft or axle turns.*

*The heading does not include graphite or other carbon bearings (heading 68.15)*

### **PARTS**

*Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), the heading also covers parts of the goods covered by this heading.*

*The heading also excludes:*

- (a) *Pieces roughly shaped by forging, of heading 72.07.*
- (b) *Transmission equipment of the kinds described above (gear boxes, transmission shafts, clutches, differentials, etc.) but which are designed for use solely or principally with the vehicles or aircraft (Section XVII); it should, however, be noted that this exclusion does not apply to internal parts of vehicles or aircrafts engine-these parts remain classified in this heading.*

*Thus a crank shaft or a cam shaft remains in this heading even if it is specialized for a motor car engine; but motor car transmission (propeller) shafts, gear boxes and differential fall in heading 87.08.*

*It should further be noted that transmission equipment of the type described in this heading remains classified here even if it is specially designed for ships.*

**From the above, it is evident that the Notes 1 (l) of Section XVI excludes Articles of Section XVII and further explanatory notes to the Harmonized Commodity Description and Coding System (Harmonized System) of CTH 8483 produced above, excludes Transmission equipment of the kinds**

described above (gear boxes, transmission shafts, clutches, differentials, etc.) but which are designed for use solely or principally with the vehicles or aircraft (Section XVII). The importer has imported Input shaft assembly and output shaft assembly for two-wheelers which is a transmission equipment for use solely or principally with vehicles (Section XVII) and therefore, excluded by virtue of Section Note of XVI and explanatory notes to chapter 8483.

1.9.2 For complete understanding of the classification of the imported goods, transmission parts of motorcycle (vehicle), relevant portion of heading 8714 of Chapter 87 of the CTA, Explanatory Notes to the Harmonized Commodity Description and Coding System (Harmonized System) of CTH 8714, issued by World Customs Organization are reproduced herewith;

**HEADING 8714**

8714		<i>PARTS AND ACCESSORIES OF THE VEHICLES OF HEADINGS 87.11 TO 87.13</i>
8714.10	-	<i>Of motorcycles (including mopeds):</i>
8714 10 10	---	<i>Saddles</i>
8714 10 90	---	<i>Other</i>

**Relevant Explanatory Notes of CTH 8714- Parts and accessories of the vehicles of heading 87.11 to 87.13;**

*This heading covers parts and accessories of a kind used with motorcycles (including mopeds), cycles fitted with an auxiliary motor, side-cars, non-motorised cycles, or carriages for disabled persons, 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 (see the corresponding General Explanatory Note).*

**Parts and accessories of this heading include:**

- (1) Bodies and parts thereof for delivery tricycles, side-cars or carriages for disabled persons (hoods, doors, floors, etc.).*
- (2) Chassis and frames, and parts thereof.*
- (3) Gearing, gear boxes, clutches and other transmission equipment, and parts thereof, for motorcycles.*
- (4) Wheels and parts thereof (hubs, rims, spokes, etc.).*
- (5) Free-wheel sprocket-wheels.*
- (6) Derailleurs and other gear mechanisms, and parts thereof.*
- (7) Crank-gear and parts thereof (crank-wheels, cranks, axles, etc.), pedals and parts thereof(axles, etc.); toe-clips.*
- (8) Kickstarters, levers and other control gear.*
- (9) Brakes of all kinds (cantilever brakes, caliper brakes, drum brakes, hub brakes, disc brakes, coaster braking hubs, etc.), and parts thereof (levers, block-holder levers, drums and shoes for hub brakes, yokes for cantilever brakes).*
- (10) Handle-bars, handle-bar stems, and handle-bar grips (of cork, plastics, etc.).*
- (11) Saddles (seats) and saddle-pillars (seat-posts); saddle-covers. (12) Forks, including telescopic forks, and parts thereof (fork crowns and blades, etc.).*
- (13) Tubes and lugs for cycle frames.*

(14) Hydraulic shock-absorbers and parts thereof. (15) Mudguards and their supports (stays, fastening rods, etc.). (16) Reflectors (mounted).

(17) Clothes protectors (other than nets of beading 56.08); transmission-chain covers; foot-rests and leg-protectors.

(18) Stands for motorcycles.

(19) Tilting cowls and spare-wheel covers, for scooters. (20) Silencers (mufflers) and parts thereof.

(21) Fuel tanks.

(22) Windscreens (windshields).

(23) Luggage racks; lamp brackets; water-bottle brackets.

(24) Propelling levers and crank-handles, back-rests and back-rest steering columns, foot-rests, leg-supports, armrests, etc., for carriages for disabled persons.

(25) Clutch cables, brake 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.

From the heading 8714 and **explanatory notes** to the Harmonized Commodity Description and Coding System (Harmonized System) of CTH 8714 produced above, it is evident that the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly used as transmission equipment in motorcycles is having specific Customs Tariff Items (CTI) 8714 10 90 and are correctly classifiable under (CTI) 8714 10 90.

**1.10. Mis-declaration / Mis-classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) by Mahindra Limited;**

**1.10.1** The Classification of any product under Customs Tariff is governed by the principles contained in Rule 1 to Rule 6 of General Rules for the Interpretation (GIR). Rule 1, inter alia, provides that "for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes". As per the CTA, Input Transmission Shaft Assembly and Output Transmission Shaft Assembly used as transmission equipment in motorcycles are correctly classifiable under Sub-Heading 87141090 of CTA.

**1.10.2** Mahindra Limited has self-assessed the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of two-wheelers) under CTI8483 10 99 of the CTA. Heading 8483 of the CTA which covers Transmission Shafts, however, the importer has imported Input shaft assembly and output shaft assembly for two-wheelers **which is a transmission equipment for use solely or principally with vehicles (Section XVII) and is excluded by virtue of Section Note of XVI and explanatory notes to chapter 8483. Officials of the Mahindra Limited admitted sole or principal use of the imported parts is for JAWA motorcycle.** Mahindra Limited started importing Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of two-wheelers) since December, 2018 and filed **Bill of Entry No. 9275512 dated 15.12.2018 and 9693734 dated 18.01.2019 under correct Customs Tariff Item (CTI) 8714 10 90. Thereafter, changed the classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly from Customs Tariff Item (CTI) 8714 10 90 to 8483 10 99.** It shows that Mahindra Limited was very well aware of the correct classification of the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly under CTI 8714 10 90 and **had directed Customs Broker, Flyjac Logistics Private Limited to change the classification from 8714 10 90 to 8483 1099 so evade payment of appropriate customs duty.** The fact that Mahindra Limited had full knowledge that the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly for use in two-wheelers as transmission equipment, only proves the malafide intension of Mahindra Limited. Therefore, the classification adopted by Mahindra Limited for Input Transmission Shaft Assembly and Output Transmission Shaft Assembly under CTI 8483 10 99of the CTA, appears to be incorrect and deliberately resorted to by them.

The images of the two Bills of Entry 9275512 dated 15.12.2018 and 9693734 dated 18.01.2019 are also reproduced below:

BE No: 9275512		Date: 15/12/2018		CC: N		Type: H		Inv No: 1	
Item 1	E02 INPUT TRANSMISSION SHAFT P/N: T0215AUF0100N (PARTS FOR TWO WHEELERS)	Country of Org. CN						RITC 87141090	
Generic Desc	E02 INPUT TRANSMISSION SHAFT P/N: T0215AUF0100N (PARTS FOR TWO WHEELERS)	Scheme Code:							
Unit price Declared	13.8	Assessed	13.8	SVB Load Decl		Assessed			
Curr USD	Quantity Unit 400	PCS	RSP	RSP Notn.		RSP Notn Slno			
STD QTY		IMS Details							
Customs Declared		( 1 of 2 )		Excise Declared		Assessed			
87141090		87141090		NOEXCISE		NOEXCISE			
399738.48		Rs 399738.48		459699.28		Rs 459699.28		Rs	
15 %		15 %		0 %		0 %		%	
59960.8		59960.8		0		0			
0		0		0		0			
0		0		0		0			
0		0		0		0			
10		5996.1		10		5996.1			

BE No: 9275512		Date: 15/12/2018		CC: N		Type: H		Inv No: 1	
Item 2	E02 OUTPUT TRANSMISSION SHAFT P/N: T0215AUF0180N (PARTS FOR TWO WHEELERS)	Country of Org. CN						RITC 87141090	
Generic Desc	E02 OUTPUT TRANSMISSION SHAFT P/N: T0215AUF0180N (PARTS FOR TWO WHEELERS)	Scheme Code:							
Unit price Declared	20.7	Assessed	20.7	SVB Load Decl		Assessed			
Curr USD	Quantity Unit 400	PCS	RSP	RSP Notn.		RSP Notn Slno			
STD QTY		IMS Details							
Customs Declared		( 2 of 2 )		Excise Declared		Assessed			
87141090		87141090		NOEXCISE		NOEXCISE			
599607.72		Rs 599607.72		689548.92		Rs 689548.92		Rs	
15 %		15 %		0 %		0 %		%	
89941.2		89941.2		0		0			
0		0		0		0			
0		0		0		0			
0		0		0		0			
10		8994.1		10		8994.1			

BE No: 9693734		Date: 16/01/2019		CC: N		Type: H		Inv No: 1	
Item 1	E02 INPUT TRANSMISSION SHAFT P/N: T0215AUF0100N (PARTS FOR TWO WHEELERS)	Country of Org. CN						RITC 87141090	
Generic Desc	E02 INPUT TRANSMISSION SHAFT P/N: T0215AUF0100N (PARTS FOR TWO WHEELERS)	Scheme Code:							
Unit price Declared	13.8	Assessed	13.8	SVB Load Decl		Assessed			
Curr USD	Quantity Unit 540	PCS	RSP	RSP Notn.		RSP Notn Slno			
STD QTY		IMS Details							
Customs Declared		( 1 of 2 )		Excise Declared		Assessed			
87141090		87141090		NOEXCISE		NOEXCISE			
538164.89		Rs 538164.89		618889.59		Rs 618889.59		Rs	
15 %		15 %		0 %		0 %		%	
80724.7		80724.7		0		0			
0		0		0		0			
0		0		0		0			
0		0		0		0			
10		8072.5		10		8072.5			

BE No: 9693734		Date: 18/01/2019		CC: N	Type: H	Inv No: 1
Item 2	E02 OUTPUT TRANSMISSION SHAFT P/N: T0215AUF0180N (PARTS FOR TWO WHEELERS)					Country of Org. CN
Item Desc	E02 OUTPUT TRANSMISSION SHAFT P/N: T0215AUF0180N (PARTS FOR TWO WHEELERS)					RITC 87141090
Generic Desc	E02 OUTPUT TRANSMISSION SHAFT P/N: T0215AUF0180N (PARTS FOR TWO WHEELERS)					Scheme Code:
Unit price Declared	20.7	Assessed	20.7	SVB Load Decl	Assessed	
Curr USD	Quantity Unit 540	PCS	RSP	RSP Notn.	RSP Notn Sln	
STD QTY		IMS Details				
Customs Declared		( 2 of 2 )		Excise Declared		Assessed
87141090	87141090	Tariff Head		NOEXCISE		NOEXCISE
		Notification No.				
		Serial No.				
807247.33	Rs 807247.33	Assval Sec 14/3(2).		928334.43	Rs 928334.43	Rs
15 %	15 %	Advl. Rate (%) Flag		0 %	0 %	%
		Specific Rate				
		Unit Quantity Code				
121087.1	121087.1	Duty (Rs.)		0	0	
		Edu Cess Notn				
0	0	Edu Cess Sln				
0	0	Edu Rta		0	0	
0	0	Edu Cess Amt		0	0	
0	0	Shedu Cess		0	0	
		SCD.Notn/Sln				
10	12108.7	SCD.RTA/Amt		10	12108.7	

- 1.10.3** Mahindra Limited vide their literature / PPT dated 06.03.2024 submitted that input shaft is driven by the crankshaft and it transfer energy to the output shaft. The output shaft is driven by input shaft and it transfer energy to the rear wheel via output shaft. Further, they submitted that the input shaft and output shaft is **part of transmission system**. Both are used for varied vehicle speed as per rider demand via gear shifting. However, *Mahindra Limited vide their letter dated 08.04.2024 changed their submission and stated that Input Transmission Shaft Assembly and Output shaft Assembly are integral parts of engine.*
- 1.10.4** Shri Biju Narayanan, Senior Manager (International Logistics) and Shri Avinash Kachare, Deputy General Manager (International Logistics) of Mahindra Limited during their voluntary statement recorded on 25.04.2024 and 10.07.2024 under Section 108 of the Customs Act, 1962 stated that Input Transmission Shaft Assembly and Output Shaft Assembly are used for manufacturing of Engine for Motorcycle. *These both assemblies are used in JAWA motorcycle. They have one component known as Engine Crankcase Assembly which includes engine, gearing, clutches and Input and Output Transmission Shaft Assembly. Motorcycle manufactured by their company does not have any parts namely gearing, gearing boxes, clutches outside of Engine Crankcase Assembly.* Therefore, Mahindra Limited vide their literature / PPT dated 06.03.2024 admitted Input Transmission Shaft Assembly and Output Transmission Shaft Assembly as transmission parts of motorcycle, however, Mahindra Limited vide their letter 08.04.2024 and officers during their statements recorded under Section 108 of the Customs Act, 1962 *changed their submission and stated that the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly are parts of engine.*
- 1.10.5** Shri Biju Narayanan, Senior Manager (International Logistics) and Shri Avinash Kachare, Deputy General Manager (International Logistics) of Mahindra Limited during their voluntary statement recorded on 25.04.2024 and 10.07.2024 under Section 108 of the Customs Act, 1962 stated that *Input Transmission Shaft Assembly and Output Transmission Shaft Assembly imported by them is used in JAWA motorcycle and as per catalogue available on internet for JAWA motorcycle, Input Transmission Shaft Assembly and Output Transmission Shaft Assembly are parts of Transmission system of JAWA Motorcycle.* Therefore, Input Transmission Shaft Assembly and Output Transmission Shaft Assembly used as transmission equipment in JAWA motorcycle is having specific Customs Tariff Items (CTI) 8714 10 90 and are correctly classifiable under (CTI) 8714 10 90.
- 1.11.** Mahindra Limited has subscribed to a declaration as to the truthfulness of the contents of the Bills of Entry in terms of Section 46(4) of the Customs Act, 1962 in all their import declarations. Further, consequent upon the amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, 1962 effective from 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 Integrated Declaration and Paperless Processing) Regulation, 2018 (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 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 doubly ensure that he declares the correct description of the imported goods, its correct classification, applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 8<sup>th</sup> April, 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. Prior to *Substitution by Act 13 of 2018, section 58 (i), for clause (2) (w.e.f. 29.03.2018). Clause (2) before substitution, stood as under:*

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

*Earlier to substitution by Act 8 of 2011, section 36, (w.e.f. 8-4-2011), clause (2) read:*

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

*With effect from 29.03.2018, the term assessment 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 (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;*

1.12. From a reading of the above provision 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, 1962 and since 2018 the scope of assessment was widened and as per that definition, the importer has to ascertain not only the classification but he also has to determine whether the goods imported by him are eligible for any duty exemptions or not and also with regards to the origin of goods. Such onus appears to have not been discharged by Mahindra Limited deliberately.

