

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75544 of 2026

(Arising out of Order-in-Original No. KOL/CUS/PR.COMMR/PORT/ADJN/07/2025 dated 21.02.2025 read with Corrigendum dated 17.03.2025 passed by the Principal Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001, West Bengal)

M/s. Zeniak Innovation India Limited

Merlin Infinite, 10th Floor, Room No. 1010,
Plot No. 51, Block – DN, Sector – V,
Salt Lake City, Kolkata – 700 091

**: Appellant/
Importer**

VERSUS

Principal Commissioner of Customs (Port)

Port Commissionerate, Custom House,
15/1, Strand Road, Kolkata – 700 001

: Respondent

WITH

Customs Appeal No. 75304 of 2026

(Arising out of Order-in-Original No. KOL/CUS/PR.COMMR/PORT/ADJN/07/2025 dated 21.02.2025 read with Corrigendum dated 17.03.2025 passed by the Principal Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001, West Bengal)

Mazibur Biswas

Vill.: Rani Nagar Purana Para,
P.O. & P.S.: Raninagar,
District: Murshidabad, PIN – 742 308

**: Appellant/
Importer's
Director**

VERSUS

Principal Commissioner of Customs (Port)

Port Commissionerate, Custom House,
15/1, Strand Road, Kolkata – 700 001

: Respondent

WITH

Customs Appeal No. 75305 of 2026

(Arising out of Order-in-Original No. KOL/CUS/PR.COMMR/PORT/ADJN/07/2025 dated 21.02.2025 read with Corrigendum dated 17.03.2025 passed by the Principal Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001, West Bengal)

Golam Moinuddin

Director, M/s. Zeniak Innovation India Limited,
S/o. Late Sk. Chotoo,
19B, Ibrahim Road, Kolkata – 700 023

**: Appellant/
Importer's
Director**

VERSUS

Principal Commissioner of Customs (Port)

Port Commissionerate, Custom House,
15/1, Strand Road, Kolkata – 700 001

: Respondent

WITH

Customs Appeal No. 75856 of 2025

(Arising out of Order-in-Original No. KOL/CUS/PR.COMMR/PORT/ADJN/07/2025 dated 21.02.2025 read with Corrigendum dated 17.03.2025 passed by the Principal Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001, West Bengal)

Principal Commissioner of Customs (Port) : **Appellant**
Port Commissionerate, Custom House,
15/1, Strand Road, Kolkata – 700 001

VERSUS

M/s. Zeniak Innovation India Limited : **Respondent/**
1/238A, Gariahat Road, **Importer**
Jodhpur Park, Kolkata – 700 068

WITH

Customs Appeal No. 75857 of 2025

(Arising out of Order-in-Original No. KOL/CUS/PR.COMMR/PORT/ADJN/07/2025 dated 21.02.2025 read with Corrigendum dated 17.03.2025 passed by the Principal Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001, West Bengal)

Principal Commissioner of Customs (Port) : **Appellant**
Port Commissionerate, Custom House,
15/1, Strand Road, Kolkata – 700 001

VERSUS

Mazibur Biswas : **Respondent/**
Director of M/s. Zeniak Innovation India Limited, **Importer's**
159, Garia Station Road, 4 Sight Prestige, **Director**
Flat No. 7E, Kolkata – 700 084

AND

Customs Appeal No. 75858 of 2025

(Arising out of Order-in-Original No. KOL/CUS/PR.COMMR/PORT/ADJN/07/2025 dated 21.02.2025 read with Corrigendum dated 17.03.2025 passed by the Principal Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001, West Bengal)

Principal Commissioner of Customs (Port) : **Appellant**
Port Commissionerate, Custom House,
15/1, Strand Road, Kolkata – 700 001

VERSUS

Golam Moinuddin : **Respondent/**
Director, M/s. Zeniak Innovation India Limited, **Importer's**
S/o. Late Sk. Chotoo, **Director**
19B, Ibrahim Road, Kolkata – 700 023

APPEARANCE:

Shri S.K. Mohapatra, Advocate,
Shri Subhrabrata Chattaraj, Consultant,
Shri Arijit Goswami, Advocate,
For the Assessee(s)/Importer(s)/Director(s) of the Importer

Shri Subrata Debnath, Authorized Representative,
Shri Faiz Ahmed, Authorized Representative,
For the Revenue

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NOS. 75818-75823 / 2026

DATE OF HEARING: 24.06.2026

DATE OF DECISION: 02.07.2026

ORDER: [PER SHRI ASHOK JINDAL]

Both sides are in appeal against the impugned order.

2. M/s. Zeniak Innovation India Ltd. along with its Directors, Shri Mazibur Biswas and Shri Golam Moinuddin, have preferred the appeals bearing Nos. C/75544/2026, C/75304/2026 and C/75305/2026 challenging the findings recorded in Order-in-Original No. KOL/CUS/PR.COMMISSIONER/PORT/ADJN/07/2025 dated 21.02.2025 passed by the Principal Commissioner of Customs, Port Commissionerate, Kolkata insofar as it upholds the re-classification of the goods imported under the eight live Bills of Entry, confirmed the demand of differential customs duty, ordered confiscation of the goods with an option of redemption on payment of fine, and imposed penalties upon the appellants/noticees. The Revenue has also preferred three separate appeals bearing Nos. C/75856/2025, C/75857/2025 and C/75858/2025, against the said order to the extent it dropped proceedings relating to 306 past Bills of Entry

as initiated against the importer/noticees. The dispute relates to the importation of parts/components of Electric Tricycles (E-Rickshaws) by M/s. Zeniak Innovation India Ltd. during the material period.

3. The facts of the case are that M/s. Zeniak Innovation India Limited is engaged in the import of components such as chassis frames, body shells, structural assemblies, wiring harnesses, and other ancillary parts of e-rickshaws, which are then assembled with domestically procured propulsion components (electric motor and battery) to manufacture complete E-rickshaws for sale in India.

4. The assessee/company imported eight consignments in September 2017, consisting of structural assemblies, chassis parts, body components, wiring harnesses and other ancillary items of E-rickshaws, all declared as parts and components under CTH 8714. The consignments, as imported, did not contain the propulsion components — namely, the electric motor and the battery — without which no E-rickshaw can function or be regarded as a complete vehicle. It is an undisputed fact on record that neither the electric motor nor the battery, the two indispensable components that define an E-rickshaw's functional identity as a self-propelled vehicle, formed part of any of the eight consignments.

5. The DRI intercepted the eight consignments and, during the course of investigation, required the assessee-company to deposit a sum of Rs. 1,00,00,000/- (Rupees One Crore only) towards the alleged extra duty liability. This amount has been appropriated by the Revenue.

6. According to the Revenue, although the goods were declared and classified by the importer under CTH 87141090/87149990 as "parts/components/spare parts of electrical tricycles", the imported consignments, in substance, constituted Electrical Tricycles in Completely Knocked Down (CKD) condition, containing transmission mechanism in pre-assembled form, and were therefore correctly classifiable under CTH 87039010 (during 2016-17) and CTH 87038040 (during 2017-18). It was alleged that by adopting the classification under Chapter Heading 8714, the importer wrongly availed the benefit of concessional customs duty and thereby evaded payment of customs duty leviable at 30% Basic Customs Duty in terms of Condition No. 526(b) of Notification No. 12/2012-Cus. dated 17.03.2012 and thereafter Notification No. 50/2017-Cus. dated 30.06.2017.