1.13. **Suppression of facts, wilful mis-statement on part of Mahindra Limited and Invocation of extended Period in the import of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers):-**

1.13.1 In the case, it emerged that Mahindra Limited vide their literature / PPT dated 06.03.2024 submitted that the input shaft and output shaft is **part of transmission system**. Both are used for varied vehicle speed as per rider demand via gear shifting. However, Mahindra Limited vide their letter dated 08.04.2024 changed their submission and stated that Input Transmission Shaft Assembly and Output shaft Assembly are integral parts of engine. It shows that Mahindra Limited was very well aware of the correct classification of the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly as Transmission equipment for JAWA motorcycle under CTI 8714 10 90. Such facts prove suppression of facts, wilful mis-statement on the part of Mahindra Limited, as a result of which extended period of limitation under section 28(4) is invocable in the case.

- 1.13.2** Mahindra Limited started importing Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of two-wheelers) since December, 2018 and filed Bill of Entry No. 9275512 dated 15.12.2018 and 9693734 dated 18.01.2019 under correct Customs Tariff Item (CTI) 8714 10 90. Thereafter, changed the classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly from Customs Tariff Item (CTI) 8714 10 90 to 8483 10 99. Mahindra Limited also filed Bill of Entry No. 7588398 dated 04.05.2020 under correct Customs Tariff Item (CTI) 8714 10 90. The importer changed the classification from 8483 1099 to 8714 10 90. There is BCD @7.5% and IGST@ 18% under CTI 8483 10 99 and BCD@ 15% and IGST@ 28% under CTI 8714 10 90. It shows that Mahindra Limited was very well aware of the correct classification of the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly as Transmission equipment for JAWA motorcycle under CTI 8714 10 90 and had directed Customs Broker, Flyjac Logistics Private Limited to change the classification from 8714 10 90 to 8483 1099 so evade duty. Such facts prove suppression of facts, wilful mis-statement on the part of Mahindra Limited, as a result of which extended period of limitation under section 28(4) is invocable in the case.
- 1.13.3** Officials of Mahindra Limited during their statements recorded under Section 108 of the Customs Act, 1962 stated that imported Input Transmission Shaft Assembly and Output Transmission Shaft Assembly is used in JAWA motorcycle and as per catalogue available on internet for JAWA motorcycle, Input Transmission Shaft Assembly and Output Transmission Shaft Assembly are parts of Transmission system of JAWA Motorcycle. It shows that Mahindra Limited was very well aware of the correct classification of the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly as Transmission equipment for JAWA motorcycle under CTI 8714 10 90. Such facts prove suppression of facts, wilful mis-statement on the part of Mahindra Limited, as a result of which extended period of limitation under section 28(4) is invocable in the case.
- 1.14.** Mahindra Limited has resorted to mis-declaration and mis-classification with the intent to evade payment of Customs duties. The various provisions of law/ rules relevant to the import of goods in general, liability of goods to confiscation and liability of the concerned persons to penalty for improper importation of goods, are relied upon in the SCN and the same are not reproduced herein for the sake of brevity.
- 1.15.** With the introduction of self-assessment and consequent upon amendments to Section 17 of the Customs Act, 1962 w.e.f. 08.04.2011, it was obligatory on the part of the importer to declare the actual description and correct classification of the goods imported by them and pay the duty applicable in respect of the said goods. Therefore, by not disclosing the true and correct facts to the proper officer, at the time of clearance of imported goods, the importer appears to have indulged in mis-declaration and mis-classification by way of suppression of facts and willfully mis-declaring and mis-classifying the imported goods with intent to evade the payment of applicable Custom duties. Thus, the importer has contravened the provisions of Section 46(4) & 46(4A) of the Customs Act, 1962, inasmuch as they have mis-classified and mis-declared the goods imported by them, by suppressing the true and actual description of the goods, while filing the declaration seeking clearance at the time of importation of impugned goods.
- 1.16.** Section 17 (1) & Section 2 (2) of the Customs Act, 1962 read with CBIC Circular No. 17/2011- Customs dated 08.04.2011 cast a heightened responsibility and onus on the importer to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declared 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. On the contrary, the fact of the case shows that such onus was not discharged by Mahindra Limited as they knowingly and purposefully mis-classified the goods to evade payment of duty by making wilful mis-statement and suppression of facts.
- 1.17. Summary of Investigation:**
- 1.17.1** Mahindra Limited has been engaged in importing Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) (Transmission parts) of Jawa Motorcycle.
- 1.17.2** Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) (Transmission Part) are correctly classified under tariff item 8714 10 90. This is evident from the Section Note to Section XVII, Explanatory Notes to the Harmonized Commodity Description and Coding System (Harmonized System) for Section XVII and chapter heading 8714 of the CTA. Since there is a specific sub-heading for the classification of the parts of motorcycle (transmission equipment) i.e. 8714 10 90, the parts of motorcycle imported by Mahindra Limited cannot be classified under chapter heading 8483.
- 17.3** The import data reveals that, Mahindra Limited started importing Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of two-wheelers) since December, 2018 and filed Bill of Entry No. 9275512 dated 15.12.2018 and 9693734 dated 18.01.2019 under correct Customs Tariff Item (CTI)

8714 10 90. Thereafter, changed the classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly from Customs Tariff Item (CTI) 8714 10 90 to 8483 10 99. Mahindra Limited also filed Bill of Entry No. 7588398 dated 04.05.2020 under correct Customs Tariff Item (CTI) 8714 10 90. It shows that Mahindra Limited was very well aware of the correct classification of the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly under CTI 8714 10 90 and had directed Customs Broker, Flyjac Logistics Private Limited to change the classification from 8714 10 90 to 8483 1099 so evade duty.

- 1.17.4 Mahindra Limited vide their literature / PPT dated 06.03.2024 submitted that input shaft and output shaft of motorcycle are part of transmission system. Both are used for varied vehicle speed as per rider demand via gear shifting. However, Mahindra Limited vide their letter dated 08.04.2024 changed their submission and stated that Input Transmission Shaft Assembly and Output shaft Assembly are integral parts of engine.
- 1.17.5 Shri Biju Narayanan, Senior Manager (International Logistics) and Shri Avinash Kachare, Deputy General Manager (International Logistics) of Mahindra Limited during their voluntary statement recorded on 25.04.2024 and 10.07.2024 respectively under Section 108 of the Customs Act, 1962 stated that Input Transmission Shaft Assembly and Output Transmission Shaft Assembly imported by them is used in JAWA motorcycle and as per catalogue available on internet for JAWA motorcycle, Input Transmission Shaft Assembly and Output Transmission Shaft Assembly are parts of Transmission system of JAWA Motorcycle.
- 1.17.6 By the above acts of omission and commission, Mahindra Limited has contravened the provisions of Section 46 of the Customs Act, 1962, since they had not disclosed the correct classification of the imported goods before the Customs while filing the Bills of Entry for the clearance of the imported goods. The same was done with the sole intention to evade the payment of applicable duty leviable thereon. This has resulted in short payment of Customs duty. By the act of wilful mis-statements, suppression of fact and mis-declaration / mis-classification of the subject goods, Mahindra Limited has rendered the said goods totally valued at **₹45,03,63,076/- (Rupees Forty-Five Crore Three Lakhs Sixty-Three Thousand and Seventy-Six only)** (as detailed in **Annexure A&B of the notice**), liable to confiscation under Sections 111(m) of the Customs Act, 1962.
- 1.17.7 Mahindra Limited deliberately committed the offense with full knowledge and intent for the purpose of evasion of duty by way of short payment by declaring incorrect classification for the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly for use with motorcycle (transmission equipment), by way of mis-declaration / mis-classification of imported parts in the heading which had lower rate of duty. The correct classification of the imported goods initially, directions to Customs Broker to change the classification, catalogue available on internet, reveal a deliberate, meticulous, conscious planning and wilful mis-statement and suppression of facts of Mahindra Limited to classify transmission parts for use with motorcycle under CTI 84831099 of the CTA but also to fraudulently evade payment of appropriate customs duty. Mahindra Limited was aware that the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly for motorcycle were correctly classifiable under CTI 87141090 of the CTA, Mahindra Limited managed to evade applicable Customs duty by wilful mis-statement and suppression of facts as discussed in Para 13 supra, it appears that the same can be demanded under Section 28(4) of the Customs Act, 1962 by evoking the extended period.
- 1.17.8 The investigation in the matter has revealed that Mahindra Limited has imported Input Transmission Shaft Assembly and Output Transmission Shaft Assembly for use with motorcycle at Nhava Sheva Sea Port (INNSA1) and Air Cargo Complex, Mumbai (INBOM4) during the period 11.02.2020 to 10.02.2024. During this period, Mahindra Limited had filed Bills of Entry for import of said goods, at the above stated Customs port, having total assessable Value of **Rs. 45,03,63,076/- (Rupees Forty-Five Crore Three Lakhs Sixty-Three Thousand and Seventy-Six only)** (as detailed in **Annexure A & B of the notice**) by way of mis-classifying / mis-declaring the said goods under CTI 84831099 instead of the correct Customs Tariff Items 87141090. In view of the above stated mis-declaration/mis-classification, wilful mis-statement, suppression of facts as discussed in Para 13 supra, Mahindra Limited has evaded payment of Customs duty aggregating to **Rs. 9,63,10,144/- (Rupees Nine Crore Sixty-Three Lakhs Ten Thousand One Hundred and Forty-Four only)** as detailed in **Annexure-A & B of the notice** which appears liable to be recovered from Mahindra Limited under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA ibid.
- 1.17.9 By the above acts and omissions, Mahindra Limited has contravened the provisions of Section 46 of the Customs Act, 1962, since they had not disclosed correct classification of the imported goods before the Customs authorities while filing the Bills of Entry for the clearance of the imported goods. The same was done with the sole intention to evade the payment of applicable Customs Duty leviable thereon. This has

resulted in short payment of Customs duty. By the act of mis-declaration /mis-classification of the subject goods by wilful mis-statement and suppression of facts as discussed in Para 13supra, Mahindra Limited have rendered the said goods totally valued at **Rs. 45,03,63,076/- (Rupees Forty-Five Crore Three Lakhs Sixty-Three Thousand and Seventy-Six only)** (as detailed in **Annexure A & B of the notice**), liable to confiscation under Sections 111(m) of the Customs Act, 1962 and rendered themselves liable to penalty under Section 114A of the Customs Act, 1962. By knowingly and intentionally making false or incorrect declaration / documents for filing Bills of Entry which they knew were not correct, Mahindra Limited also appears to have rendered themselves liable to penalty under Section 114AA of the Customs Act, 1962.

- 1.18. The investigation in the matter has revealed that Mahindra Limited has imported Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) for use with motorcycle at Nhava Sheva Sea Port (INNSA1) and Air Cargo Complex, Mumbai (INBOM4). During this period, Mahindra Limited had filed Bills of Entry for import of said goods, at the above stated Customs sea port and airport having total assessable Value of **Rs. 45,03,63,076/- (Rupees Forty-Five Crore Three Lakhs Sixty-Three Thousand and Seventy-Six only)** (as detailed in **Annexure A & B of the notice**) by way of mis-declaring / mis-classifying the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly for use with motorcycle (transmission parts) under CTI 84831099 instead of the correct Sub heading 87141090 of CTA. In view of the above stated mis-declaration / mis-classification, wilful mis-statement and suppression of facts, Mahindra Limited has evaded payment of Customs duty aggregating to **Rs. 9,63,10,144/- (Rupees Nine Crore Sixty-Three Lakhs Ten Thousand One Hundred and Forty-Four only)** as detailed in **Annexure A & B of the notice**. The abstract of the Assessable Value declared, Actual duty payable and the differential duty payable, is as under: -

Sr. No.	Port Code	Assessable Value of Goods (In Rs.)	Actual Duty Payable (In Rs.)	Differential Duty Payable (In Rs.)	Annexures
1	INNSA1	₹ 42,97,30,809	₹ 21,10,83,773	₹ 9,18,97,934	A
2	INBOM4	₹ 2,06,32,267	₹ 1,01,34,570	₹ 44,12,210	B
	TOTAL	₹ 45,03,63,076	₹ 22,12,18,343	₹ 9,63,10,144	

- 1.19. Therefore, in exercise of powers conferred upon in Section 28(4) read with Section 124 of the Customs Act, 1962, **M/s. Mahindra and Mahindra Limited (holder of IEC No. 0388033878)** having address at Gateway Building, Apollo Bunder, Bhagat Singh Road, Fort, Mumbai-400 001, was called upon 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 84831099 which attracts BCD @ 7.5% and IGST @ 18% of the goods mentioned in Annexure-A & B to the Show Cause Notice should not be rejected and re-assessed under CTH 87141090 with attracts BCD @ 15% and IGST @ 28% in various sub-heads;
- (ii) Differential duty amounting to **Rs. 9,63,10,144/- (Rupees Nine Crore Sixty-Three Lakhs Ten Thousand One Hundred and Forty-Four Only)** (as detailed in the **Annexure-A & B**) attached 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;
- (iii) The impugned goods covered under Bills of Entry as mentioned in **Annexure-A & B** to the notice, valued at **Rs. 45,03,63,076/- (Rupees Forty-Five Crore Three Lakhs Sixty-Three Thousand and Seventy-Six 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
- (iv) Penalty should not be imposed on the Importer under Section 112(a) and/or 114A and 114AA of the Customs Act, 1962.