7. Investigation conducted by the Directorate of Revenue Intelligence (DRI) culminated in issuance of Show Cause Notice dated 21.09.2018, alleging that M/s. Zeniak Innovation India Ltd. had consistently imported Electrical Tricycles in CKD condition while deliberately declaring the same as spare parts/components so as to evade customs duty. The Show Cause Notice covered 314 Bills of Entry, comprising 8 live/intercepted Bills of Entry, in respect whereof the consignments were intercepted, examined and seized by DRI, and 306 past Bills of Entry, which had already been assessed and cleared by Customs. The above Notice dated 21.09.2018 came to be issued to M/s. Zeniak Innovation India Ltd., its Directors, namely Shri Mazibur Biswas and Shri Golam Moinuddin, as well as certain co-noticees

including M/s. M.N. Enterprises and M/s. Om Sai Clearing and Forwarding Agency. The notice alleged that the goods imported under 314 Bills of Entry had been deliberately mis-declared as "Spare Parts/Components of Electrical Tricycles" and incorrectly classified under Chapter Heading 8714, whereas they were, in fact, complete Electrical Tricycles imported in Completely Knocked Down (CKD) condition, classifiable under Customs Tariff Heading 87039010 (during 2016-17) and 87038040 (during 2017-18). It was accordingly proposed to reject the declared classification, reclassify the imported goods under the aforesaid tariff headings, reassess the said goods under Section 17(4) of the Customs Act, 1962 and demand differential customs duty, in respect of the eight live Bills of Entry as well as the 306 past Bills of Entry under Section 28(4) of the Act together with applicable interest, thereby also proposing to confiscate the goods covered under both the live and past Bills of Entry under Sections 111(m) and 111(o) of the Customs Act, 1962 for alleged misdeclaration and wrongful avilment of the benefit of Notification Nos. 12/2012-Cus. dated 17.03.2012 and 50/2017-Cus. dated 30.06.2017; proposals were also made to appropriate the amount already deposited by the importer towards the proposed duty liability, and to impose penalties upon M/s. Zeniak Innovation India Ltd., Shri Mazibur Biswas and Shri Golam Moinuddin, amongst others, under Sections 112(a), 114A and 114AA of the Customs Act, 1962, on the allegation of wilful suppression and misdeclaration.

7.1. The Show Cause Notice was adjudicated vide Order-in-Original No. KOL/CUS/COMR/PORT/16/2019 dated 14.06.2019, whereby the allegations were substantially confirmed. The adjudicating authority ordered confiscation of the goods covered under the 8 live Bills of Entry as well as the goods covered under the 306 past Bills of Entry with option of redemption on payment of fines in both cases, confirmed differential customs duty together with applicable interest, and imposed penalties, inter alia, upon M/s. Zeniak Innovation India Ltd. under Sections 112(a)(ii) and 114A of the Customs Act, 1962, besides imposing penalties upon Shri Mazibur Biswas and Shri Golam Moinuddin under Section 114AA of the Act.

7.2. Aggrieved thereby, the assessee/company namely, M/s. Zeniak Innovation India Ltd. approached the Hon'ble Calcutta High Court by filing a Writ Petition bearing W.P. No. 17073 (W) of 2019 challenging the aforesaid adjudication order. The Hon'ble High Court, thereafter, set aside the Order-in-Original principally on the ground that the noticees had been denied cross-examination of witnesses whose statements had been relied upon and remanded the matter for fresh adjudication. The Department preferred an appeal before the Hon'ble Division Bench of the High Court, which, by judgment dated 02.12.2022, upheld the remand while directing that the de novo adjudication be undertaken without relying upon the statements of the eighteen witnesses whose cross-examination had been sought by the importer. The Department accepted the said judgment and the matter accordingly attained finality.

8. During the de novo proceedings, the adjudicating authority confined adjudication to M/s. Zeniak Innovation India Ltd. and its Directors, Shri Mazibur Biswas and Shri Golam Moinuddin, clarifying that the earlier adjudication order would continue to operate in respect of the remaining noticees. Upon fresh adjudication, the Principal Commissioner of Customs (Port), Kolkata passed the impugned de novo Order-in-Original No. KOL/CUS/PR. COMMISSIONER/PORT/ADJN/07/2025 dated 21.02.2025, wherein separate findings were recorded in respect of the two categories of Bills of Entry. While the proceedings relating to the 306 past Bills of Entry were dropped, inter alia, on the reasoning that Rule 2(a) of the General Rules for Interpretation could not be invoked in respect of goods imported under different Bills of Entry at different points of time and in view of the exclusion of the statements of the eighteen witnesses pursuant to the directions of the Hon'ble Calcutta High Court, the adjudicating authority nevertheless confirmed the allegations in respect of the 8 intercepted live Bills of Entry by rejecting the classification of the goods imported under CTH 87141090 and CTH 87149990 and re-classifying the same under CTH 87039010 (during 2016-17) and CTH 87138040 (during 2017-18). Consequently, differential customs duty amounting to Rs. 24,12,609/- together with applicable interest was confirmed, the seized goods were held liable to confiscation with an option to redeem the same on payment of redemption fine of Rs. 60,00,000/-. Apart from the above, the Ld. Principal Commissioner imposed penalties of Rs.2,00,000/- each upon M/s. Zeniak Innovation India Ltd., Shri Mazibur Biswas and Shri Golam Moinuddin under Section

112(a) and penalties of Rs.10,00,000/- each upon M/s. Zeniak Innovation India Ltd., Shri Mazibur Biswas and Shri Golam Moinuddin under Section 114AA of the Customs Act, 1962; the earlier penalty under Section 114A against M/s. Zeniak Innovation India Ltd. was not imposed in the de novo proceedings, while the penalties upon Shri Mazibur Biswas and Shri Golam Moinuddin under Section 114AA stood reduced to Rs. 10,00,000/- each.

8.1. Aggrieved by the confirmation of differential duty, confiscation of the goods covered under the eight intercepted/live Bills of Entry, redemption fine and the penalties imposed under the impugned de novo order, M/s. Zeniak Innovation India Ltd., Shri Mazibur Biswas and Shri Golam Moinuddin have preferred their appeals before this Tribunal.

8.2. Simultaneously, the Revenue has preferred three separate appeals challenging the dropping of proceedings in respect of the 306 past Bills of Entry and seeking restoration of the duty demands, confiscation and penalties originally imposed, besides questioning the legality and validity of the de novo proceedings on other grounds.