## 2. WRITTEN SUBMISSIONS OF THE NOTICEE

- 2.1 The noticee M/s. Mahindra and Mahindra Ltd., vide their letters dated 23.07.2025, 16.12.2025 and 31.12.2025 has given written submissions in response to the subject SCN. M/s. Mahindra and Mahindra Ltd. in the said letter dated 23.07.2025 submitted, inter alia, as under:
- 2.1.1 The Importer is an Indian multinational company headquartered in Mumbai, Maharashtra and is inter alia, engaged in the manufacture, marketing and sale of a wide range of automobiles, tractors, trucks, trailers, parts and components thereof.
- 2.1.2 For this purpose, the company has manufacturing facilities at Kandivali (Mumbai), Chakan, Nagpur & Nashik (Maharashtra), Zaheerabad (Telangana) and Haridwar & Rudrapur (Uttarakhand), and one R&D facility at Chennai known as Mahindra Research Valley (MRV).
- 2.1.3 The Importer uses indigenous and imported goods for manufacture of their Motor Vehicles. In the ordinary course of business, the Importer imported various consignments involving Input and Output Transmission Shaft Assembly (Parts of Two Wheelers) (hereinafter referred to as the 'impugned goods) and classified the same under CTH 8483 1099.
- 2.1.4 Accordingly, Basic Customs Duty (BCD) was paid @ 7.5% and IGST was paid @18% as per the First Schedule of the Customs Tariff Act and IGST Schedule Notification 01/2017 dated 28.06.2017, respectively.
- 2.1.5 The view of the Department was that the impugned goods are classifiable under CTH 8714 1090 of the First Schedule of the Customs Tariff Act and consequently Basic Customs Duty @15% and IGST @28% would be payable.
- 2.1.6 Statements of Shri Biju Narayanan, Senior Manager, Shri Avinash Kachare, Deputy General Manager and Shri Binu Vasudevan Nair, Assistant General Manager of CB Firm Flyjac Logistics Pvt. Ltd. were recorded on 25.04.2024, 10.07.2024 and 16.12.2024 respectively.
- 2.1.7 In addition to the above statements, the importers also submitted literature in respect of functions/working of imported Input Transmission Shaft Assembly and Output Transmission Shaft Assembly.
- 2.1.8 A written Reply dated 08.04.2024 in respect of functions/working of imported Input Transmission Shaft Assembly and Output Transmission Shaft Assembly.
- 2.1.9 The department in Para 6 of the SCN, 'Analysis of Import Data' also alleged that the Importers started importing the impugned goods since December 2018 and filed BoE No. 9275512 dated 15.12.2018 and 9693734 dated 18.01.2019 under CTH 8714 1090. Thereafter, the classification was changed from 8714 1090 to 8483 1099. It is alleged that the Importers also filed 1 Bill of Entry No. 7588398 dated 04.05.2020 under CTH 8714 1090.
- 2.1.10 In Para 7.4 of the SCN, the Department also alleges that E-mails were exchanged between the importers and their Custom Broker directing the Custom Broker to change the classification from 8714 1090 to 8483 1099.
- 2.1.11 The SCN in Para 18 alleges that the Importers had filed Bills of Entry for import of the impugned goods by mis-declaring and mis-classifying the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly for use with motorcycle (transmission parts) under CTH 8483 1099 instead of CTH 8714 1090.
- 2.1.12 Therefore, the SCN demanded Differential Duty of Rs. 9,63,10,144. It also alleged that the importers rendered the goods liable for confiscation under Section 111(m) and thus proposed to impose Penalty under Sections 112(a) and/or 114A and 114AA of the Customs Act 1962.
- 2.1.13 At the outset, the importers deny all the allegations and charges contained in the Notice. Further, following submissions were made by the Noticee:
- 2.1.14 The Input Shaft Assembly is assembled **inside the engine crankcase assembly**. The input shaft is not visible from the outside of the engine and clutch is mounted on the input shaft. The input shaft is driven by the crankshaft and it transfers energy to the output shaft. The Output Shaft Assembly is assembled **inside the engine crankcase assembly**. The output shaft is partially visible from outside the engine and engine sprocket is mounted on the output shaft. The output shaft is driven by input shaft and it transfers energy to the rear wheel via output sprocket. **The Input shaft and output shaft is a part of transmission system. Both are used for varied vehicle speed as per rider demand via gear shifting.**
- 2.1.15 The impugned goods are cylindrical shafts for coupling with gears or bearings. The same is designed to fit precisely with gears, bearings or other transmission components. The purpose of the impugned goods is to transfer/receive power from the engine to the drive shaft.

- 2.1.16 that the ITS & OTS are assembled and placed very intrinsically inside engine crankcase assembly which is a singular unit.
- 2.1.17 that ITS is the core part of motorcycle engine, which receives power generated by compression of fuel by the piston in the cylinder. This energy is transmitted to the ITS by the clutch which in turn drives the countershaft gears, and power the final drive via a sprocket & OTS.
- 2.1.18 The fact that there is no separate transmission assembly is further substantiated by the fact that in motor cycle engine, the engine oil used is a single type of oil which is used for lubrication of all the elements of engine as mentioned in Para 16 above.
- 2.1.19 While ITS is not visible from outside the engine, the OTS is partially visible. The OTS is driven by ITS which in turn transfers the energy to the rear wheel via output sprocket.
- 2.1.20 Basis the functions of ITS & OTS described above, it can be inferred that the ITS and OTS are both critical and integral parts of the engine which are used for controlling the vehicle speed as per rider demand via gear shifting.
- 2.1.21 CTH 8483 explicitly encompasses Transmission Shafts, including cam shafts and crank shafts. In accordance with the General Rules for the Interpretation of the Harmonized System, specifically Rule 3(a), it is stipulated that "the heading which provides the most specific description shall take precedence over headings offering a more general description." Given that Transmission Shafts are expressly enumerated under CTH 8483, their classification under this heading is both appropriate and consistent with the principles of tariff interpretation.
- 2.1.22 Serial No. 1 of Chapter Note 84 outlines certain exclusions, specifying items that fall outside the scope of Chapter 84. However, it is pertinent to note that this exclusion list does not, at any point, indicate that Transmission Parts are excluded from the ambit of this Chapter. Therefore, Transmission Parts remain appropriately classified within the provisions of Chapter 84.
- 2.1.23 Section Notes XVI, which govern Chapters 84 and 85, explicitly state in Para 1(l) that Articles of Chapter XVII are excluded from the scope of Section XVI. However, it is critical to emphasize that Transmission Shafts do not fall under the purview of Section XVII and, more specifically, do not fit within the ambit of Chapter 87. The classification of Transmission Shafts under Chapter 87 is unwarranted, as they do not meet the criteria outlined therein.
- 2.1.24 Section Notes XVI, governing Chapters 84 and 85, explicitly state in Para 1(l) that Articles of Chapter XVII are excluded from the scope of Section XVI. It is pertinent to note that Transmission Shafts do not fall under the purview of Section XVII, nor, more specifically, within the ambit of Chapter 87.
- 2.1.25 CTH 8714 primarily covers parts and accessories such as saddles, carriages, frames and forks, wheel rims, and similar components. These items are external parts integral to the structure or framework of a vehicle or carriage. Transmission Shafts, by contrast, are internal mechanical components essential for the transmission of power, and they do not constitute the body, carriage, or external framework of a vehicle. The scheme of Heading 8714 is inherently focused on external and structural parts, and its scope cannot reasonably be extended to include Transmission Shafts within its ambit.
- 2.1.26 Given the functional and categorical distinction of Transmission Shafts, their classification under Heading 8714 is both inappropriate and inconsistent with the intended scope of this heading.

**Inclusion of the impugned goods under CTH 8483 as per WCO HSN Explanatory Notes:**

- 2.1.27 The Explanatory Notes provided by the World Customs Organization (WCO) for CTH 8483 enumerate specific exclusions. In view of Clause (b) within these exclusions, it is clear that **internal engine parts**, even when **specifically designed for use in motorcar engines**, remain classified under CTH 8483. This classification is based on their inherent function as integral components of the engine itself. In contrast, external transmission components, such as motorcar transmission (propeller) shafts, gear boxes, and differentials, are excluded from CTH 8483 and are classified under heading 87.08, as they are designed solely or principally for use with vehicles or aircraft.
- 2.1.28 In contrast, external transmission components, such as motorcar transmission (propeller) shafts, gear boxes, and differentials, are excluded from CTH 8483 and are classified under heading 87.08, as they are designed solely or principally for use with vehicles or aircraft. These external components serve the purpose of transmitting power from the engine to the vehicle, facilitating movement but are not part of the engine's internal operation.

2.1.29 This distinction underscores the principle that while certain transmission equipment specifically designed for vehicles or aircraft may be excluded from CTH 8483 and classified under Section XVII, internal components integral to the functioning of engines, such as crank shafts and cam shafts, retain their classification under CTH 8483. Conversely, external transmission components like motorcar propeller shafts, gear boxes, and differentials are expressly classified under heading 87.08, reflecting their primary association with vehicles rather than engine functionality.

**Classification as per General Rules of Interpretation:**

2.1.30 Accordingly, the application of GRI Rule 1 mandates that the classification of goods must first and foremost be determined by the specific terms of the headings and the relevant Section or Chapter Notes. In the present case, Transmission Shafts are explicitly covered under the scope of CTH 8483, as evidenced by the clear terminology of the heading itself, which includes "Transmission Shafts (including cam shafts and crank shafts)."

2.1.31 This classification is further reinforced by the Explanatory Notes to CTH 8483, which clarify that transmission shafts, unless specifically excluded by Section XVII or Chapter Notes, fall within the ambit of this heading. Transmission Shafts, being crucial mechanical components designed for the transmission of torque and rotational force within machinery, are integral to the operation of various systems and are not merely external vehicle parts.

2.1.32 Even if specialized for certain applications, such as automotive use, input shafts and output shafts remain within the scope of CTH 8483, provided they are not expressly excluded by Section XVII or Chapter Notes. The terms of the heading are sufficiently specific to encompass such components, and no conflicting provisions exist within the Section or Chapter Notes to warrant their exclusion.

2.1.33 It is also pertinent to note that GRI Rule 1 emphasizes adherence to the legal text of the headings and relevant Notes, ensuring that classification is determined based on the inherent nature and function of goods rather than subjective or interpretative considerations. Transmission Shafts, being defined as mechanical components integral to power transmission, squarely fall within the scope of CTH 8483 under the application of GRI Rule 1.

2.1.34 Therefore, any attempt to classify Transmission Shafts under a different heading, such as those pertaining to vehicle-specific parts (e.g., heading 87.08), would contravene the principles of GRI Rule 1 and the clear terms of CTH 8483. The classification of Transmission Shafts under CTH 8483 is not only legally appropriate but also consistent with the established framework of the Harmonized System.

**The Burden of Proof in classification matters lies on the Department**

2.1.35 that in the Classification burden of proof is squarely upon Revenue which has not been discharged in the case under consideration.

2.1.36 This has been held time and again by the Hon'ble Supreme Court specifically asserting that there should be material findings & evidence w.r.t alleged CTH classification. In this regard, the reliance is placed on the cases of **H.P.L. CHEMICALS LTD. VS. COMMISSIONER OF C. EX., CHANDIGARH** cited at **2006 (197) E.L.T. 324 (S.C.)**, **Union of India and Others v. Garware Nylons Limited and Others** cited at **1996 (10) SCC 413** and **Hero Motorcorp Ltd. Vs. Commissioner of Customs (NS-I), Raigad**, cited at **2022 (379) E.L.T. 214 (Tri. - Mumbai)**.

2.1.37 that the SCN under reply does not provide any reasons, evidence or legal grounds to substantiate the allegation of misclassification thereby, not discharging the burden of proof.

**Statements of Officials from Mahindra and Mahindra being consistent and in tandem with one another:**

2.1.40 It is essential to highlight that the statements provided by Mr. Biju Narayanan and Mr. Avinash Kachare, serving as Senior Manager and Deputy General Manager respectively, were consistent, coherent, and devoid of any contradictions. Their positions on the matter were clear and unequivocal. Both individuals explicitly stated that the impugned goods are utilized in the manufacturing of motorcycle engines and form integral, internal components of these engines. Furthermore, they confirmed that these goods play a critical role in controlling the speed of the vehicle, thereby underscoring their functional significance in the assembly and operation of the engine. Such a technical and functional characterization aligns with the inherent nature of the goods and their intended use, as defined under relevant regulations and industry standards.

2.1.41 The statements provided by Mr. Narayanan and Mr. Kachare not only align with industry standards but also corroborate the classification of the goods under CTH 8483. Their testimony demonstrates that the goods

are integral components of the engine system, designed for a specific purpose, and indispensable to the operation of motorcycle engines. The clarity, consistency, and technical accuracy of their statements lend substantial weight to the argument for classifying the impugned goods within their rightful heading under the Harmonized System.

- 2.1.42 Thus, the evidence provided by these officials forms a credible and coherent basis for determining the nature, functionality, and classification of the impugned goods, ensuring compliance with tariff classification principles and legal provisions.

**Classification of Transmission products as per settled case laws**

- 2.1.43 In the case of **HERO MOTORCORP LTD V/S COMMISSIONER OF CUSTOMS (NS-I) RAIGAD [2021 (12) TMI 490 - CESTAT MUMBAI]** it was held that classification of goods under CTH 8714 would be incorrect. The Appellant had imported certain Transmission elements and classified the same under CTH 8483. The appellant argued that the more descriptive tariff entry under 8483 9000 should be accepted per the General Rules for the Interpretation of Import Tariff. The customs authorities based their classification on the intended use of the goods in motorcycle production, falling under heading 8714. The tribunal noted that the claimed classification is comprehensive, whereas the adjudicated classification is based on a residuary description, emphasizing the need to determine the legality of discarding a tariff item based on end-use.
- 2.1.44 In the case of **JTEKT SONA AUTOMOTIVE INDIA LIMITED VERSUS COMMISSIONER OF CUSTOMS [2019 (11) TMI 257 - CESTAT NEW DELHI]** it was held that classification of a gear reduction blank which is part of the Transmission Shaft should be under CTH 8483 and not under Chapter 87.
- 2.1.45 In the case of **COMMISSIONER OF CENTRAL EXCISE, CHENNAI VERSUS BEST CAST (P) LTD. [2000 (10) TMI 91 - CEGAT, CHENNAI]** it was held that castings are parts of gear box and clutch, ultimately used in motor vehicles. The Assistant Collector's classification under Chapter heading 8708.00 was deemed unsupported by legal provisions, and the reclassification was set aside, allowing the appeal with consequential relief. The order of the Commissioner (Appeals) was upheld, and the Revenue appeal was rejected based on the classification of goods as parts of gear box under Heading 8483.00.
- 2.1.46 In the case of **COMMISSIONER OF CENTRAL EXCISE, ROHTAK VERSUS KAFILA FORGE LIMITED [2003 (11) TMI 219 - CESTAT, NEW DELHI]** it was held that Transmission Shafts manufactured by the Respondents specially designed for use in motor vehicles of Chapter 87, ought to be classified under CTH 8483

**Goods not liable to confiscation under Section 111(m) and (o) of the Customs Act 1962:**

- 2.1.47 that Section 111(m) of the Customs Act 1962 has no application to the present case, that the claiming of a particular classification or Notification cannot and does not render the goods liable to confiscation under Section 111 (m) of the Customs Act 1962. Section 111 (m) is attracted when the particulars of the goods are mis-declared and a statement in the Bill of entry as to classification or Notification is not a statement about the particulars of the goods. So long as the goods are correctly described, which in the present case they are, claiming of a particular classification or Notification does not amount to misdeclaration of any particulars of the goods and therefore does not attract Section 111 (m). They place reliance on the cases of **Northern Plastic Ltd v Collector – 1998 (101) ELT 549 (SC)**, **C. Natwarlal & Co v CC-2012-TIOL-2171-CESTAT-MUM** and **S. Rajiv & Co. v CC – 2014 (302) ELT 412** and **Lewek Altair Shipping Pvt. Ltd. 2019(1)TMI 1290 – CESTAT Hyderabad**[The said decision has been upheld in the Hon'ble Supreme Court as reported in 2019 (7) TMI 516].
- 2.1.49 that even after introduction of self-assessment with effect from 8-4-2011, Section 111(m) can be invoked only in a case of misdeclaration of particulars of the goods and claiming of a particular classification or Notification is not a declaration of particulars of the goods. The decisions in **C. Natwarlal & Co v CC-2012-TIOL-2171-CESTAT-MUM**, **S. Rajiv & Co. v CC – 2014 (302) ELT 412**, **Lewek Altair Shipping Pvt. Ltd. 2019(1)TMI 1290 – CESTAT Hyderabad** and **2019 (7) TMI 516**, all relate to the period after 8-4-2011. Therefore, the contention raised in the Show Cause notice based on introduction of self-assessment with effect from 8-4-2011 is totally misconceived.