9. The Ld. Counsel appearing on behalf of the importer-company, namely, M/s. Zeniak Innovation India Ltd. and its Directors, have made various submissions in support of their contentions which can be broadly summarized in respect of the various assesses/notices, as under:-

(I) In respect of M/s. Zeniak Innovation I. Ltd.:

A. THE GOODS ARE NOT CLASSIFIABLE AS COMPLETE E-RICKSHAWS IN CKD CONDITION; RULE 2(a) HAS BEEN MISAPPLIED

- (i) Rule 2(a) of the General Rules for Interpretation of the Customs Tariff (hereinafter "GRI") provides that any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. The deeming fiction in Rule 2(a) is therefore not unlimited — it operates only when the incomplete goods, as imported, already possess the essential character of the finished product.
- (ii) The Adjudicating Authority has mechanically applied Rule 2(a) without conducting the necessary enquiry: do the eight consignments, as imported, possess the essential character of a complete E-rickshaw? The answer is emphatically in the negative, for the following reasons:
 - (i) The electric motor and battery — which are the heart of an E-rickshaw and supply its sole motive power — were admittedly absent from all eight consignments. An E-rickshaw without a motor and battery is an inert assemblage of structural components — it cannot move, cannot function and cannot be operated. The "essential character" of a motor vehicle is its ability to propel itself under mechanical power. That character is entirely absent in the imported goods.

(ii) The concept of a CKD kit, as understood in trade and in judicial precedents, requires the kit to be complete in all respects, i.e., containing all components necessary for assembly of the finished product. A kit that is missing the propulsion system is not a CKD kit — it is merely a collection of structural sub-assemblies.

(iii) The WCO Explanatory Notes to the Harmonised System, which constitute an authoritative guide to interpretation, clarify that goods classifiable as incomplete articles under Rule 2(a) must have the essential character of the finished article. Classification of sub-assemblies absent the essential driving mechanism of the finished product under the heading of the finished product is contrary to the Explanatory Notes.

(iv) The Adjudicating Authority has himself acknowledged that statements of the 18 witnesses cannot be relied upon (pursuant to the High Court's direction), and has dropped all proceedings in respect of 306 prior consignments. If the same goods imported in the same manner over hundreds of prior consignments could not be classified as CKD vehicles, there is no rational basis for treating the eight intercepted consignments differently. The selective application of Rule 2(a) only to the eight consignments is arbitrary and constitutes a self-contradiction in the impugned order.

- (iii) Reliance in this regard is placed on this Bench's own decision in *Customs Appeal No. 78675 of 2018 (Final Order No. 75722/2024 dated 21.03.2024 in the case of Commissioner of Customs (Port) v. Twinkle Tradecom Private Limited.*

B. THE ISSUE IS ONE OF TARIFF CLASSIFICATION ONLY, NOT MIS-DECLARATION; CONFISCATION UNDER SECTION 111 IS IMPERMISSIBLE

- (i) The Adjudicating Authority has confirmed confiscation under Section 111 of the Act. Section 111 empowers confiscation in specified circumstances, including mis-declaration under Section 111(m). However, confiscation under Section 111(m) requires a finding of mis-declaration — a deliberate or fraudulent false description of the goods in the Bill of Entry.
- (ii) In the present case, the Appellant described the goods in the Bills of Entry as "parts and components of E-rickshaws." This description is factually correct — the goods are, in fact, parts and components; they are not complete E-rickshaws. The classification dispute arises not because of any false description of the goods, but because of a difference in opinion between the Appellant and the Department on the legal question of whether the imported goods, viewed collectively, attract Rule 2(a) GRI. A difference in classification opinion is not, and cannot be equated to, a mis-declaration of the goods.
- (iii) It is well settled that where there is no mis-description of the goods and the dispute is purely one of tariff classification, Section 111

cannot be invoked and confiscation cannot be ordered.

- (iv) The Adjudicating Authority's own finding that proceedings in respect of 306 prior consignments — where the same goods were imported, described in the same manner — are liable to be dropped, is wholly inconsistent with a finding of wilful mis-declaration in respect of the eight intercepted consignments. If there is no mis-declaration in 306 consignments, there cannot be a mis-declaration in the eight consignments, since the description is identical.
- (v) The Appellant submits that the confiscation ordered in the impugned order is legally bad and liable to be set aside, and consequently the redemption fine of Rs. 60,00,000/- also stands extinguished.

C. PENALTY UNDER SECTION 114AA IS WHOLLY INAPPLICABLE ON THE FACTS OF THIS CASE

- (i) Section 114AA of the Customs Act, 1962, provides for a penalty where any person knowingly or intentionally makes, signs or uses any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of the Act. The provision targets deliberate fabrication, forgery or falsification of documents.
- (ii) The Adjudicating Authority has imposed a penalty of Rs. 10,00,000/- under Section 114AA without identifying any specific document alleged to have been fabricated, falsified or

knowingly made incorrect. The Bills of Entry correctly described the goods as parts of E-rickshaws. There is no finding — nor could there be — that any document in this case was forged, fabricated or deliberately falsified. The entire basis of the charge is a classification dispute, and as demonstrated above, the Appellant has a cogent, bona fide case that the goods are correctly classified as parts.

- (iii) Section 114AA cannot be pressed into service merely because the Department prefers a different classification. The section was introduced to penalise fraudulent documentary conduct, not honest classification differences.
- (iv) Furthermore, the Adjudicating Authority has, pursuant to the Division Bench's direction, disregarded the statements of the 18 persons and has dropped identical allegations with respect to 306 prior consignments. The imposition of a penalty under Section 114AA in the self-same proceeding — which concerns the same importer, the same goods and the same documentation — is irreconcilable and wholly arbitrary.

D. PENALTY UNDER SECTION 112(a) IS PARASITIC UPON CONFISCATION AND FALLS AWAY WITH IT

- (i) Section 112(a) of the Act provides for penalty on any person who, in relation to any goods, does or omits to do any act which renders such goods liable to confiscation under Section 111 or abets the doing or omission of such an act. The penalty under Section 112(a) is, by its very

terms, dependent upon the goods being liable to confiscation under Section 111.

- (ii) As demonstrated under Section 'B' above, the goods are not liable to confiscation under Section 111, since there is no mis-declaration and the dispute is purely one of classification. Since the predicate condition — liability to confiscation — is absent, the penalty under Section 112(a) necessarily collapses as a parasitic provision. The Appellant respectfully prays that the penalty under Section 112(a) of Rs. 2,00,000/- be set aside.

E. THE IMPUGNED ORDER IS SELF-CONTRADICTORY AND LEGALLY UNTENABLE

- (i) The impugned order contains a fundamental and fatal self-contradiction. On the one hand, the Adjudicating Authority has dropped all proceedings in respect of 306 prior consignments on the grounds that Rule 2(a) cannot be applied to consignments filed at different points in time and that the statements of 18 persons cannot be relied upon. On the other hand, for the eight intercepted consignments, the very same Rule 2(a) — which was held inapplicable to 306 prior consignments — is now invoked to reclassify the goods, even though the goods, the description, the documentation and the importer are identical.
- (ii) This self-contradiction goes to the root of the impugned order and renders it legally untenable. A quasi-judicial authority cannot apply divergent standards to identical facts in the same proceeding. The impugned order lacks

internal consistency and is liable to be set aside on this ground alone. The Hon'ble Tribunal may take note that a finding dropping charges in respect of 306 consignments for want of evidence virtually destroys the foundation upon which the charges in respect of the eight consignments are sought to be sustained, since the only alleged evidence of mens rea and motive — i.e., the statements of the 18 persons — has been excluded.

F. REFUND OF RS. 1,00,00,000/- DEPOSITED DURING INVESTIGATION, WITH INTEREST AT 12% PER ANNUM

- (i) During the course of DRI investigation, the Appellant was compelled to deposit Rs.1,00,00,000/- (Rupees One Crore only) towards alleged extra duty liability. This amount has since been appropriated by the Respondent. In light of the Appellant's case, as argued herein, that no duty demand, confiscation or penalty is sustainable, the entire amount of Rs. 1,00,00,000/- deposited by the Appellant is liable to be refunded.
- (ii) The Appellant further submits that since the Respondent has been holding this money without any lawful authority or justification — the amount having been extracted under investigation pressure — the Appellant is entitled to interest at the rate of 12% (twelve percent) per annum on the said sum of Rs. 1,00,00,000/- from the date of payment of the deposit till the date of actual disbursement of the refund of the principal amount.

- (iii) The right to interest on amounts deposited under duress and subsequently held without legal authority is well-recognised in law.
- (iv) The Appellant accordingly prays that this Hon'ble Tribunal be pleased to direct the Respondent to refund the sum of Rs. 1,00,00,000/- (Rupees One Crore only) along with interest at 12% per annum from the date of payment of the deposit till the actual date of disbursement of the said amount.

(II) In respect of Shri Mazibur Biswas:

A. CENTREPIECE GROUND: THE APPELLANT, AS A DIRECTOR, BEARS NO PERSONAL LIABILITY IN THE ABSENCE OF SPECIFIC FINDINGS OF PERSONAL INVOLVEMENT

- (i) The most decisive ground in this appeal is that the Impugned Order imposes severe personal penalties upon the Appellant — Rs. 2,00,000/- under Section 112(a) and Rs. 10,00,000/- under Section 114AA — without any finding, supported by admissible evidence, that the Appellant personally committed any act that attracts either provision.
- (ii) The Customs Act, 1962 does not provide for automatic vicarious liability of Directors for the acts of a company. Unlike certain taxation statutes that specifically impose joint and several liability on Directors (such as under the Companies Act for certain tax defaults), the Customs Act imposes penal liability on persons who commit or abet specific acts. The

imposition of personal penalty upon a Director therefore requires evidence that the Director:

(a) personally and knowingly made the false declaration, or abetted the making thereof;

(b) personally directed or controlled the specific transaction giving rise to the alleged violation;
or

(c) was personally aware of and complicit in the alleged mis-declaration or documentary fraud.

(iii) None of these elements are established in the Impugned Order in relation to the Appellant. The Adjudicating Authority has imposed the penalty on the Appellant by virtue of his directorial designation alone — which is entirely impermissible in law.

(iv) It is settled law that criminal or penal liability of a company cannot automatically be visited upon its Directors or officers unless there is a specific allegation and finding that the individual officer personally committed the offending act, or that the act was performed at his direction or with his knowledge.

(v) In the present case, the Appellant resides in a village in Murshidabad district. The imports took place at the port of Kolkata. There is no allegation that the Appellant was present at the port, supervised the filing of any Bill of Entry, instructed any customs agent, or prepared or signed any customs document. The Impugned Order is therefore wholly without basis insofar as it imposes personal penalties upon the Appellant.

B. THE APPELLANT'S STATEMENT STANDS EXCLUDED: NO ADMISSIBLE EVIDENCE OF PERSONAL CULPABILITY

- (i) The only material that could conceivably have been relied upon to attribute personal knowledge or involvement to the Appellant is the statement recorded from him during investigation by the DRI. However, this statement stands excluded from consideration by the express direction of the Hon'ble Division Bench of the Calcutta High Court, which has mandated that the de novo order be passed without placing any reliance on the statements of the 18 witnesses.
- (ii) The statement of the Appellant being part of the pool of 18 witnesses' statements that the High Court has excluded, the Adjudicating Authority was bound not to draw any inference from that statement — either as to the Appellant's knowledge, his role, his authority, or his involvement in the import transactions. Any finding of personal culpability derived, directly or indirectly, from that excluded statement is in violation of the High Court's direction and is liable to be disregarded.
- (iii) Once the statement is excluded, there is no other admissible evidence on record pointing to the Appellant's personal involvement. The Impugned Order, which imposes penalties upon him, therefore rests on no admissible evidentiary foundation whatsoever, and must be set aside.

C. PRELIMINARY GROUND: INTERNAL
INCONSISTENCY RENDERS THE IMPUGNED ORDER
UNSUSTAINABLE

(i) The Impugned Order simultaneously sustains two irreconcilable legal positions on identical facts and the same underlying SCN. For 306 prior Bills of Entry covering goods of the same description, imported by the same company under the same tariff entry, the Adjudicating Authority expressly holds that:

(i) Rule 2(a) GRI cannot apply to goods covered by different Bills of Entry filed at different points in time; and

(ii) The 18 witnesses' statements cannot be relied upon.

(ii) These findings compelled the total dropping of proceedings for 306 Bills of Entry. Yet, for the 8 intercepted Bills of Entry representing eight separate, independent customs transactions, the Adjudicating Authority invokes Rule 2(a) GRI by treating the aggregate contents of eight separate Bills of Entry as a composite CKD kit. This is precisely the error he himself identified and rejected in respect of the 306 Bills of Entry.

(iii) An order that reasons in a self-contradictory manner — holding a principle valid in one part and invalid in another part on identical facts — is not an order in accordance with law. The Impugned Order cannot be permitted to stand in a posture that is legally self-defeating. It must fail in its entirety on this ground alone.

D. THE DISPUTE IS ONE OF TARIFF MISCLASSIFICATION, NOT MIS-DECLARATION: THE FOUNDATION FOR PENAL LIABILITY IS ABSENT

- (i) The Bills of Entry filed by M/s. Zeniak described the goods as 'Parts/Components of Electric Tricycles.' This description was factually accurate. The Department does not allege, nor does the Impugned Order find, that the goods physically imported were different from what was declared. The goods were exactly what was stated.
- (ii) The Department's case is that those truthfully described components, when bundled across eight Bills of Entry, ought to have attracted the tariff entry applicable to complete CKD E-rickshaws rather than the tariff entry for parts. This is a question of classification — a matter of applying tariff law to accurately described goods — and not a question of mis-declaration.
- (iii) The distinction is legally critical. Mis-declaration involves a false or misleading statement about the nature, description, quantity, or value of goods. Misclassification involves the legal question of which tariff heading applies to goods that are accurately described. Penal provisions such as Sections 111, 112, and 114AA are premised on acts of mis-declaration, suppression, or documentary fraud. They cannot be applied to a dispute that is, by the Adjudicating Authority's own findings, a classification matter.
- (iv) Once the premise of mis-declaration is removed, the penal provisions invoked in the

Impugned Order lose their foundation. Neither Section 112(a) nor Section 114AA can apply in the absence of established mis-declaration or documentary fraud.

E. RULE 2(a) GRI CANNOT APPLY: THE GOODS LACKED THE ESSENTIAL CHARACTER OF AN E-RICKSHAW

- (i) Rule 2(a) of the General Rules for Interpretation provides that a reference to a complete article includes an incomplete or unfinished article — but only if, as presented for customs purposes, the incomplete article has the essential character of the complete article.
- (ii) An E-rickshaw is fundamentally defined by its propulsion system — the electric motor and battery that enable it to function as a self-propelled motorised vehicle. Without these components, the assembled structure is an inert, non-functional frame. It cannot move. It cannot be driven. It cannot be used as a vehicle. It is structurally a tricycle body but functionally nothing at all.
- (iii) The undisputed and unchallenged fact is that the motor and battery were not part of any of the eight consignments. They were not imported at all, under any Bill of Entry, at any time, as part of the transactions in question. They were sourced domestically by M/s. Zeniak after importation. In these circumstances, the imported goods are wholly incapable of possessing the "essential character" of a complete E-rickshaw, and Rule 2(a) GRI cannot legally apply.