**Penalty not imposable under Section 112 (a) and/ or 114A and/or Section 114AA of the Customs Act 1962:**

- 2.1.50 As submitted herein above the goods are not liable to confiscation under Section 111 (m) and (o) of the Customs Act 1962. Therefore, no penalty can be imposed under Section 112 (a) of the said Act.

2.1.51 As submitted herein above, the demand for duty is liable to fail both on merits and on limitation. Therefore, question of imposition of penalty under Section 114A of the Customs Act 1962 does not arise. The submissions made herein above in respect of inapplicability of Section 28(4) and Section 111(m) equally apply in support of the submission that Section 114A has no application whatever and the said submissions are reiterated in respect of section 114A.

2.1.52 Section 114AA of the Customs Act 1962 has no application to the present case. As is apparent from the Twenty Seventh Report of the Standing Committee of Finance wherein insertion of section 114AA was discussed at para 62, the said Section 114 AA applies to export frauds where mere documents are filed without there being any export goods to claim export incentives. Reliance is placed in this behalf on the decision of the Tribunal in **Access World Wide Cargo v CC – 2022 (379) ELT 120**. The present case is not one where mere documents were filed without any export goods to claim export incentives. Section 114AA is therefore clearly inapplicable in the present case. That apart, Section 114AA provides for imposition of penalty on a person who knowingly or intentionally makes, signs or uses or causes to be made, signed or used, any false or materially incorrect declaration, statement or document in the transaction of any business for the purposes of the Customs Act 1962. We deny having made, signed, used or caused to be made, signed or used any such false or materially incorrect declaration, statement or document. The contention in the Notice that claiming of a classification or Notification which according to the Notice is incorrect attracts the said Section 114AA is totally unsustainable in law. As submitted herein above, claiming of a classification or Notification is a matter of belief and interpretation on the part of the importer and does not amount to the false or materially incorrect declaration, statement or document mentioned in Section 114AA.

2.1.53 It is settled law as laid down in the following judgments that claiming of a particular classification with which the department subsequently does not agree does not justify imposition of penalty:

- (a) C. Natwarlal & Co v CC-2012-TIOL-2171-CESTAT-MUM
- (b) S. Rajiv & Co. v CC – 2014 (302) ELT 412
- (c) Kores (India) Ltd. 2019 (5) TMI 922.

**In any event the SCN is barred by limitation, being issued by invoking extended period of time provided under section 28(4) of the Act since all information was disclosed in the BoEs and the issue relates to interpretation of law**

1. Without prejudice to above and in any event, SCN is barred under Section 28(1)(a) of the Act as it seeks to recover duty and impose penalty beyond the normal period of two years from the relevant date.
2. The subject SCN under reply merely makes a bald allegation of suppression and wilful misstatement by merely stating that this matter has come to light at the time of conducting PCA. However, the same has been done without citing any corroborative evidence to show intent to evade payment of duty.
3. that the description of the goods, the heading in which classification has been claimed and the rate of duty, everything is clearly available on the face of the BOEs and the correctness of this information remains undisputed by the Ld. Revenue. Hence, the allegations of any suppression or wilful misstatement of fact or collusion cannot stand.
4. In such scenarios, whereby, the correct information was already available with the department, allegation of suppression and wilful misstatement is misplaced and therefore, extended period of limitation cannot be invoked.
5. Without Prejudicing the submissions made in above paras, it is submitted that in any event, the question involved in the SCN under reply is pertaining to interpretation of Section Notes and Tariff Headings. Hence, assuming without admitting, the short payment could be only on account of incorrect interpretation and not on account of suppression or wilful misstatement with an intent to evade tax and hence extended period of limitation cannot be invoked.
6. In this regard, the Noticee relies on the following decisions / orders: –
  - (i) In the case of **Commissioner v. Kerala Footwear Products** cited at **2014 (304) E.L.T. A64 (S.C.)**
  - (ii) In the case of **Commissioner v. Sterling Commercial Ltd.** cited at **2019 (368) E.L.T. A227 (S.C.)**, it was

- (iii) In the case of **M/s Uniworth Textiles Ltd. v/s Commissioner of Central Excise, Raipur reported in 2013 (288) ELT 161 (SC)**
- (iv) In **Hero Honda Motors Ltd. v/s Commissioner of Service Tax, New Delhi reported in 2012 (27) S.T.R. 409 (Tri.-Del.)**
7. that since the issue under consideration is mired in litigation due to interpretation of law therefore, invoking extended period of limitation is without any justification.
8. In light of the submissions made in the foregoing paras, the proceedings initiated by this SCN is barred by limitation and shall be dropped.

In the circumstances, it is submitted that the demand is misconceived and thus deserves to be dropped.

2.2 M/s. Mahindra and Mahindra Ltd. vide their submission letter dated 16.12.2025 submitted, inter alia as under:

- 2.2.1 The Noticee is an Indian multinational company headquartered in Mumbai, Maharashtra, engaged in the manufacture, marketing, and sale of various automobiles, two wheelers, tractors, trucks, trailers, and components thereof. The company operates manufacturing facilities in multiple locations, including Maharashtra, Telangana, and Uttarakhand, with an R&D facility in Chennai. The Noticee also has a manufacturing facility at Pithampur, Madhya Pradesh, where it is engaged in the manufacture of two-wheeler motorcycles sold under the brand names like JAWA, YEZDI and BSA.
- 2.2.2 In normal course of business, the Noticee imported various consignments involving Input and Output Transmission Shaft Assemblies (Parts of Two-Wheelers), hereinafter referred to as "impugned goods", classified under CTH 8483 1099, paying Basic Customs Duty (BCD) at 7.5% and IGST at 18% as per applicable schedules.
- 2.2.3 Based on an intelligence that the impugned goods are classifiable under CTH 8714 1090, subjecting them to a higher BCD at 15% and IGST at 28% an inquiry was caused by the officers of DRI, Indore Zonal Unit.
- 2.2.4 In this regard, summons were issued and statements were taken from key personnels of the Noticee. In response to various queries posed by the Id. officer of DRI, the Noticee submitted detailed literature explaining and highlighting the functions of the impugned goods submitted, and a written response was also submitted on 08.04.2024.
- 2.2.5 However, without considering the submissions made by the Noticee, the subject SCN has been issued alleging misdeclaration and misclassification of the impugned goods, demanding differential duty of Rs. 9,63,10,144 and proposing confiscation of goods / penalties under Sections 111(m), 112(a), 114A, and 114AA of the Customs Act, 1962.
- 2.2.6 they have already filed a detailed reply to this SCN on 30<sup>th</sup> July, 2025 vide letter dtd. 23<sup>rd</sup> July, 2025. In addition to the submissions made in the said reply our following submissions may kindly be taken on record:

**Legal Submissions:**

- 2.2.7 The SCN primarily relies on the following clauses of HSN Explanatory Notes issued by WCO for alleging that the impugned goods should be more appropriately classified under CTH 8714:
- (a) Exclusion Clause of the Explanatory Notes to CTH 8483.
- (b) Inclusion Clause of the Explanatory Notes to CTH 8714.
- 2.2.8 Also, the SCN relies on certain select excerpts of the statements given by various officials of the Noticee, to determine that the impugned goods are parts of transmission systems.
- 2.2.9 At the outset, Noticee denies the allegations set-out in the SCN to fasten duty demand and submits that the entire case of investigating officers is founded on a wrong interpretation of the Section and Chapter Notes related Chapter 84 and Chapter 87 of the Customs Tariff and especially the Explanatory Notes related to CTH 8483 and CTH 8714 thereto, explained in more detail in the succeeding paras.

**THE SCN FAILS TO ADHERE TO THE FUNDAMENTAL PRINCIPLES OF CLASSIFICATION OF GOODS UNDER THE CUSTOMS TARIFF.**

- 2.2.10 that the SCN relies solely on the Explanatory Notes to HSN instead of the cardinal rule that, for legal purposes, classification should be first determined according to the terms of the Chapter Headings or Sub-Headings and any relative Section or Chapter Notes. That the Explanatory Notes to the HSN can only provide useful guidance where there is genuine ambiguity or doubt regarding the classification, but it should not override the clear terms of the Chapter Headings and Sub-headings.

- 2.2.11 It can, thus, be noted that 'transmission shafts' are specifically described under CTH 8483 unlike the case with CTH 8714, which describes goods in general. Further, since GRI mandates that the heading which provides the most specific description shall be preferred to headings providing a more general description the impugned goods, in the normal course, merit classification under CTH 8483 as they fall within the specific description 'transmission shaft' falling within the said CTH 8483.
- 2.2.12 The only reason adduced in the SCN for not adopting the CTH 8483 is that Note 2(l) of Section XVI, which covers goods covered by Chapter 84, states that articles of Section XVII, which covers goods covered by Chapter 87, from its ambit. However, it is pertinent to mention that Note 2(e) of Section XVII itself provides that articles of falling under CTH 8483 do not apply to goods which are integral parts of engines, even though, they may be otherwise be identifiable as goods of Section XVII. In other words, if any goods, being integral parts of engine, merit classification under CTH 8483 in the normal course, they cannot be classified under Chapter 87 even if such goods are "parts" or "parts or accessories" of goods falling under Chapter 87.
- 2.2.13 In the instant case, since input transmission shaft and output transmission shaft are identifiable as parts of engine crankcase as depicted in the foregoing paras, these goods cannot be classified under Chapter 87 [by virtue of Note 2(e) of Section XVII] and hence, are not excluded from being classified under Chapter 84 [by referring to Note 2(l) of Section XVI].
- 2.2.14 That, therefore, the classification of goods should be determined according to the terms of the Chapter Headings and Sub-headings of the Customs Tariff, supported by relevant Section and Chapter Notes. Explanatory Notes to the HSN should only be consulted in cases of true ambiguity. The goods in question are correctly classified under Chapter Heading 8483 and Sub-heading 8483 1099, and hence, SCN is liable to be set aside on these grounds alone.

**THE IMPUGNED GOODS DO NOT FALL UNDER THE EXCLUSION CLAUSE OF THE EXPLANATORY NOTE TO CTH 8483 SINCE THE SAME IS AN INTERNAL PART OF ENGINE**

- 2.2.15 The impugned goods i.e., Input and Output Transmission Shaft Assembly play a crucial role in the functioning of motor cycles and are placed in the **inside the engine crankcase assembly**.
- 2.2.16 that the impugned goods are parts of Gear Train system, which aids in transmission of power from engines to the wheels. They are internal parts of the Engine Crankcase Assembly and consequently, an integral subsystem of the Engine.
- 2.2.17 The Input Transmission Shaft receives power from the crank train and transfers it to the gears within the transmission system. The input shaft is designed to handle the torque produced by the crank train and is engineered for precise engagement with other transmission components.
- 2.2.18 Once the power is modulated through the gears, the output shaft carries the power out of the transmission to the drivetrain, which then propels the vehicle. The output shaft ensures that the power is delivered efficiently to the vehicle's wheels.
- 2.2.19 The gear train works in conjunction with the crank train and the wet clutch to ensure that the power generated is optimally used for vehicle motion. The Input Transmission Shaft directly connects with the engine's crankshaft, receiving energy that is then transferred through the gearbox to the Output Transmission Shaft for propulsion of the vehicle.
- 2.2.20 The Input Transmission Shaft plays the role of initiating the transmission process by receiving and transmitting power, while the Output Transmission Shaft finalizes this process by delivering the resulting motion to the wheels. Both shafts are hence critical in translating the engine's output into effective vehicle propulsion.
- 2.2.21 Specific attention is drawn to the definition of "Counter Shaft", that the impugned product is squarely covered by this definition of Counter Shaft.
- 2.2.22 Further, kind attention is drawn towards the exclusion clause of the Explanatory Notes, which the SCN refers to in suggesting that the impugned products cannot be classified under CTH 8483. In this regard, we respectfully submit that the SCN selectively relies upon portions of the exclusion clause that support its position.
- 2.2.23 It is specifically mentioned in the exclusion clause that the same does not apply to **"internal parts of vehicle engines- these parts remain classified in this heading"**. It is respectfully submitted that, based on the factual information provided in Para 16 to 21 above, it is clear beyond any doubt that the impugned products are internal parts of the two-wheeler engine, and the engine assembly cannot be considered complete

without them. In support of this, we would like to present the following practical points to further substantiate this fact:

- (a) The transmission system within the engine assembly is lubricated by the same oil used for the crank train and other engine assembly components.
- (b) In the spare parts and after-sales market, the engine is typically sold as one complete unit, and the transmission system cannot be separated for the purpose of selling just the crank train. This abundantly reflects the understanding of the product "Engine" in common trade parlance.

2.2.24 In light of the submissions made in above paras, it is submitted that the impugned products are internal parts of engine and therefore, not covered by the exclusion clause of the Explanatory Notes to CTH 8483 as alleged in the SCN. Therefore, the demand deserves to be dropped on this point alone.

**THE IMPUGNED GOODS DO NOT FALL UNDER THE INCLUSION CLAUSE OF THE EXPLANATORY NOTE TO CTH 8714 SINCE THE SAME IS MORE SPECIFICALLY COVERED BY CTH 8483**

2.2.25 that CTH 8714 is a residual heading for parts of motorcycles which cannot be classified elsewhere. In the case under consideration, as explained in Paras 16 to 21 above, the impugned products have a more specific mention in CTH 8483 and therefore, as per Rule 3(a) of General Rules for the Interpretation, wherein it is stipulated that "*the heading which provides the most specific description shall take precedence over headings offering a more general description*".

2.2.26 It may be noted that even though the Explanatory Notes to Chapter 8714 specifically finds mention of transmission equipment and parts thereof, on a joint reading of this inclusion clause with the exclusion clause mentioned in Explanatory Notes to CTH 8483, it appears that the same appears to be applicable to such parts of motorcycles where the transmission systems are located/placed outside the engine crankcase and is not integrated as an essential part of engine assembly.

2.2.27 The impugned goods i.e. input and output transmission shafts are only parts of the transmission system located within the Engine Crankcase Assembly and do not constitute a distinct transmission system independent of Engine Crankcase in itself and therefore, cannot be held to be classified under CTH 8714.

**SETTLED JUDICIAL DECISION SUPPORTS THE CASE OF NOTICEE FOR CLASSIFICATION OF IMPUGNED GOODS UNDER CTH 8483**

2.2.28 More importantly, the legal classification of these components has been addressed in a judicial precedent by the Hon'ble CESTAT Mumbai, wherein it has been held that although, gears are parts of the transmission system and resultantly parts of the motorcycle, but, they cannot be classified directly as parts of motorcycle but aptly covered goods described under CTH 8483. This delineation is crucial to understanding their proper categorization under tariff headings.

2.2.29 The aforesaid rationale adopted by the Hon'ble CESTAT Tribunal in the case of **HERO MOTORCORP LTD V/S COMMISSIONER OF CUSTOMS (NS-I) RAIGAD [2021 (12) TMI 490 - CESTAT MUMBAI]** is pivotal and applies squarely to the case under consideration.

2.2.30 In this case, M/s Hero Motorcorp Limited had imported certain transmission elements such as toothed wheel, chain sprockets etc. intended for deployment in their motorcycle production lines under CTH 8483 9000 as '*Toothed wheels, chain sprockets and other transmission elements presented separately; parts*'. The dispute arose from the customs authorities' proposal to reclassify these items under CTH 8714 1090 as '*Parts and Accessories of Vehicles of Headings 8711 to 8713*'.