- (iv) As the Adjudicating Authority himself conceded in respect of the 306 Bills of Entry, goods imported under different Bills of Entry cannot be aggregated for the purpose of applying Rule 2(a). Eight separate Bills of Entry represent eight distinct customs transactions. The goods in each Bill of Entry must be classified independently. Bundling the contents of eight separate Bills of Entry to construct a notional composite CKD kit is precisely the approach the authority acknowledged was impermissible — yet he employs it for the 8 intercepted transactions without any rational distinction.

F. SECTION 114AA HAS NO APPLICATION: NO FABRICATED OR FORGED DOCUMENT HAS BEEN IDENTIFIED

- (i) Section 114AA of the Customs Act, 1962 is a provision targeted at a specific and aggravated form of conduct — the deliberate falsification, fabrication, or knowing use of false documents in the course of customs transactions. It was legislated as an anti-fraud measure to address cases involving forged certificates, counterfeit documents, and similar acts of documentary dishonesty.
- (ii) The imposition of a penalty of Rs. 10,00,000/- under Section 114AA upon the Appellant — an individual Director residing in Murshidabad — is wholly impermissible because:
- (i) No specific document has been identified in the Impugned Order as having been falsified, forged, or fabricated. The Adjudicating Authority has not pointed to any Bill of Entry,

invoice, packing list, certificate, or other customs document that was fabricated by or at the direction of the Appellant.

(ii) The goods were described accurately in the Bills of Entry as parts and components of electric tricycles. The description was factually correct. A tariff classification entry — even if the wrong heading was selected — is not a 'false document' within the meaning of Section 114AA.

(iii) The Appellant, as a Director residing outside Kolkata, cannot plausibly be attributed with the preparation or submission of specific customs documents, in the absence of a finding to that effect.

(iv) The CESTAT has consistently held that Section 114AA cannot be imported into a classification dispute where no act of documentary fraud has been established and no specific false document has been identified.

(v) The Adjudicating Authority has dropped identical Section 114AA proceedings against M/s. Zeniak and the Noticees for 306 Bills of Entry. No rational distinction has been drawn as to why the same provision should apply for the 8 intercepted transactions but not the 306 cleared ones.

G. CONFISCATION UNDER SECTION 111 AND PENALTY UNDER SECTION 112 CANNOT SURVIVE IN A PURE CLASSIFICATION DISPUTE

- (i) Section 111 of the Customs Act, 1962 provides for confiscation in specified circumstances, including where goods are 'smuggled' or where any statement in the entry is found to be false in a material particular. Neither condition applies in the present case.
- (ii) The goods were lawfully imported. The Bills of Entry truthfully described them as parts. The dispute is solely about which tariff heading applies to those truthfully described goods. A classification dispute cannot activate Section 111, which requires a false statement in the entry or other specific acts. In the absence of a valid confiscation order, Section 112 — which is parasitic upon confiscation — has no operation. Both the confiscation order and the Section 112 penalty are consequently unsustainable.
- (iii) Even if confiscation were to be upheld — which is denied — the personal penalty under Section 112(a) upon the Appellant as an individual Director requires the specific finding that he personally abetted the alleged violation. No such finding exists in the Impugned Order.

H. THE IMPUGNED ORDER VIOLATES THE DIRECTIONS OF THE HON'BLE CALCUTTA HIGH COURT

- (i) The Hon'ble Division Bench of the Calcutta High Court directed that the de novo order be passed on merits without placing any reliance on the statements of the 18 witnesses. The Impugned Order, to the extent it attributes personal culpability to the Appellant on the basis of material gathered through the investigation —

which was premised on and intertwined with those excluded statements — is in violation of the spirit and letter of the High Court's direction.

- (ii) An order passed in violation of a judicial direction is a jurisdictional infirmity of the most fundamental kind. This Tribunal, in the exercise of its appellate jurisdiction, is empowered and indeed duty-bound to correct such an order.

(III) In respect of Shri Golam Moinuddin:

A. PRELIMINARY GROUND: THE IMPUGNED ORDER IS VITIATED BY INTERNAL INCONSISTENCY AND VIOLATES THE PRINCIPLE OF EQUAL TREATMENT ON IDENTICAL FACTS

- (i) The most fundamental infirmity of the Impugned Order is that it simultaneously holds two irreconcilable legal positions on identical facts and the same legal principles. For the 306 prior Bills of Entry, the Adjudicating Authority expressly finds that Rule 2(a) GRI cannot apply to goods covered by different Bills of Entry filed at different points in time, and that the statements of the 18 witnesses are inadmissible. These findings compelled him to drop those proceedings entirely.
- (ii) Nonetheless, for the 8 intercepted Bills of Entry, the very same authority relies on Rule 2(a) GRI by bundling the contents of eight separate Bills of Entry together and treating them as a composite CKD kit. If Rule 2(a) cannot apply across Bills of Entry — as the authority himself has held — it equally cannot apply within a set

of eight Bills of Entry which represent eight separate and distinct import transactions.

- (iii) The Hon'ble Supreme Court has consistently held that an authority cannot adopt a self-contradictory position in the same order. An order that is self-contradictory is not an order in accordance with law and is liable to be set aside in its entirety. The Impugned Order is, therefore, ex facie unsustainable.

B. THE FUNDAMENTAL ISSUE IS ONE OF TARIFF MISCLASSIFICATION, NOT MIS-DECLARATION

- (i) The SCN, and consequently the Impugned Order, conflates two legally distinct concepts: (i) mis-declaration of the nature or description of goods, and (ii) tariff misclassification of goods whose nature and description are correctly declared. This distinction is not merely semantic — it is foundational to the exercise of power under Sections 111, 112, and 114AA of the Customs Act, 1962.
- (ii) In the present case, the goods were declared in the Bills of Entry truthfully as "Parts/Components of Electric Tricycles." The Department does not allege, nor does the Impugned Order find, that the goods declared were physically different from the goods actually imported. The goods were exactly what was declared. The dispute is solely about whether those truthfully declared parts, when bundled together across eight Bills of Entry, ought to have been classified as a complete CKD E-rickshaw rather than as parts under CTH 8714.

- (iii) This is a question of classification and nothing else. Classification disputes arise where there is a legitimate difference of interpretation in applying tariff entries to correctly described goods. They do not give rise to findings of mis-declaration, suppression of facts, or documentary fraud.
- (iv) The entire foundation of the Impugned Order rests on classification, and the penal superstructure built upon it must collapse.