2.2.31 The Hon'ble Tribunal addressed the classification of gears, recognizing their integral role within the transmission system, which in turn is a critical subsystem of the engine. The court emphasized that "gears" and other "*transmission elements ... are required for transmission systems that, for the purposes of classification, are engines*" (**Para 16**), underscoring the transmission system's essential function in transferring the power generated by the engine to the wheels, thus facilitating vehicle movement.

2.2.32 The Tribunal noted that "*the toothed wheel, cylinder, cone, rack or worm, etc. ... covers all types of gears including simple cog wheels, bevel gears, conical gears, worms, rack and pinion gears, differential gears, etc., and assemblies of such gears*" (**Para 11**), meaning that transmission elements, including the input/output shafts, are crucial components of this system.

2.2.33 The Tribunal highlighted that the gears are primarily used within the transmission system (which in motor cycles are part of engine crankcase) rather than the vehicle as a whole, stressing the importance of

distinguishing between the immediate function of these parts and their broader application within the engine.

- 2.2.34 By underscoring this delineation, the Tribunal reinforced that “*the appropriate classification should reflect the specific role of these transmission components*” (**Para 10**), thereby supporting the classification under CTH 8483, which directly pertains to gears and gearing, rather than a broader category under CTH 8714. This distinction is crucial for accurate tariff classification, as it aligns with the principles of specificity and proper categorization based on the primary function of the imported goods.
- 2.2.35 The Tribunal also emphasized that a more specific tariff entry is preferable over a broader one, particularly when the item’s description aligns closely with the detailed classification in the Harmonized System of Nomenclature (HSN) Explanatory Notes. This principle ensures that goods are classified in the most precise category that matches their description.
- 2.2.36 The Hon’ble Tribunal emphasized that the mere end-use in motorcycles should be secondary to the exact nature and description of the goods as per tariff heading 8483, which clearly pertains to transmission components.
- 2.2.37 Thus, in light of the Hero Motorcorp Ltd. judgment, it is apparent that the specific tariff item CTH 8483 1090 is appropriate for the imported Input and Output Transmission Shaft Assembly. The judgment validates that the specificity of the tariff entry should prevail, as the goods precisely fit the description provided therein. The reliance on the HSN Explanatory Notes and the application of the GRIs bolster the importer’s case against the broader reclassification to CTH 8714 1090 proposed by the Department.
- 2.2.38 In light of the submissions made in above paras, it is submitted that the impugned products are internal parts of engine and therefore, cannot be covered by the inclusion clause of the Explanatory Notes to CTH 8714 as alleged in the SCN and also there is a judicial precedence for similar product. Therefore, the demand deserves to be dropped.
- 2.2.39 In the circumstances, it is prayed that the proposed classification for the impugned goods under CTH 8714 be deemed incorrect and the classifications under CTH 8483 for input and output transmission shaft assembly be upheld as correct and consequently, the demand raised in the SCN should be dropped entirely.

**EXTENDED PERIOD OF LIMITATION CANNOT BE INVOKED IN THE CASES INVOLVING INTERPREATION OF LAW**

- 2.2.40 To invoke Section 28(4), the Department must prove collusion, wilful misstatement, or suppression of facts. In the absence of such evidence, the larger period of limitation is not available. The subject SCN makes a bald allegation of suppression and wilful misstatement without corroborative evidence to show intent to evade payment of duty.
- 2.2.41 In this regard, Hon’ble Courts have consistently held that mere non-payment of duties is not equivalent to collusion or wilful misstatement or suppression of facts (M/s Uniworth Textiles Ltd. v. Commissioner of Central Excise, Raipur, 2013 (288) ELT 161 (SC)) and the issue being one of interpretation does not justify invoking an extended period (Commissioner v. Kerala Footwear Products, 2014 (304) E.L.T. A64 (S.C.); Commissioner v. Sterling Commercial Ltd., 2019 (368) E.L.T. A227 (S.C.)).
- 2.2.42 that since the issue under consideration is mired in litigation due to interpretation of law therefore, invoking extended period of limitation is without any justification.

**THERE WAS NO INTENT TO EVADE CUSTOMS DUTY, AND THEREFORE, THE GOODS ARE NOT LIABLE TO BE CONFISCATED UNDER SECTION 111(M) OF THE CUSTOMS ACT OR LIABLE TO FINES/PENALTIES UNDER SECTION 114A OF THE CUSTOMS ACT**

- 2.2.43 There is no evidence of wilful mis-declaration or intent to evade duty. The entire proceedings were initiated based on disclosures in the Bills of Entry, with no corroborative evidence of intent. The description and classification were clearly stated and undisputed by the Department. Therefore, confiscation under Section 111(m) is not justified. They place reliance on the case of M/s Uniworth Textiles Ltd. v. Commissioner of Central Excise, Raipur (2013 (288) ELT 161 (SC)).
- 2.2.44 Sections 112(a) and 114A are inapplicable as the goods are not liable to confiscation under Section 111 (m) or (o). Due to failing on both merits and limitation, the demand for duty does not justify penalties under Section 114A. The arguments against the applicability of Section 28(4) and Section 111(m) apply equally here, negating the grounds for Section 114A penalties.
- 2.2.45 Sections 112(a) and 114A have no application here as there was no wilful mis-statement or suppression of facts, both on merits and on limitation.

- 2.2.46 In the circumstances and in light of the submissions made in above paras, it is submitted that the demand, interest, penalty and fine so proposed in the SCN appears to be misconceived and therefore, deserves to be dropped.
- 2.3. M/s. Mahindra and Mahindra Ltd. vide their submission letter dated 31.12.2025 submitted, inter alia as under:
- 2.3.1 It is alleged in the SCN that the company had previously imported the same goods under Customs Tariff Heading (CTH) 8714 instead of CTH 8483, with reference to the following three Bills of Entry: (a) BoE No. 9275512 dated 15.12.2018, (b) BoE No. 9693734 dated 18.01.2019, and (c) BoE No. 7588398 dated 04.05.2020 and the change in classification to CTH 8483 was deliberately done for evading applicable customs duties on the said goods.
- 2.3.1.1 The two-wheeler manufacturing operation was previously conducted by Mahindra Group through the legal entity **Mahindra Two-Wheeler Limited – MTWL (IEC No. 0308051289)**. In November 2017, pursuant to the sanction of the scheme of demerger approved by the National Company Law Tribunal (NCLT), Mumbai Bench, the Two-Wheeler Division (MTWD) of MTWL was merged with M&M. A copy of the sanction of the scheme of demerger of the business is annexed hereto as **Annexure-1**.
- 2.3.1.2 that the goods in question, namely Input and Output Transmission Shafts for two-wheelers, were being previously imported by MTWL under IEC **0308051289**. Even prior to the merger of the two-wheeler business, the disputed goods were consistently imported by MTWL under CTH 8483 only. We hereby attach copies of Bills of Entry pertaining to the import of Input and Output Transmission Shafts for two-wheelers by MTWL in the years 2015, 2016, and 2017 to validate this submission (**Annexure-2** refers). It can be seen from these BoEs that these imports were undertaken for the identical part numbers for which duty demand is being raised.
- 2.3.1.3 that the importation of Input and Output Transmission Shafts for two-wheelers, under 3 BoEs stated in the SCN, by adopting CTH 8714 was an aberration and apparently occurred due to clerical oversight. However, given the consistent classification of these goods under CTH 8483 even prior to 2018, we hereby rebut the allegation made in the impugned SCN that the change in classification from CTH 8714 to CTH 8483 from the year 2018 onwards was with a deliberate intent to evade duty payment at higher rate.
- 2.3.1.4 they submitted the following facts and figures with respect to the overall imports of Input and Output Transmission Shafts:

Table 1: Imports of Input Transmission Shaft (as per SCN)				
Particulars	Qty	Assessable Value	% Allocation	
			In terms of Qty	In terms of Ass. Value
Under CTH 8483	1,52,933	18,18,92,131	97%	97%
Under CTH 8714	5,440	51,12,991	3%	3%
<b>Total</b>	<b>1,58,373</b>	<b>18,70,05,122</b>	<b>100%</b>	<b>100%</b>
Table 2: Imports of Output Transmission Shaft (as per SCN)				
Particulars	Qty	Assessable Value	% Allocation	
			In terms of Qty	In terms of Ass. Value
Under CTH 8483	1,44,979	24,78,43,680	96.40%	97.20%
Under CTH 8714	5,440	72,35,979	3.60%	2.80%
<b>Total</b>	<b>1,50,419</b>	<b>25,50,79,659</b>	<b>100%</b>	<b>100%</b>

- 2.3.1.5 As it may be observed from the facts and figures depicted in the Table-1 & Table 2 above, the quantities of Input and Output Transmission Shafts classified under CTH 8714 represent only around 3% of the imports. This suggests that the erroneous classification were isolated incidents that happened due to oversight and not a deliberate or systemic practice of classifying these goods under CTH 8714.
- 2.3.1.6 We clarify and herby submit that the impugned goods have been generally imported under Customs Tariff Heading (CTH) 8483. Given that the values erroneously classified under CTH 8714 are extremely minuscule, representing a nominal portion of the total assessable value for input and output transmission shafts, we respectfully request that this classification error be considered as an exception and be disregarded.

2.3.2. With respect to the allegation made in the Show Cause Notice (SCN), which states that based on the technical literature submitted to DRI officers on 06.03.2024, the company admitted that the impugned goods are transmission parts of a motorcycle. However, in the voluntary statements of company representatives and the subsequent letter dated 08.04.2024, the Noticee asserted an altogether different position, claiming that the impugned goods are integral parts of the engine. It was alleged that this change in technical position was a deliberate attempt to evade applicable duties on the impugned goods through the misrepresentation of facts pertaining to the appropriate classification of the impugned goods.

**In this regard, we respectfully submit the following:**

- 2.3.2.1 The Noticee would like to draw kind reference to the additional submissions made during the course of the personal hearing, specifically paragraph 16 to 27 thereof, wherein the company has provided detailed information regarding the main components of the Engine Assembly and its various subsystems. It was specifically stated that the impugned goods are parts of the Gear Train system, which aids in transmitting power from the engine to the wheels. At the same time, these goods are also internal parts of the Engine Crankcase Assembly.
- 2.3.2.2 During the hearing, the technical representatives of the company also provided an in-person explanation, supported by a video demonstration, illustrating the operation of the entire engine assembly system in a two-wheeler. That the criticality of the transmission shafts is such that the engine cannot operate efficiently without these transmission elements. In fact, the transmission elements are essential for maintaining the engine's RPM within an optimal range for efficiency.
- 2.3.2.3 that engines for two-wheelers are typically bought and sold in trade with their transmission elements, unlike four-wheeled vehicles where the transmission system is situated outside the engine assembly. In four-wheeled vehicles, the engine and the transmission system can be bought and sold separately in the trade.
- 2.3.2.4 Consequently, in a two-wheeler, although the input and output transmission shafts are transmission elements, they are simultaneously integral parts of the engine assembly.
- 2.3.2.5 Viewed in this context, there has been no misrepresentation of facts by the Noticee or their representatives during the inquiries conducted by the officers of DRI.
- 2.3.3. that they requested to treat the above submissions as to have been made in course of personal hearing scheduled before adjudicating authority and to allow the appeal in terms of the prayers made therein.

### **3. RECORD OF PERSONAL HEARING**

3.1. There is one Noticee in the subject SCN viz., M/s. Mahindra and Mahindra Ltd.

3.2. 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 opportunities of Personal Hearing (PH) on 02.11.2025 and 16.12.2025 and for the same reasons PH intimation letters were issued by speedpost. On 16.12.2025, Mr. Shivadas Nair, Senior General Manager, Mr. Abhishek Chhabra, Deputy General Manager, Mr. Biju Narayanan, Deputy General Manager, Mr. Rohan Balani, Manager-Customs, Mr. Vijendra Sethi, Deputy General Manager-R&D and Mr. Suresh Mandurkar, Manager-R&D Sharad Kulshrestha, all Authorised Representatives, on behalf of M/s. Mahindra and Mahindra Ltd. attended the personal hearing before the Adjudicating Authority in person. During the PH, they made the following submissions:

1. The impugned goods, namely Input Transmission Shafts and Output Transmission Shafts, are internal and integral components of two-wheeler engines and that the engine assembly cannot be sold in the after sales market by excluding these components.
2. Reference was made to Section XVII Note 2(e) of the Customs Tariff, and it was submitted that the expressions "parts" and "parts and accessories" do not apply to machines and apparatus classifiable under Heading 8483, unless such machines and apparatus constitute integral parts of engines.
3. The judgment of the Hon'ble CESTAT, Mumbai in the case of Hero MotoCorp Ltd., was relied upon wherein similar goods were held to be classifiable under CTH 8483 and not under Heading 8711, and submitted that the said decision is applicable to the present case.
4. It was also submitted that the extended period of limitation is not applicable in the present case, as the issue involved relates to interpretation of the Customs Tariff.
5. Submissions as to why certain BoEs for importing the impugned goods under CTH 8714 to be submitted within a week's time.

6. They made additional submissions dated 16.12.2025. Also, they reiterated the written submission dated 23.07.2025.

In view of above, they requested dropping of the charges levelled against the Noticee in the SCN.

#### 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 submissions made during the PH and written submission made by the Noticees. Accordingly, I proceed to decide the case on merit.
- 4.2 Section 122A of the Customs Act, 1962, stipulates that the Adjudicating Authority shall give an opportunity of being heard to a party in a proceeding, if the party so desires. The adjudicating authority may, if sufficient cause is shown, at any stage of proceeding, grant time, from time to time, to the parties or any of them and adjourn the hearing, provided that no such adjournment shall be granted more than three times to a party during the proceeding.
- 4.3 I find that in compliance to the provisions of the Section 28(8) and Section 122A of the Customs Act, 1962 and in terms of the principles of natural justice, opportunities for Personal Hearing (PH) were granted to both the Noticees. Having complied with the requirement of the principle of natural justice, I proceed to decide the case on merits, bearing in mind the allegation made in the SCN as well as the Submission/Contention made by the Noticee.

- 4.4 The Noticees have placed reliance on various judgments of Tribunals, High Courts and Apex Court on various issues, however, I find that the facts and circumstances involved in these judgements are not similar to facts and circumstances of the case in hand. Further, I find that the Hon'ble Supreme Court of India in case of *Ambica Quarry Works Vs. State of Gujarat & Others* [1987(1) S.C. C. 213] observed that *"the ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides and not what logically follows from it."* Further in the case of *Bhavnagar University Vs. Palitana Sugar Mills (P) Ltd.* 2003 (2) SCC 111, the Hon'ble Apex Court observed *"It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."*

One other reference on the situation, I have noted is the decision of the Hon'ble Supreme Court in *Ispat Industries Vs. Commissioner of Customs, Mumbai* [2004 (202) ELT 56C (SC)], wherein, the Hon'ble Court has quoted Lord Denning and ordered as under:

*Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly reliance on a decision is not proper.*

*The following words of Lord Denning in the matter of applying precedents have become locus classicus:*

*"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."*

- 4.5 I find that the investigation was initiated by Directorate of Revenue Intelligence, Indore Zonal Unit (hereinafter referred to as "the DRI") in respect of import of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) made by M/s. Mahindra and Mahindra Limited (holder of IEC No. 0388033878), having its registered office at Gateway Building, Apollo Bunder, Bhagat Singh Road, Fort, Mumbai-400 001 (hereinafter referred to as 'Mahindra Limited'). As per the investigation, Mahindra Limited classified the aforesaid goods under Customs Tariff Item (CTI) 84831099 of the first schedule of the Customs Tariff Act, 1975, however, the said goods are correctly classifiable under CTI 87141090. As a result, Mahindra Limited was classifying the said goods under tariff item 84831099 by paying BCD at the rate of 7.5% and IGST at the rate of 18%. However, the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly for use with the two-wheelers are correctly classifiable under CTI 8714 10 90 of the First Schedule of the Customs Tariff Act, 1975 which attracts BCD at the rate of 15% and IGST at the rate of 28%.
- 4.6 During the investigation, it was revealed that Mahindra Limited has been engaged in importing Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) (Transmission parts) of Jawa Motorcycle. Further, the import data revealed that Mahindra Limited started

importing Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of two-wheelers) since December, 2018 and filed Bill of Entry No. 9275512 dated 15.12.2018 and 9693734 dated 18.01.2019 under correct Customs Tariff Item (CTI) 8714 10 90. Thereafter, changed the classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly from Customs Tariff Item (CTI) 8714 10 90 to 8483 10 99. Mahindra Limited also filed Bill of Entry No. 7588398 dated 04.05.2020 under correct Customs Tariff Item (CTI) 8714 10 90. Therefore, investigation showed that Mahindra Limited was very well aware of the correct classification of the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly under CTI 8714 10 90 and had directed Customs Broker, Flyjac Logistics Private Limited to change the classification from 8714 10 90 to 8483 1099 to evade duty.

- 4.7. I find that during the investigation Mahindra Limited vide their literature / PPT dated 06.03.2024 submitted that input shaft and output shaft of motorcycle are part of transmission system. Both are used for varied vehicle speed as per rider demand via gear shifting. However, Mahindra Limited vide their letter dated 08.04.2024 changed their submission and stated that Input Transmission Shaft Assembly and Output shaft Assembly are integral parts of engine.
- 4.8 I find that Shri Biju Narayanan, Senior Manager (International Logistics) and Shri Avinash Kachare, Deputy General Manager (International Logistics) of Mahindra Limited during their voluntary statement recorded on 25.04.2024 and 10.07.2024 respectively under Section 108 of the Customs Act, 1962 stated that Input Transmission Shaft Assembly and Output Transmission Shaft Assembly imported by them are used in JAWA motorcycle and as per catalogue available on internet for JAWA motorcycle, aforesaid goods are parts of Transmission system of JAWA Motorcycle.
- 4.9. I find that the SCN alleges that Mahindra Limited had not disclosed the correct classification of the imported goods before the Customs while filing the Bills of Entry for the clearance of the imported goods. The same was done with the sole intention to evade the payment of applicable duty leviable thereon. Therefore, the differential duty of **Rs. 9,63,10,144/- (Rupees Nine Crore Sixty Three Lakhs Ten Thousand One Hundred and Forty Four Only)** on account of mis-declaration and mis-classification evaded by Mahindra Limited by reasons wilful mis-statement and suppression of facts is proposed to be demanded in the SCN, under the provisions of Section 28 (4) of the Customs Act, 1962, along with interest, under the provisions of Section 28AA of the Customs Act, 1962. Further, the SCN also proposed confiscation of impugned goods and imposition of penalty on the Noticee under Section 112(a) and/or 114A and 114AA of the Customs Act, 1962.
- 4.10 From the brief of the statements of the persons involved and the documentary evidences available in the import of the goods covered in the instant SCN as outlined above, it can be seen that the admissions made therein are in coherence with each other and the same have been recorded voluntarily without the use of any force or threat. Moreover, none of the statements have negated any facts adduced in the other statements. Thus, I find that the statements tendered during the investigation under the provisions of Customs Act 1962, are fully corroborated with cogent and tangible evidences. Further, from the records available, the DRI had recorded the statement under Section 108 of the Customs Act, 1962 without any duress and coercion. I find from the facts on record, that none of the noticees had made any allegation during investigation and retracted their statements. In this regard, I place reliance in the decision of Hon'ble Supreme Court in the case of *K.I. Pavunny Vs. Assistant Collector (HQ), Central Excise Cochin, (1997) 3 SCC 721* wherein the Apex Court has held that there is no law which forbids acceptance of voluntary and true admissional statement if the same is later retracted on bald assertion of threat and coercion. In the light of the above discussed judgements, I find that the statements recorded under Section 108 of the Customs Act, 1962 have legal evidentiary value in the present matter.
- 4.11. Furthermore, the Legal position about the importance and validity of statements rendered under Section 108 of the Customs Act, 1962 is well settled. It has been held by various judicial fora that Section 108 is an enabling act and an effective tool in the hands of Customs to collect evidences in the form of voluntary statements. The Hon'ble Courts in various judicial pronouncements, have further strengthened the validity of this enabling provision. It has been affirmed that the statement given before the Customs officers is a material piece of evidence and certainly can be used as substantive evidence, among others, as held in the following cases:
- i *Asst. Collector of Central Excise, Rajamundry v. M/s. Duncan Agro India Ltd.* reported in 2000 (120) *E.L.T.* 280 (S.C.) : Statement recorded by a Customs Officer under Section 108 is a valid evidence

- ii In 1996 (83) E.L.T. 258 (S.C.) in the case of *Shri Naresh J. Sukawani v. Union of India* : “ 4. It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs officials under Section 108 of the Customs Act.”
- iii It was held that statement recorded by the Customs officials can certainly be used against a co-noticee when a person giving a statement is also tarnishing his image by making admission of guilt. Similar view was taken in the case of *In Gulam Hussain Shaikh Chougule v. S. Reynolds* (2002) 1 SCC 155 = 2001 (134) E.L.T. 3 (S.C.)
- iv *State (NCT) Delhi Vs Navjot Sandhu @ Afsan Guru*, 2005 (122) DLT 194 (SC): Confessions are considered highly reliable because no rational person would make admission against his interest unless prompted by his conscience to tell the truth. “Deliberate and voluntary confessions of guilt, if clearly proved are among the most effectual proofs in law.” (Vide *Taylor's Treatise on the Law of Evidence*, VI. I).
- v Hon'ble Supreme Court in the case of *Kanhailal Vs. UOI*, 2008 (1) Scale 165 observed: “ *The law involved in deciding this appeal has been considered by this court from as far back as in 1963 in Pyare Lal Bhargava's case (1963) Supp. 1 SCR 689. The consistent view which has been taken with regard to confessions made under provisions of section 67 of the NDPS Act and other criminal enactments, such as the Customs Act, 1962, has been that such statements may be treated as confessions for the purpose of Section 27 of the Indian Evidence Act.*”
- vi The Hon'ble Supreme Court in the case of *Badaku Joti Savant Vs. State of Mysore* [ 1966 AIR 1746 = 1978 (2) ELT J 323 (SC 5-member bench)] laid down that statement to a Customs officer is not hit by section 25 of Indian Evidence Act, 1872 and would be admissible in evidence and in conviction based on it is correct.
- vii In the case of *Bhana Khalpa Bhai Patel Vs. Asstt. Collr. of Customs, Bulsar* [1997 (96) E.L.T. 211 (SC)], the Hon'ble Apex Court at Para 7 of the judgment held that :-“ *It is well settled that statements recorded under Section 108 of the Customs Act are admissible in evidence vide Romesh Chandra v. State of West Bengal, AIR 1970 S.C. 940 and K.I. Pavunny v. Assistant Collector (H.Q.), Central Excise Collectorate, Cochin, 1997 (90) E.L.T. 241 (S.C.) = (1997) 3 S.C.C. 721.*”
- viii In the case of *Raj Kumar Karwal Vs. UOI & Others* (1990) 2 SCC 409, the Court held that *officers of the Department of Revenue Intelligence who have been vested with the powers of an Officer-in-Charge of a police station under Section 53 of the NDPS Act, 1985, are not police officers within the meaning of Section 25 of the Evidence Act. Therefore, a confessional statement recorded by such officer in the course of investigation of a person accused of an offence under the Act is admissible in evidence against him.*
- ix The Hon'ble Supreme Court's decisions in the case of *Romesh Chandra Mehta Vs. the State of West Bengal* (1969) 2 S.C.R. 461, A.I.R. 1970 S.C. 940. The provisions of Section 108 are judicial provisions within statement has been read, correctly recorded and has been made without force or coercion. In these circumstances there is not an iota of doubt that the statement is voluntary and truthful. The provisions of Section 108 also enjoin that the statement has to be recorded by a Gazetted Officer of Customs and this has been done in the present case. The statement is thus made before a responsible officer and it has to be accepted as a piece of valid evidence.
- x *Jagjit Singh vs State of Punjab And Another*, Hon'ble Punjab and Haryana High Court in Crl. Appeal No.S-2482-SB of 2009 Date of Decision: October 03, 2013 held that : *The statements under Section 108 of the Customs Act were admissible in evidence as has been held by the Hon'ble Supreme Court in Ram Singh vs. Central Bureau of Narcotics, 2011 (2) RCR (Criminal) 850.*

4.12 In view of the above referred consistent judicial pronouncements, the importance of statements rendered under Section 108 of the Customs Act, 1962 during the case is quite imperative. I find that the statements made in the case were voluntary and are very much valid in Law and can be relied upon as having full evidentiary value.

4.13 On 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 or not the declared CTH 84831099 which attracts BCD @ 7.5% and IGST @ 18% of the goods mentioned in Annexure-A & B to this Show Cause Notice should be rejected and re-assessed under CTH 87141090 with attracts BCD @ 15% and IGST @ 28%.
- (B) Whether or not the Differential duty amounting to **Rs. 9,63,10,144/- (Rupees Nine Crore Sixty-Three Lakhs Ten Thousand One Hundred and Forty-Four Only)** (as detailed in the Annexure-A & B attached to the 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.
- (C) Whether or not the impugned goods covered under Bills of Entry as mentioned in **Annexure-A & B** to the notice, valued at **Rs. 45,03,63,076/- (Rupees Forty-Five Crore Three Lakhs Sixty-Three Thousand and Seventy-Six 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.
- (D) Whether or not Penalty should be imposed on the Importer under Section 112(a) and/or 114A and 114AA of the Customs Act, 1962.
- 4.14 After having framed the substantive issues raised in the SCN which are required to be decided, I now proceed to examine each of the issues individually for detailed analysis based on the facts and circumstances mentioned in the SCN; provision of the Customs Act, 1962; nuances of various judicial pronouncements, as well as Noticee's oral and written submissions and documents / evidences available on record.
- 4.15 **Whether or not the declared CTH 84831099 which attracts BCD @ 7.5% and IGST @ 18% of the goods mentioned in Annexure-A & B to subject Notice should be rejected and re-assessed under CTH 87141090 with attracts BCD @ 15% and IGST @ 28%.**
- 4.15.1 I find that the noticee had imported goods Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) (Transmission parts) under CTI 84831099 and paid BCD and IGST at the rate of 7.5% and 18%, respectively. As per subject SCN, aforesaid goods are correctly classifiable under CTI 87141090 attracting BCD and IGST at the rate of 15% and 28%, respectively. Thus, I find that the main issue involved here is determination of correct classification for the aforesaid impugned goods.
- 4.15.2 It is settled law that the classification of goods under First Schedule of the Customs Tariff Act, 1975, is governed by the General Rules of Interpretation (hereinafter referred to as "GRI") and the same needs to be followed. GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and the headings and legal notes do not otherwise require, then and only then the remaining GRIs may be applied. In this regard, I rely on the case of the Larger Bench of the Tribunal in the matter of **Saurashtra Chemical Vs. CC - 1986 (23) ELT 283 (Tri-LB)**. The above decision of the Tribunal was upheld by the **Hon'ble Supreme Court of India in 1997 (95) ELT 455 (SC)**.
- 4.15.3 I find that the HSN Explanatory Notes constitute the interpretation of the nomenclature at the international level. While not legally binding, they do represent the considered views of classification experts of the Harmonized System Committee. It is well settled that the Explanatory Notes have persuasive value and in the event of disputes, Courts in a number of cases have upheld seeking recourse to the Explanatory Notes. In this regard, I rely on the case of **O. K. Play (India) Vs. CCE — 2005 (180) ELT 300 (SC)**, wherein the Hon'ble Supreme Court made the following observations:
- There cannot be a static parameter for correct classification.
  - HSN along with the explanatory notes provide a safe guide for interpretation of an Entry.
  - Functional utility, design, shape, and predominant usage have also got to be taken into account while determining the classification of an item.
  - Afore-stated aids and assistance are more important than the names used in the trade or common parlance in the matter of correct classification.
- 4.15.4 Further, the Hon'ble Apex Court in **L.M.L. Limited Vs. CC - 2010 (258) ELT 321 (SC)** held that in order to resolve a dispute on tariff classification, internationally accepted nomenclature emerging from HSN Explanatory Notes is a safe guide for classification. Further HSN explanatory Notes are also a dependable guide for interpretation of Customs Tariff apart from interpreting Central Excise Tariff,

4.15.5 The Hon'ble Mumbai Tribunal in the case of **Nestle India Vs. CCE - 2008 (227) ELT 631 (Tri)** [maintained by the Hon'ble Supreme Court in 2009 (237) ELT 102 (SC)] has held as under:

*"Moreover, it is now well settled by various decisions of the Hon'ble Apex Court that HSN Explanatory notes are not only of persuasive value, but are entitled to far greater consideration in classifying goods under the Central Excise and the Customs Tariff as held by the Hon'ble Supreme Court in the case of Collector of Customs, Bombay v. Business Forms Ltd - 2002 (142) ELT 18 (S.C). Following its earlier decision in the case of CCE, Shillong v. Wood Craft Products Ltd. - 1995 (77) E.L.T. 23(8.C0)."*

4.15.6 I find that the goods under dispute are *Input Transmission Shaft Assembly* and *Output Transmission Shaft Assembly*, which admittedly are used **solely and exclusively in motorcycles** manufactured by the importer. It is also undisputed that:

- (i) The input shaft receives power from the engine crankshaft through the clutch
- (ii) The output shaft transmits power further to the rear wheel
- (iii) Both assemblies are part of the **transmission system**
- (iv) Their function is to enable **variation of speed through gear shifting**

These facts have been consistently admitted by the importer in their replies dated 06.03.2024 and 08.04.2024 as well as in statements recorded under Section 108 of the Customs Act, 1962.