C. RULE 2(a) GRI CANNOT APPLY TO THE IMPORTED GOODS: ABSENCE OF 'ESSENTIAL CHARACTER'

- (i) The invocation of Rule 2(a) of the General Rules for Interpretation is wholly misconceived in the facts of this case. Rule 2(a) provides that any reference in a heading to a complete article shall include that article when incomplete or unfinished — but only if, as imported, the incomplete or unfinished article has the essential character of the complete or finished article.
- (ii) The concept of "essential character" is decisive. An E-rickshaw is fundamentally defined by its propulsion system. It is a motorised three-wheeled vehicle, and without an electric motor and a battery, the assembled structure is incapable of self-propulsion and cannot, by any test, be regarded as a vehicle. It is inert steel — a structural frame.
- (iii) The WCO Explanatory Notes to Rule 2(a) clarify that the essential character of a finished article is imparted by the component or combination of

components that give the article its defining functional identity. The Hon'ble CESTAT, in a number of cases, has consistently held that goods lacking the core functional component cannot acquire the essential character of the finished product. Reliance in this regard is placed on this Bench's own decision in *Customs Appeal No. 78675 of 2018 (Final Order No. 75722/2024 dated 21.03.2024 in the case of Commissioner of Customs (Port) v. Twinkle Tradecom Private Limited*.

- (iv) In the present case, the motor and battery were not imported at all. They were not lying in a different consignment; they were not imported under a different Bill of Entry; they were simply not part of the imported goods. In these circumstances, it is legally impermissible to hold that the imported goods have the essential character of a complete E-rickshaw.
- (v) Furthermore, as the Adjudicating Authority himself acknowledges in respect of the 306 Bills of Entry, Rule 2(a) cannot be applied by bundling goods imported across different transactions. For eight separate Bills of Entry, the same principle applies with equal force. Each Bill of Entry represents a distinct customs transaction, and classification must be determined on the basis of the goods covered by that individual Bill of Entry, not by reference to goods imported under other Bills of Entry.

D. CONFISCATION UNDER SECTION 111 IS NOT
WARRANTED: NO MIS-DECLARATION OR
PROHIBITED IMPORT

- (i) Section 111 of the Customs Act, 1962 provides for confiscation of imported goods in specific circumstances, most relevantly where the goods are 'smuggled' or where any statement in the entry is found to be false. Neither condition is satisfied in the present case.
- (ii) As established above, the entries truthfully describe the goods as parts and components of electric tricycles. No statement in any Bill of Entry has been found to be factually false. The goods are not prohibited goods. They are not smuggled goods. There is no allegation that any import licence or Customs clearance document was fabricated.
- (iii) The classification of goods as parts (CTH 8714) rather than as CKD vehicles (CTH 87039010) represents a difference of legal opinion on the application of the tariff, not a statement of a false fact. It has been consistently held by the CESTAT and High Courts that a mere classification dispute, where the goods are accurately described, does not attract confiscation under Section 111.
- (iv) In the absence of a valid confiscation order, the entire penal scaffolding under Section 112 — which is parasitic upon confiscation — falls away. There can be no penalty under Section 112 where there is no valid confiscation, and there is no valid confiscation where there is no

mis-declaration, prohibited import, or prohibited act.

E. SECTION 114AA HAS NO APPLICATION IN THE FACTS OF THIS CASE

- (i) Section 114AA of the Customs Act, 1962 is a provision targeted at a specific and aggravated form of conduct — the deliberate falsification, fabrication, or use of false documents in the course of a customs transaction. It was introduced as a stringent anti-fraud measure to deal with cases involving forged invoices, counterfeit certificates of origin, fabricated bank documents, and similar acts of documentary dishonesty.
- (ii) The imposition of a penalty of Rs. 10,00,000/- under Section 114AA upon the Appellant is wholly misconceived because:
 - (i) No specific document has been identified in the Impugned Order as having been falsified or forged. The Adjudicating Authority has not pointed to any Bill of Entry, invoice, packing list, or other document that was fabricated or knowingly false.
 - (ii) The goods were described accurately in the Bills of Entry as parts and components. The description was truthful. A tariff classification entry that is legally contested is not a 'false document.'
 - (iii) The Hon'ble CESTAT has consistently held, including in cases of classification disputes involving CKD/SKD goods, that Section 114AA cannot be imported into a scenario where the

essential allegation is one of classification and not of documentary fraud.

(iv) The Adjudicating Authority has dropped identical proceedings against M/s. Zeniak for 306 Bills of Entry on the ground that the statements cannot be relied upon. If there is no reliable evidence for 306 Bills of Entry, the same absence of reliable evidence applies to the 8 intercepted Bills of Entry as well.

F. THE APPELLANT, AS AN INDIVIDUAL DIRECTOR, IS NOT PERSONALLY LIABLE FOR THE PENALTIES IMPOSED

- (i) The Impugned Order imposes personal penalties on the Appellant, Shri Golam Moinuddin, as a Director of M/s. Zeniak. This is unsustainable in the absence of specific findings establishing the Appellant's personal knowledge of and active participation in any alleged wrongful act.
- (ii) The law is well-settled that a Director of a company is not automatically vicariously liable for the company's customs obligations or violations. Personal liability of a Director requires specific and cogent findings that the Director was directly and personally involved in the alleged wrongdoing. Mere status as a Director is insufficient.
- (iii) The Hon'ble Supreme Court, in Commissioner of Central Excise v. Duncan Industries Ltd. and the consistent line of CESTAT jurisprudence, has held that penalty on an individual cannot be imposed solely by virtue of their office in a

corporate entity unless there is evidence of personal direction, control, or connivance in the offending act.

- (iv) The Impugned Order contains no specific finding that the Appellant personally directed the classification of goods, personally prepared or signed any allegedly false document, or was personally involved in any act of mis-declaration. The Appellant's statement recorded during investigation has been rendered inadmissible by the direction of the Hon'ble Division Bench of the Calcutta High Court. In the absence of any admissible evidence of personal culpability, the penalty imposed on the Appellant under Section 112(a) and Section 114AA cannot be sustained.

G. THE IMPUGNED ORDER VIOLATES THE DIRECTIONS OF THE HON'BLE CALCUTTA HIGH COURT

- (i) The Hon'ble Division Bench of the Calcutta High Court, while upholding the remand, specifically directed that the de novo order shall be passed on merits without placing any reliance on the statements of the 18 witnesses. The Impugned Order, to the extent it adopts findings and conclusions that are derived, even indirectly, from the material gathered through those witnesses' statements and the investigation premised thereon, is in violation of the spirit and direction of the High Court.
- (ii) An order passed in violation of a direction of the High Court is a jurisdictional error and is liable

to be interfered with by this Tribunal in the exercise of its appellate jurisdiction.

H. REFUND OF RS. 1,00,00,000/- DEPOSITED DURING INVESTIGATION

- (i) During the course of investigation, M/s. Zeniak was made to deposit Rs. 1,00,00,000/- (Rupees One Crore) under coercive circumstances towards alleged extra duty liability. The Impugned Order has not properly addressed this deposit. Having confirmed a differential duty of only Rs. 24,12,609/-, the balance amount of approximately Rs. 75,87,391/-, which has been illegally retained by the Department, must be refunded with applicable interest.
- (ii) The CESTAT has consistently held that amounts collected by the Department during investigation, in excess of what is ultimately found to be due, are liable to be refunded, and the Appellant is entitled to claim this refund as part of the instant proceedings.

9.1. In view of the aforesaid submissions, the Ld. Counsel for the importer and its Directors prayed for setting aside the impugned Order-in-Original dated 21.02.2025 along with the Corrigendum dated 17.03.2025 to the extent it confirms the differential customs duty demand in respect of the eight intercepted Bills of Entry, orders confiscation of the goods and imposes redemption fine, imposes penalties imposed upon M/s. Zeniak Innovation India Ltd., Shri Mazibur Biswas and Shri Golam Moinuddin under Sections 112(a) and 114AA of the Customs Act, 1962, and further, for directing refund of the amount

deposited during investigation together with applicable interest, along with other consequential reliefs as flowing therefrom.

10. On the other hand, the Ld. Authorized Representative of the Revenue supported the impugned Order-in-Original insofar as it upheld the re-classification of the goods imported under the eight live Bills of Entry, confirmed the demand of differential customs duty, ordered confiscation of the goods with an option of redemption on payment of fine, and imposed penalties upon the noticees. It was submitted that the Id. adjudicating authority had correctly appreciated the nature of the imported goods and rightly concluded that the consignments constituted complete electric tricycles in CKD condition, attracting classification under the appropriate tariff heading and the corresponding rate of customs duty.

10.1. Insofar as the Revenue's appeals are concerned, the Ld. Authorized Representative of the Revenue has assailed the impugned order to the extent it dropped the proceedings against in respect of the remaining 306 past Bills of Entry and modified the penalties imposed upon the assesseees/notices; that the adjudicating authority was unjustified in disregarding the evidentiary value of the statements recorded under Section 108 of the Act and that the adjudicating authority's decision to drop the demand on past imports, despite identical modus operandi, goods description, and supplier documentation as established in live cases, amounts to inconsistency in adjudication and non-application of mind. He reiterated the grounds urged in the respective appeals filed by the Revenue, which are reproduced below for ease of reference: -

1. On Improper Reliance on Calcutta High Court Order dated 05.11.2019:

- (i) That the Adjudicating Authority (hereinafter referred to as "AA") has erroneously relied upon the Hon'ble Calcutta High Court's order dated 05.11.2019 as cited in Para 6.6.2 of the Order-in-Original (OIO), which solely pertained to denial of cross-examination of third-party witnesses. The said order has no bearing on the evidentiary admissibility of confessional statements voluntarily recorded under Section 108 of the Customs Act, 1962 from principal noticees, namely Shri Mazibur Biswas and Shri Golam Moinuddin.
- (ii) That the AA has misdirected itself in holding that the confessional statements of both directors were devoid of evidentiary value due to retractions. The statements dated 02.09.2017, 06.11.2017, 09.07.2018 and 23.07.2018 of Shri Mazibur Biswas and those dated 05.10.2017, 12.10.2017, 30.11.2017, 09.07.2018 and 23.07.2018 of Shri Golam Moinuddin, as recorded in Paras 1.6.1 to 1.6.3 of the OIO, contain unequivocal admissions of misdeclaration and import of complete CKD kits. The retractions dated 24.07.2018, made after arrest, are ex facie afterthoughts without substantiating evidence.

2. On Evidentiary Value of Retracted Confessions:

(i) That the AA failed to consider binding judicial pronouncements including:

i. *Surjeet Singh Chhabra v. Union of India* [1997 (89) E.L.T. 646 (S.C.)], wherein the Hon'ble Supreme Court held that "the confession though retracted is an admission and binds the petitioner."

ii. *K.I. Punnunny v. Assistant Collector* [1997 (90) E.L.T. 241 (S.C.)], affirming that retracted confessions are admissible if initially voluntary, with the burden of proving coercion lying on the accused.

iii. *Vinod Solanki v. Union of India* [2009 (13) S.T.R. 337 (S.C.)], which held that retraction does not nullify a statement unless coercion is proven.

iv. *Commissioner of Customs v. Shamshuddin M.A. Kadar* [2010 (259) E.L.T. 44 (Bom.)] and *Telestar Travels Pvt. Ltd. v. SDE* [2013 (289) E.L.T. 3 (S.C.)], which established that belated retractions unsupported by contemporaneous evidence are to be disregarded.

3. On Suppression of Corroborative Evidence and Inconsistent Adjudication:

(i) That the AA has failed to appreciate independent corroborative material including seizure operations on 22.09.2017 and 18.09.2018 (refer Paras 1.3.1 to 1.3.5), live

examination of consignments (Paras 1.5.1 to 1.5.8), recovery of 1100 undeclared motors and pre-assembled differentials (Para 1.5.6 and 1.5.7), and seizure of incriminating digital records from the Sankrail factory premises (Para 1.7.12).

- (ii) That the AA has adopted an inconsistent adjudicatory approach by confirming allegations for live B/Es while dropping demand for past imports under identical facts, thus undermining the principle of parity in quasi-judicial determination.

4. On Non-Application of Rule 2(a) of the General Rules for Interpretation of the Tariff:

- (i) That the AA has completely failed to consider the applicability of Rule 2(a) of the General Rules for Interpretation of the Import Tariff. The CKD kits imported in split consignments across 309 B/Es (Para 1.2.3) had the essential character of fully assembled electric tricycles and were misclassified under CTH 87141090 or 87149990 instead of the appropriate Heading 8703.
- (ii) That the interpretation of Rule 2(a), as upheld in multiple decisions, mandates classification of incomplete or unassembled goods as complete articles where they possess the essential character of the latter. This principle squarely applies to the impugned consignments.

5. On Circumvention of Duty through Systematic Misdeclaration:

- (i) That the recovery of incriminating documents, identical pattern in supplier invoices, and statements of domestic buyers confirming receipt of CKD kits (Paras 1.7.6 to 1.7.8) establish a recurring modus operandi of duty evasion and fraudulent misdeclaration over the period FY 2014-15 to FY 2018-19.
- (ii) That the AA's failure to consider past imports as part of a continuing scheme of evasion and to invoke extended period under Section 28(4) is legally unsustainable and warrants appellate correction.

10.2. Accordingly, the Ld. Authorized Representative of the Revenue prayed for rejection of the appeals filed by the importer/noticees and allowing the appeals filed by the Revenue.

11. Heard the parties and considered their submissions.

12. On going through the arguments advanced by both the sides, we find that the short issue that arises for our consideration in this matter is: as to whether the parts imported by the importer such as chassis frames, body shells, structural assemblies, wiring harnesses, and other ancillary parts of e-rickshaw can be termed as a complete e-rickshaw in CKD condition, or not. Admittedly, the said parts do not include electrical motors or batteries thereof.

12.1. The above issue has already been examined by this Tribunal in the case of *Commissioner of Customs (Port), Kolkata v. Twinkle Tradecom Pvt. Ltd. [Final Order No. 75722 of 2024 dated 21.03.2024 in Customs Appeal No. 78675 of 2018 – CESTAT, Kolkata]* wherein this Tribunal observed as under: -

"6. We observe that the Respondent had declared the goods as "Spare Parts of E-rickshaw". However, upon examination of the goods imported, the Department found that the imported goods consists of all the essential parts/components of the e-rickshaw. The essential items that were found to be imported by the Respondent are (i) Motor (ii) Axle (iii) Chassis (iv) Tyre& (v) Transmission (Gearbox). Accordingly, the adjudicating authority concluded that if all the parts are assembled together, it would make the complete e-rickshaw (without battery). The adjudicating authority cited Rule 2 of General Rule of Interpretation (GIR) and classified the said goods under CTH 8703.80.40 in accordance with the application of Rule 2 (a) of General Rule of Interpretation (hereinafter referred to as GIR).