4.15.7. I note that the noticee had classified the subject imported goods under CTI 84831099. Therefore, Customs Tariff Heading 8483 merits some deliberation. The CTH 8483 and its WCO Explanatory notes are reproduced as under:

CTH 8483:

<b>8483</b>		<b><i>Transmission Shafts (including cam shafts and crank shafts) and crank; bearing housing and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)</i></b>
8483 10	-	<i>Transmission shaft (including cam shafts and crank shafts) and crank:</i>
8483 10 10	---	<i>Crank shafts for sewing machines</i>
	---	<i>Other:</i>
8483 10 91	----	<i>Crank shafts for engine of heading 8407</i>
8483 1092	----	<i>Crank shafts for engine of heading 8408</i>
<b>8483 10 99</b>	----	<b><i>Other</i></b>
8483 20 00	-	<i>Bearing housing, incorporating ball or roller bearings</i>
8483 30 00	-	<i>Bearing housing, not incorporating ball or roller bearings; plain shaft bearings</i>
8483 40 00	-	<i>Gearing and gearing, other than toothed wheels, chain sprockets and other transmission elements presented separately; ball or roller screws; gear boxes and other speed changers, including torque converters</i>
8483 50	-	<i>Flywheels and pulleys, including pulley blocks:</i>
84835010	---	<i>Pulleys, power transmission</i>
8483 50 90	---	<i>Other</i>

848360	-	Clutches and shaft couplings (including universal joints):
8483 60 10	---	Flexible coupling
8483 6020	---	Fluid coupling
8483 60 90	---	Other
8483 90 00	-	Toothed wheels, chain sprockets and other transmission elements presented separately; parts

Explanatory notes to CTH 8483:

**CTH 8483-** Transmission Shafts (including cam shafts and crank shafts) and crank; bearing housing and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints).

8483.10 - Transmission shafts (including cam shafts and crank shafts) and cranks

8483.20 -

8483.30 -

8483.40 -

8483.50 -

8483.60 -

8483.90 - Toothed wheels chain sprockets and other transmission elements presented separately; parts.

The goods covered by this heading are mainly:

- (i) Certain mechanical parts which are used in the transmission of power from an external power unit to one or more machine.
- (ii) Certain internal parts of a machine, used to transmit power to the various parts of the same machine.

**PARTS**

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), the heading also covers parts of the goods covered by this heading.

The heading also excludes:

(a) Pieces roughly shaped by forging, of heading 72.07.

(b) Transmission equipment of the kinds described above (gear boxes, transmission shafts, clutches, differentials, etc.) but which are designed for use solely or principally with the vehicles or aircraft (Section XVII); it should, however, be noted that this exclusion does not apply to internal parts of vehicles or aircrafts engine-these parts remain classified in this heading.

Thus a crank shaft or a cam shaft remains in this heading even if it is specialized for a motor car engine; but motor car transmission (propeller) shafts, gear boxes and differential fall in heading 87.08.

It should further be noted that transmission equipment of the type described in this heading remains classified here even if it is specially designed for ships.

4.15.8 In view of above Explanatory Notes to CTH 8483, I understand that **Transmission equipment of the kinds described above (gear boxes, transmission shafts, clutches, differentials, etc.) but which are designed for use solely or principally with the vehicles or aircraft (Section XVII)** are excluded from the scope of CTH 8483. However, this exclusion is conditional to the extent that *this exclusion does not apply to internal parts of vehicles or aircrafts engine*. Therefore, transmission equipments under the scope of CTH 8483 which are internal or integral parts of the engine remain classified in the CTH 8483. Further, I find that

internal or integral parts of the engine are not exhaustively defined in the CTH 8483. The Explanatory notes to CTH 8483 illustrate that *a crank shaft or a cam shaft remains in this heading even if it is specialized for a motor car engine; but motor car transmission (propeller) shafts , gear boxes and differential fall in heading 87.08*. Now, since engine crank shaft and cam shaft are directly involved in the generation of power or torque by the engine as well as located inside the inside such engine described in Explanatory notes of CTH 8407 as

*“They make use of the expansion force of a charge of inflammable gas or vapour burned inside a cylinder.”,*

therefore, what is implied from this illustration is that those parts of the engine which facilitates continuous combustion of fuel and generating mechanical energy or power or torque and also located inside the engine are categorised as internal or integral parts of the engine. Thus, the transmission equipment or parts which are solely or principally employed in the motor vehicles for transmission of such power or torque generated by the engine are excluded from the scope of CTH 8483 and must be classified under Section XVII.

4.15.9 In the present case, the disputed goods are not engine components performing combustion-related functions, but are transmission components which transmit power from engine to wheel through gearing mechanism. This is evident from the importer’s own technical literature, The PPT dated 06.03.2024 and the Statements of Shri Biju Narayanan and Shri Avinash Kachare recorded under Section 108 of the Customs Act, 1962.

Merely because the transmission components are housed inside the engine crankcase does not alter their essential character as transmission equipment.

4.15.10 I find that the importer’s argument equating “integral part” with “internal engine part” is legally untenable. The HSN exclusion under heading 8483 refers specifically to internal engine parts such as crankshaft and camshaft, which are involved in engine operation itself. Transmission shafts, even if enclosed within the engine casing, continue to perform vehicle transmission functions and not engine combustion functions. Therefore, I am of the considered view that the classification of aforesaid imported goods under CTI 84831099 is not sustainable.

4.15.11 I find that the SCN has proposed the classification of the impugned goods under CTI 87141090. Therefore, it is pertinent to examine the merit of the proposed classification under CTI 87141090. The Heading 8714 covers “Parts and accessories of vehicles of headings 8711 to 8713”. Motorcycles fall under heading 8711. The relevant extract of Chapter Heading 8714 and its corresponding WCO Explanatory Notes are reproduced here under:

CTH 8714:

8714		PARTS AND ACCESSORIES OF THE VEHICLES OF HEADINGS 87.11 TO 87.13
8714.10	-	Of motorcycles (including moped):
8714 10 10	---	Saddles
8714 10 90	---	Other

WCO Explanatory Notes of CTH 8714:

**CTH 8714- Parts and accessories of the vehicles of heading 87.11 to 87.13;**

*This heading covers parts and accessories of a kind used with motorcycles (including mopeds), cycles fitted with an auxiliary motor, side-cars, non-motorised cycles, or carriages for disabled persons, 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 (see the corresponding General Explanatory Note).*

**Parts and accessories of this heading include:**

*(1) Bodies and parts thereof for delivery tricycles, side-cars or carriages for disabled persons (hoods, doors, floors, etc.).*

- (2) Chassis and frames, and parts thereof.
- (3) **Gearing, gear boxes, clutches and other transmission equipment, and parts thereof, for motorcycles.**
- (4) Wheels and parts thereof (hubs, rims, spokes, etc.).
- (5) Free-wheel sprocket-wheels.
- (6) Derailleurs and other gear mechanisms, and parts thereof.
- (7) Crank-gear and parts thereof (crank-wheels, cranks, axles, etc.), pedals and parts thereof(axles, etc.); toe-clips.
- (8) Kickstarters, levers and other control gear.
- (9) Brakes of all kinds (cantilever brakes, caliper brakes, drum brakes, hub brakes, disc brakes, coaster braking hubs, etc.), and parts thereof (levers, block-holder levers, drums and shoes for hub brakes, yokes for cantilever brakes).
- (10) Handle-bars, handle-bar stems, and handle-bar grips (of cork, plastics, etc.).
- (11) Saddles (seats) and saddle-pillars (seat-posts); saddle-covers. (12) Forks, including telescopic forks, and parts thereof (fork crowns and blades, etc.).
- (13) Tubes and lugs for cycle frames.
- (14) Hydraulic shock-absorbers and parts thereof. (15) Mudguards and their supports (stays, fastening rods, etc.). (16) Reflectors (mounted).
- (17) Clothes protectors (other than nets of beading 56.08); transmission-chain covers; foot-rests and leg-protectors.
- (18) Stands for motorcycles.
- (19) Tilting cowls and spare-wheel covers, for scooters. (20) Silencers (mufflers) and parts thereof.
- (21) Fuel tanks.
- (22) Windscreens (windshields).
- (23) Luggage racks; lamp brackets; water-bottle brackets.
- (24) Propelling levers and crank-handles, back-rests and back-rest steering columns, foot-rests, leg-supports, armrests, etc., for carriages for disabled persons.
- (25) Clutch cables, brake 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.

4.15.12 Upon perusal of CTH 8714 and its corresponding WCO Explanatory Notes, I find that **Gearing, gear boxes, clutches and other transmission equipment, and parts thereof, for motorcycles** are covered under the scope of Heading 8714. Therefore, the impugned goods squarely fall within the expression "**other transmission equipment and parts thereof**" for motorcycles. The fact that these transmission elements are housed within the engine assembly does not take them outside the scope of heading 8714, since the heading does not prescribe any condition regarding location of installation.

4.15.13 Also, I find that for the goods to be classified under CTH 8714 must fulfil two key 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.

4.15.14 Further, as I have determined in foregoing paras that impugned goods are solely or principally used in JAWA motor cycle and since the impugned are not internal or integral parts of the engine, therefore, I find that the impugned goods are also not excluded from the scope of Section XVII by virtue of Note 2(e),

*Machines or apparatus of headings 84.01 to 84.79, or parts thereof, other than the radiators for the articles of this Section; articles of beading 84.81 or 84.82 or, provided they constitute integral parts of engines or motors, articles of heading 84.83;*

Thus, in view of above discussion, I am of the opinion that the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) are correctly classifiable under CTI 87141090 and not under CTI 84831099.

4.15.15 I note that the Noticee has relied upon the judgment of the Hon'ble CESTAT in **HERO MOTORCORP LTD V/S COMMISSIONER OF CUSTOMS (NS-I) RAIGAD [2021 (12) TMI 490 - CESTAT MUMBAI]**, wherein *'Toothed wheels, chain sprockets and other transmission elements presented separately; parts'* used in motorcycles were held to be classifiable under Heading 8483. I find that the said reliance is factually distinguishable.

In Hero Motorcorp, the dispute pertained to gears, toothed wheels and transmission elements claimed under CTH 8483, which the Department sought to classify under CTH 8714 as parts of motorcycles. The Hon'ble Tribunal, after a detailed examination of Section Notes XVI and XVII, held that gears per se, being generic mechanical elements capable of multiple industrial applications, and not shown to be exclusively designed for motorcycles, could not be automatically treated as parts of motor vehicles merely on the basis of end-use.

However, in the present case, the impugned goods are input transmission shafts / transmission system components, which are specifically designed for use in the transmission assembly of motorcycles, engineered to match motorcycle-specific torque, alignment, dimensions, and fitment, and not demonstrated by the noticee to have any independent or alternate industrial application. Thus, unlike generic gears examined in Hero Motorcorp, the goods under consideration are vehicle-specific transmission components, and not standard transmission elements of general use.

4.15.16 Therefore, in view of foregoing discussions, I am of the considered view that the classification of Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of two-wheelers) under CTI 84831099 merits rejection and the aforesaid goods are correctly classifiable under CTI 87141090. Accordingly, I hold that the declared CTH 84831099 which attracts BCD @ 7.5% and IGST @ 18% of the goods mentioned in Annexure-A & B to the subject Show Cause Notice should be rejected and re-assessed under CTH 87141090 with attracts BCD @ 15% and IGST @ 28%.

4.16. **Whether or not the Differential duty amounting to Rs. 9,63,10,144/- (Rupees Nine Crore Sixty-Three Lakhs Ten Thousand One Hundred and Forty-Four Only) (as detailed in the Annexure-A & B attached to the 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.**

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

4.16.2 I have determined that the impugned imported goods Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) are correctly classifiable under CTI 87141090. Mahindra Limited self-assessed aforesaid goods under CTI 84831099 of the CTA. I find that being a regular importer, the Noticee must be well aware of the type of equipment, their parts and accessories, correct classification and leviability of IGST thereon. Further, I find that the importer Mahindra Limited was completely aware that the Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) imported by them are parts of motorcycle transmission system and the same are solely and principally used in JAWA motorcycle.

4.16.3 In the instant case, I find the following facts to be of crucial significance:

(a) The importer initially classified the very same goods under CTI 87141090 in December 2018 and January 2019, which is now held to be the correct classification.

(b) There was no change in the design, function, end-use or technical characteristics of the goods at the time when the classification was subsequently changed to CTI 84831099.

(c) Documentary evidence placed on record shows that the Customs Broker had initially proposed classification of the goods under CTI 87141090, but the importer expressly instructed the Broker to change the classification to CTI 84831099.

(d) The importer is a large multinational Original Equipment Manufacturer (OEM) with a dedicated logistics and legal team, and cannot be equated with a lay importer lacking technical or tariff knowledge.

The above facts clearly demonstrate that the importer was fully aware of the correct classification of the goods and consciously deviated from the same. Such conduct cannot be treated as a mere interpretational dispute or bona fide error.

- 4.16.4 The Hon'ble Supreme Court in *Pushpam Pharmaceuticals Co. v. CCE – 1995 (78) ELT 401 (SC)* held that suppression of facts includes a deliberate act of withholding correct information with intent to evade duty. In the present case, the importer continued to declare an incorrect tariff heading despite prior correct classification, thereby suppressing material facts from the department. I also find that the mis-declaration directly resulted in payment of Customs duty at a significantly lower rate (BCD @7.5% and IGST @18%) as against the applicable rates under CTI 8714 10 90 (BCD @15% and IGST @28%). The quantum and consistency of duty benefit derived further strengthens the inference of intent to evade duty.
- 4.16.5 The Hon'ble Supreme Court in *Uniworth Textiles Ltd. v. CCE – 2013 (288) ELT 161 (SC)* held that extended period can be invoked where the conduct of the assessee reflects a conscious and deliberate act leading to short-payment of duty. In the present case, the act of changing classification despite knowledge of the correct heading clearly satisfies this test. I find that the Noticee has argued that the issue involves interpretation of tariff entries and hence extended period is not invocable. I find this contention to be unacceptable. The Hon'ble Supreme Court in *Rajasthan Spinning & Weaving Mills – 2009 (238) ELT 3 (SC)* held that where facts clearly establish deliberate mis-declaration, the defence of interpretational dispute is not available. Further, the Hon'ble Supreme Court in *Nizam Sugar Factory v. CCE – 2006 (197) ELT 465 (SC)* observed that where facts are within the exclusive knowledge of the assessee and are not correctly disclosed, extended period is rightly invocable. In the present case, the technical function and exclusive use of the goods were admittedly within the knowledge of the importer. I also take note that the importer continued to file Bills of Entry under the incorrect classification over an extended period of time, thereby repeatedly short-paying duty. Such repeated acts negate any claim of bona fide belief and clearly establish a pattern of deliberate non-compliance.
- 4.16.6 I find that the Noticee evaded correctly payable duty by intentionally suppressing the correct classification of the imported goods at the time of filing of the Bills of Entry. Further, they wilfully mis-classified the goods under wrong CTI 84831099 when knowing that the aforesaid imported goods were rightly classifiable under CTI 87141090. By resorting to this deliberate suppression of facts and wilful mis-classification, the Noticee has not paid the correctly leviable duty on the imported goods resulting in loss to the government exchequer. Thus, this wilful and deliberate act was done with the fraudulent intention to claim ineligible lower rate of duty.
- 4.16.7 Regarding the larger period of limitation attracted in this case, I find that the Noticee deliberately mis-classified and also fraudulently claimed lower rate of duty at the time of filing of the Bills of Entry. This involves an element of 'mens rea' on the part of the importer. The instant case is not a simple case of bonafide wrong declaration of classification and claiming lower rate of duty. Instead, the Noticee deliberately chose to mis-classify the goods imported to claim lower rate of duty, being fully aware of the correct nature and classification of the imported goods. This wilful and deliberate act clearly brings out their 'mens rea'. Once the 'mens rea' is established on the part of the Noticee, the extended period of limitation, automatically get attracted.
- 4.16.8 I find that, due to deliberate / wilful mis-classification of goods, duty demand against the Noticee 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 following court decisions:
- (a) 2013(294) E.L.T.222(Tri.-LB): *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.*
- (b) 2013(290)E.L.T.322 (Guj.): *Salasar Dyeing & Printing Mills (P) Ltd. Versus C.C.E. & C., Surat-I*; Tax Appeal No. 132 of 2011, decided on 27.01.2012.
- Demand - Limitation - Fraud, collusion, wilful misstatement, etc. - Extended period can be invoked up to five years anterior to date of service of notice - Assessee's plea that in such case, only one year was available for service of notice, which should be reckoned from date of knowledge of department about fraud, collusion, wilful misstatement, etc., rejected as it would lead to strange and anomalous results;*
- 4.16.9 In view of the above, the differential duty resulting from re-classification of the imported goods attracting higher rate of duties as proposed in the subject Show Cause Notice, is recoverable from Mahindra Limited under extended period in terms of the provisions of Section 28(4) of the Customs Act, 1962.

4.16.10 Therefore, I hold that the differential/short paid duty amounting to **Rs. 9,63,10,144/- (Rupees Nine Crore Sixty-Three Lakhs Ten Thousand One Hundred and Forty-Four Only)** (as detailed in the Annexure-A & B attached to the Notice) resulted from the act of mis-classification of the subject goods by deliberate mis-classification and suppression of facts, should be demanded and recovered under section 28(4) of the Customs Act, 1962, by invoking extended period.

4.16.11 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)]*. In *Directorate of Revenue Intelligence, Mumbai Vs. Valecha Engineering Limited*, Hon'ble Bombay High Court observed that, in view of Section 28AA, interest is automatically payable on failure by the assessee to pay duty as assessed within the time as set out therein.

4.16.12 Therefore, in terms of the provisions of Section 28AA of the Customs Act, 1962, interest on the aforesaid amount of differential/short paid duty amounting to **Rs. 9,63,10,144/- (Rupees Nine Crore Sixty-Three Lakhs Ten Thousand One Hundred and Forty-Four Only)** (as detailed in the Annexure-A & B attached to the Notice) is also liable to be recovered from M/s Mahindra and Mahindra Limited

4.17 **Whether or not the impugned goods covered under Bills of Entry as mentioned in Annexure-A & B to the notice, valued at Rs. 45,03,63,076/- (Rupees Forty-Five Crore Three Lakhs Sixty-Three Thousand and Seventy-Six 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.**

4.17.1 The SCN proposes confiscation of goods imported under Bills of Entry as mentioned in Annexure-A & B to the notice, by way of mis-classifying the said goods instead of the correct Customs Tariff Items in violation of Section 46(4) and Section 46(4A) of Customs Act, 1962 having total assessable value of Rs. 45,03,63,076/- (Rupees Forty-Five Crore Three Lakhs Sixty-Three Thousand and Seventy-Six Only) under the provisions of Section 111(m) of the Customs Act, 1962.

4.17.2 Section 111(m) of the Customs Act, 1962 states that the following goods brought from a place outside India shall be liable to confiscation:

*(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 the case of baggage with the declaration made under Section 77, in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of Section 54;*

4.17.3 Section 111(m) deals with any and all types of mis-declaration regarding any particular of Bill of Entry. Therefore, the declaration of the importer herein by mis-classification of the impugned goods, amounts to mis-declaration and shall make the goods liable to confiscation.

4.17.4 I have already held that the goods Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) imported by the Noticee were correctly classifiable under CTI 87141090 attracting BCD at the rate of 15% and IGST at the rate of 28%. The Noticee was very well aware of the actual nature of the imported goods and their correct classification. However, they deliberately suppressed this correct classification, and instead mis-classified the impugned goods under Tariff Item 84831099 in the Bills of Entry to claim lower rate of duty. Further, Mahindra Limited has failed to prove his contention for classifying the goods i.e., Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) under CTI 84831099 and continuously misclassified the said goods with an intention to evade Customs Duty. Further, as per Section 17 of the Customs Act, 1962 w.e.f. 08.04.2011, it was obligatory on the part of the importer to declare the actual description and correct classification of the goods imported by them and pay the duty applicable in respect of the said goods but the importer has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, since they have mis-classified the goods Input Transmission Shaft Assembly and Output Transmission Shaft Assembly (Parts of Two-wheelers) imported by them by way of wilful mis-declaration and suppression of facts, while filing the declaration seeking clearance at the time of importation of said imported goods. The same was done

with the sole intention to evade the payment of applicable duty leviable thereon. This deliberate suppression of facts and wilful mis-classification resorted by the Noticee, therefore, renders the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962. Accordingly, I find that acts of omission and commission on part of the Noticee have rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962.

- 4.17.5 I find that Section 111(m) provides for confiscation even in cases where goods do not correspond in respect of any other particulars in respect of which the entry is made under the Customs Act, 1962. I have to restrict myself only to examine the words "*in respect of any other particular with the entry made under this act*" would also cover case of mis-classification. As this act of the importer has resulted in short levy and short payment of duty, I find that the confiscation of the imported goods invoking Section 111(m) is justified and sustainable.
- 4.17.6 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.
- 4.17.7 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 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.
- 4.17.8 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;*

4.17.9 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 Mahindra Limited has deliberately failed to discharge this statutory responsibility cast upon them.

4.17.10 In view of the foregoing discussion, I hold that the impugned goods imported Bills of Entry as mentioned in Annexure-A & B to the notice, by way of mis-classifying the said goods instead of the correct Customs Tariff Items in violation of Section 46(4) and Section 46(4A) of Customs Act, 1962 having total assessable value of Rs. 45,03,63,076/- (Rupees Forty-Five Crore Three Lakhs Sixty-Three Thousand and Seventy-Six Only) should be held liable for confiscation under Section 111(m) of the Customs Act, 1962, on the grounds of suppression and mis-classification of the imported goods.

4.17.11 As the importer, through wilful mis-declaration and suppression of facts, had mis-classified the goods while filing the Bills of Entry with intent to evade the applicable Customs duty, resulting in short levy and short payment of duty, I find that the confiscation of the imported goods under Section 111(m) is justified & sustainable in law. 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)."*

- (i) 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.)*.
- (ii) 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.
- (iii) I find that the declaration under Section 46(4) of the Customs Act, 1962 made by the importer at the time of filing Bill of Entry is to be considered as an undertaking which appears as good as conditional release. I further find that there are various orders passed by the Hon'ble CESTAT, High Court and Supreme Court, wherein it is held that the goods cleared on execution of Undertaking/ Bond are liable for confiscation under

Section 111 of the Customs Act, 1962 and Redemption Fine is imposable on them under provisions of Section 125 of the Customs Act, 1962.

- (iv) I also find that any goods improperly imported as provided in any sub-section of the Section 111 of the Customs Act, 1962, the impugned goods become liable for confiscation. Hon'ble Bombay High Court in case of *M/s Unimark reported in 2017(335) ELT (193) (Bom)* held Redemption Fine (RF) imposable in case of liability of confiscation of goods under provisions of Section 111(o). Thus, I also find that the goods are liable for confiscation under other sub-sections of Section 111 too, as the goods committing equal offense are to be treated equally. I opine that merely because the importer was not caught at the time of clearance of the imported goods, can't be given different treatment.
- (v) In view of the above, I 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.)*, which has been passed after observing decision of Hon'ble Bombay High Court in case of *M/s Finesse Creations Inc. reported vide 2009 (248) ELT 122 (Bom)*- upheld by Hon'ble Supreme Court in 2010(255) ELT A. 120 (SC), is squarely applicable in the present case. 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. Accordingly, since the impugned goods are not prohibited goods, the said goods are required to be allowed for redemption by the owner on payment of fine in lieu of confiscation under Section 125(1) of the Customs Act, 1962.

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

4.18.1 The provisions of Section 112, 114A and 114AA of the Customs Act, 1962 are reproduced as under:

**SECTION 112. Penalty for improper importation of goods, etc. — 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, harbouring, 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, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater:*

**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 wilful 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 (2) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:*

**Provided** *that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28, and the interest payable thereon under section 28AA, is paid within thirty days from the date of the communication of the orders of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:*

**Provided further** *that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:*

**Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.**

**114AA. Penalty for use of false and incorrect material. —**

*If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.*

4.18.2 I find that in the era of self-assessment, the Noticee had complete knowledge about the imported impugned goods and yet wrongly self-assessed the Bills of Entry and evaded the payment of correctly leviable duty in respect of the impugned imported goods covered under Bills of Entry detailed in Annexure-A & B to the subject SCN. As the Noticee got monetary benefit due to their wilful mis-declaration and suppression of facts on the aforesaid goods as:

(a) The importer initially classified the very same goods under CTI 87141090 in December 2018 and January 2019, which is now held to be the correct classification.

(b) There was no change in the design, function, end-use or technical characteristics of the goods at the time when the classification was subsequently changed to CTI 84831099.

(c) Documentary evidence placed on record shows that the Customs Broker had initially proposed classification of the goods under CTI 87141090, but the importer expressly instructed the Broker to change the classification to CTI 84831099.

Therefore, I find that duty was correctly demanded under Section 28(4) of the Act by invoking extended period.

4.18.3 As discussed above, I find that the subject Bills of Entry were self-assessed by the Noticee. They were aware of the true nature and characteristics of the imported goods and accordingly, were knowing about the correctly leviable duty thereon. However, still they wilfully suppressed this fact and evaded payment of legitimately payable duty in the Bills of Entry filed before the Customs authorities. By resorting to the aforesaid suppression and mis-declaration, they evaded legitimately payable duty. Under the self-assessment scheme, it is obligatory on the part of importer 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 correctly leviable duty thereon, to claim the undue duty benefit at the time of clearance of the said imported goods. This wilful and deliberate suppression of facts amply points towards the "mens rea" of the Noticee to evade the payment of legitimate duty. Once the 'mens rea' is established, the extended period of limitation, as well as confiscation and penal provision will automatically get attracted. Thus, the Noticee, by their various acts of omission and commission discussed above, have rendered the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962, thereby making themselves liable for penalty under Section 112(a)(ii) *ibid*.

4.18.4 Accordingly, I agree with the proposal made in the subject SCN and hold that penalty should be imposed on the Noticee, M/s Mahindra and Mahindra Limited under Section 112(a) of the Customs Act, 1962.

4.18.5 I find that as per Section 114A, imposition of penalty is mandatory once the elements for invocation of extended period are 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)].

4.18.6 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*.*

4.18.7 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 the Noticee, M/s Mahindra and Mahindra Limited, in the impugned SCN. Accordingly, the Noticee is liable for a penalty under Section 114A of the Customs Act, 1962 for wilful mis-declaration and suppression of facts, with an intent to evade duty.

- 4.18.8 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, no penalty is imposable on the Noticee under Section 112(a) *ibid*.
- 4.18.9 I find that Section 114AA is attracted where a person knowingly or intentionally makes use of any declaration, statement or document which is false or incorrect in any material particular in the transaction of business under the Customs Act. The tariff classification declared in the Bill of Entry is a material declaration, as it directly determines the applicable rate of duty.
- 4.18.10 In the present case, it is an admitted and documented fact that the importer had classified the very same goods under CTI 87141090 during the period 2018 and 2019, which is now held to be the correct classification. There was no change in the design, technical characteristics, function or end-use of the goods at the time when the classification was subsequently changed to CTI 84831099.
- 4.18.11 I therefore find that the importer was fully aware of the correct classification of the goods and had consciously adopted the same in the past. The subsequent declaration of the goods under CTI 84831099, despite such knowledge, cannot be treated as a bona fide error or interpretational difference.
- 4.18.12 I further note that the incorrect tariff classification was repeatedly declared in the Bills of Entry over a period of time, resulting in payment of Customs duty at a lower rate. Such repeated use of an incorrect classification, despite prior correct declaration, clearly establishes knowledge and intent on the part of the Noticee. Therefore, I hold that the Noticee is liable for a penalty under Section 114AA of the Customs Act, 1962 for wilful mis-declaration and suppression of facts, with an intent to evade duty.
5. 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 declared CTH 84831099 which attracts BCD @ 7.5% and IGST @ 18% of the goods mentioned in Annexure-A & B to the Notice and order to re-assess the same under CTH 87141090 with attracts BCD @ 15% and IGST @ 28%.
- (ii) I confirm the demand of Differential duty amounting to **Rs. 9,63,10,144/- (Rupees Nine Crore Sixty-Three Lakhs Ten Thousand One Hundred and Forty-Four Only)** (as detailed in the Annexure-A & B attached to the Notice) and order to recover the same from the Noticee 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.
- (iii) I order to confiscate the impugned goods covered under Bills of Entry as mentioned in Annexure-A & B to the notice, valued at **Rs. 45,03,63,076/- (Rupees Forty-Five Crore Three Lakhs Sixty-Three Thousand and Seventy-Six Only)** in terms of provisions of Section 111(m) read with provisions of Section 46(4) and Section 46(4A) of the Customs Act, 1962.

I also impose a redemption fine of **Rs. 4,05,00,000/- (Rupees Four Crore Five Lakhs Only)** on M/s Mahindra and Mahindra Limited in lieu of confiscation of goods under Section 125(1) of the Customs Act, 1962.

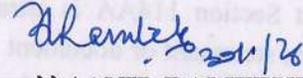
- (iv) I impose a penalty equivalent to differential duty of **Rs. 9,63,10,144/- (Rupees Nine Crore Sixty-Three Lakhs Ten Thousand One Hundred and Forty-Four Only)** along with applicable interest under Section 28AA of the Customs Act, 1962, on **M/s Mahindra and Mahindra Limited** under Section 114A of the Customs Act, 1962.

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.

As penalty is imposed under Section 114A of the Customs Act, 1962, no penalty is imposed under Section 112 in terms of the fifth proviso to Section 114A *ibid*.

(v) I impose a penalty of **Rs. 25,00,000 /- (Rupees Twenty-Five Lakhs only)** on the importer under Section 114AA of the Customs Act, 1962.

6. 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.



(अनिल रामटेके/ ANIL RAMTEKE)

सीमाशुल्कआयुक्त/ Commissioner of Customs

एनएस-V, जेएनसीएच / NS-V, JNCH

To,

M/s. Mahindra and Mahindra Limited.,  
Gateway Building, Apollo Bunder,  
Bhagat Singh Road, Fort, Mumbai,  
Maharashtra-400 001.

Copy to:

1. The Additional Director, Directorate of Revenue Intelligence, Indore Zonal Unit.
2. The Addl. Commissioner of Customs, Group VB, JNCH
3. The Deputy/Assistant Commissioner of Customs, CAC, JNCH
4. AC/DC, Chief Commissioner's Office, JNCH.
5. AC/DC, Centralized Revenue Recovery Cell, JNCH
6. Notice Board (CHS Section for display).
7. EDI Section
8. Office Copy.