6.1. We observe that the interpretation of the GIR by the adjudicating authority is not proper. The Ld. Commissioner (Appeals) has given a clear finding in the impugned order as to why the imported goods cannot be considered as a fully finished e-rickshaw. As per the reading of descriptions as provided under Import Tariff, Section Notes to Chapter XVII and Explanatory Notes to HSN/CTH 8703 and 8708, the goods imported will have the essential characteristic of e-rickshaw only when the same are assembled to create a T-shaped vehicle mounted on a chassis, whose two rear wheels are independently driven by separate battery-powered electric motors. Also, it is observed that the goods as imported by the Respondent fulfil the description as provide in explanatory notes to CTH 8708 as mentioned at Sl. Nos. (a) to (n).

6.2. Moreover, the lower authority in its findings has not adduced any evidence that the goods imported by the Respondent are in CKD condition and provides the essential characteristic of e-rickshaw. As per the terminology of CTH 8703 in order to have the essential characteristics of three

wheeled vehicle the same has to be powered or there should be propulsion through a battery which provides the power to the motor in order to thrust a vehicle. It is on record that there is no battery available in the goods imported to provide power supply to the e-rickshaw.

6.3. We observe that the lower authority has placed its reliance on Rule 2 (a) of General Interpretative Rules which stipulates as follows:

"(a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled."

6.4. We agree with the findings of the Ld. Commissioner (Appeals) that the interpretation of statutes should be in line with the Act i.e., the Customs Tariff Act, 1975, and should be purposive in nature and not strictly as a literal interpretation which will not serve the purpose of the Act and the other literal description as provided. In this regard, the Ld. Commissioner (Appeals) has referred the judgment of Hon'ble High Court in the case of *Macneill Engineering Ltd. Vs. Commissioner of Customs (Port)*, reported in 2014 (310) ELT 33 (Cal.), wherein it has been held as under:

"More often than not, in the interpretation of statutes, the Court should make a purposive interpretation of their provisions. A strictly literal interpretation may not serve the purpose of justice. The same principle should be applied to the interpretation of the Customs Act, 1962 and the related statutes and rules, for example the Customs Tariff Act, 1975 and the schedules appended thereto."

6.5. In order to have the essential characteristics of any machine or vehicle, the parts involved in the manufacturing should fulfil the basic principle of that vehicle or machine. The lower authority has classified the goods under CTH 8703.80 which

covers the vehicle propelled through motor powered by a battery. The goods imported as such, by the respondent, if assembled together, will not provide the basic function of propulsion as required for the classification under CTH 8703. Accordingly, we uphold the findings of the Id. appellate authority in the impugned order and hold that the goods imported would not constitute a fully finished e-rickshaw as it did not have all essential components for a fully finished e-rickshaw.

6.6. Regarding enhancement of value, we observe that the Ld. Commissioner (Appeals) has relied on the judgment of Commissioner of Customs (General & CFS) vs. Radhey Shyam Ratanlal reported in 2017 (358) E.L.T. 965 (Tri. Mumbai) and observed that the enhancement of values was done without providing any logical reasons. We agree with the findings of the Ld. Commissioner (Appeals) that the transaction value as declared by the respondent was rejected by the lower authority without application of valuation rules i.e., the CVR, 2007. Also, no reason for rejection were recorded in line with the procedure laid down in the said rules. Further, no evidence was provided to the respondent as to why the value as declared by the respondent was rejected by the lower authority. Accordingly, we hold that the enhancement of value without following the due process as laid down in the Act and CVR, 2007 and in violation of the principles of natural justice is not sustainable.

6.7. Since the mis-declaration of the description, classification and value as alleged by the Department has not been established, we hold that the goods imported are not liable confiscation. Accordingly, we hold that the Ld. Commissioner (Appeals) has rightly set aside the redemption fine and penalty imposed under the provisions of the Customs Act, 1962.

7. In view of the above, we uphold the impugned order and reject the appeal filed by the Department."

13. Further, in the present case, admittedly, the importer before us has imported only chassis frames, body shells, structural assemblies, wiring harnesses, and other ancillary parts of e-rickshaw without electric motors and batteries. The Revenue has invoked Rule 2(a) of the General Rules for Interpretation of the Import Tariff to say that the goods in question are "electrical tricycles" in CKD condition, on the basis of which proceedings were initiated against the importer for both live consignments as well as past consignments.

13.1. Needless to say that without the electric motor or battery, the e-rickshaw cannot function. In this context, we have gone through Rule 2(a) of the General Rules for Interpretation, which say that when incomplete goods are presented before the Customs for clearance and they have the essential character of complete or finished goods, they are to be classified as complete or finished goods if all the parts are presented in CKD condition, i.e., if they have the essential character of a complete article they have to be assessed as a complete article.

13.2. Admittedly, in the matter on hand, the electric motors and batteries of the e-rickshaws were not imported by the appellant-importer. In this case, nowhere has it come out that the importer has filed any Bill of Entry for import of such electric motors and batteries. In these circumstances, we find that the appellant has imported only 'parts' of e-rickshaw viz., chassis frames, body shells, structural assemblies, wiring harnesses, and other ancillary parts of e-rickshaw, which cannot be termed as a "complete e-rickshaw". This is further evidenced by the absence of electric motors and batteries from the impugned

consignments. In these facts and circumstances, we hold that the impugned proceedings initiated against the appellant-importer by way of the impugned Show Cause Notice are not sustainable.

14. In view of the above discussion, we do not find any merit in the appeals filed by the Revenue. The impugned order, qua setting aside the order of confiscation and demand of duty in respect of the past 306 Bills of Entry, is therefore affirmed.

15. In respect of the 8 live Bills of Entry, we have found that the appellant-company has imported parts, which were not even including the essential motors and batteries thereof. Thus, we are of the view that the ratio of the decision in the case of *Twinkle Tradecom Pvt. Ltd. (supra)* is squarely applicable to the facts and circumstances of the present case. Therefore, in view of the fact that the said parts imported by the appellant-company do not constitute a fully finished electronic equipment / e-rickshaw, we hold that the impugned demand of duty in respect of the said live Bills of Entry by rejecting the classification declared by the importer cannot be sustained. Consequently, the impugned order, qua ordering confiscation and demanding duty in respect of the goods pertaining to the 8 live Bills of Entry, stands set aside. As the order of confiscation does not sustain, the question of imposition of redemption fine does not arise; thus, the redemption fine imposed in this case is also set aside.

15.1. Further, we also hold that in the facts and circumstances of the case, no penalty can be imposed on the importer-appellant, namely, M/s. Zeniak Innovation India Limited as well as its Directors-

appellants before us, namely,
Shri Mazibur Biswas and Shri Golam Moinuddin.

16. Since the demand of duty, interest, penalty and redemption fine imposed in these cases are not sustained, we direct that the amount of Rs.1,00,00,000/- deposited by the appellant-importer during the course of investigation be released to them, along with applicable interest.

17. In the result, the appeals filed by the Revenue are dismissed and the appeals filed by the importer and its Directors are allowed, with consequential relief, if any.

(Order pronounced in the open court on **02.07.2026**)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)