HC-KAR
NC: 2026:KHC:59307
WP No. 32108 of 2026
CNR: KAHC010703312026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 32108 OF 2026 (T-CUS)

BETWEEN:

M/S. VOLVO CE INDIA PRIVATE LIMITED
PLOT NO. 7, 8 AND 12, PHASE 1,
PEENYA INDUSTRIAL AREA, PEENYA,
BENGALURU-560 058
REPRESENTED BY
RAMESH.C
CUSTOMS HEAD
INCORPORATED UNDER
THE COMPANIES ACT, 1956

...PETITIONER

(BY SRI. RAVI RAGHAVAN, ADVOCATE A/W
MS. PURVI ASATI AND
MS. ASHWINI NAG, ADVOCATES)

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Location: HIGH COURT OF KARNATAKA

AND:

1. THE COMMISSIONER OF CUSTOMS
OFFICE OF THE PRINCIPAL
COMMISSIONER OF CUSTOMS,
AIRPORT AND AIR CARGO COMPLEX
COMMISSIONERATE,
MENZIES AVIATION BOBBA TERMINAL,
DEVANAHALLI,
BENGALURU - 560 300

2. THE ASSISTANT COMMISSIONER OF CUSTOMS,
SPECIAL VALUATION BRANCH,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
AIRPORT AND AIR CARGO COMPLEX
COMMISSIONERATE,
MENZIES AVIATION BOBBA TERMINAL,
DEVANAHALLI,
BENGALURU - 560 300

3. THE ASSISTANT COMMISSIONER OF CUSTOMS,
PORT ASSESSMENT GROUP,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
AIRPORT AND AIR CARGO COMPLEX
COMMISSIONERATE,
MENZIES AVIATION BOBBA TERMINAL,
DEVANAHALLI,
BENGALURU - 560 300

...RESPONDENTS

(BY SRI. JEEVAN J. NEERALGI, ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED IR ORDER NO. F. NO. CUS/SVB/123/2022 SVB BNG/3207/26 DATED 20.05.2026 AND THE IMPUGNED ORDER NO. FILE NO. ACC/ASST/MISC/520/2026-PAG/4804/2026 AND SCN NO. 617/2026-27 DATED 18.08.2026, ENCLOSED AT ANNEXURE-A AND ANNEXURE-A1 RESPECTIVELY, TO THE EXTENT THAT THE SAME IS PREJUDICIAL TO THE PETITIONER., AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner, an erstwhile Group Company of M/s. Volvo CE India Private Limited, has impugned the Investigation Report dated 20.05.2026. This Report is for determination of the transactional value of imports by the petitioner from a related Foreign Entity. The petitioner is also aggrieved by the Show Cause Notice, which is consequent to the Investigation Report.

2. Mr. Ravi Raghavan, the learned counsel for the petitioner, submits that the Investigation Report relates to whether the *Royalty/License Fee* at 1.75% of net sale value of licensed products should be added to the declared value of components, parts and aggregates imported which are used for manufacture of licensed products. The proceedings based on the impugned Investigation Report are deferred on the petitioner's request for over three [3]

years, and the petitioner has made this request for deferment because an identical question was pending with the Customs, Excise and Service Tax Appellate Tribunal [for short, '*the Tribunal*'], Bengaluru in Appeal No. C/27663/2013 at the instance of another Group Company.

3. The Tribunal has answered this question in favour of the Group Company holding that the importer would not be liable to pay customs duty on the royalty if the royalty is part of the sale price paid and if the imported parts are used in on-site manufacturing though with the assistance of the technical know-how made known. The petitioner has furnished a copy of the Tribunal's order dated 06.05.2026 and the petitioner has furnished a copy of this order only on 13.08.2026 because the certified copy was received much later.

4. The impugned Show Cause Notice is issued on 18.08.2026 notwithstanding the petitioner producing a copy of the Tribunal's order with a detailed response specifically stating that the issue investigated and report filed is answered by the Tribunal in favour of a Group Company which is similarly situated as the petitioner but the impugned Show Cause Notice is issued without considering this specific reply.

5. Sri Ravi Raghavan submits that the petitioner's difficulty, and therefore the cause for the present petition, is because the Authorities at the ports are insisting upon the petitioner to discharge the duty in terms of the Investigation Report based on the provisional assessment and that this insistence is affecting the petitioner's business. Mr. Jeevan J. Neeralgi, a learned Senior Standing Counsel who accepts notice for the respondents, is heard, and the learned Senior Standing counsel

submits that this Court may not interfere at this stage because the petitioner is only served with a Show Cause Notice and it is open to the petitioner to file a further reply reiterating its response dated 13.08.2026.

6. This Court must opine that the impugned Investigation Report is not the final word and this stands out with the Authorities issuing the impugned Show Cause Notice to the petitioner. This Court must also observe that if the Authorities had deferred proceedings under the impugned Inspection Report for over three [3] years because the issue covered under the Inspection Report was being considered by the Tribunal and such issue is answered by the Tribunal in favour of a party who is similarly placed as the petitioner, the reasons that have prevailed with the Tribunal should have been considered same before issuance of the impugned Show Cause.

7. However, this Court is of considered view that this in itself cannot be a reason to interfere with the impugned Investigation Report or the Show Cause Notice because, as emphasized by Mr. Jeevan J. Neeralgi, it would be open to the third respondent to consider whether the issue which is examined in the Investigation Report and for which the Show Cause Notice is issued would survive in the light of the Tribunal's finding and the petitioner's specific assertion that it cannot be called upon to pay duty on the *Royalty* when the parts of the imported goods are used for manufacturing in India though with the assistance of the technical know-how shared by the related Foreign Entity.

8. In fact, this Court opines that the third respondent must consider the petitioner's response in the light of the following observation by the Tribunal.

"41. Applying the said principles to the present case, we find that no scrutiny has been made by the adjudicating authority to examine about the pricing arrangement between the appellant and the overseas supplier so as to find out whether the royalty and technical know-how fees have been charged as a condition of sale and such payment is made by the appellant to the overseas buyer in relation to the parts imported and used in the manufacture of products. The same yardstick is applicable to technical fees paid during the period 2007-08 & 2008-2009 and not the subsequent years. Also, we find that the appellant has discontinued payment of management fees to AB Volvo during the relevant period. However, the learned Commissioner proposed to add management fees notionally @ 4% for the period 01.08.2007 to 31.03.2012 which is also on a hypothetical basis and rests on assumptions and presumptions, hence cannot be sustained. Therefore, we are of the opinion that the royalty, technical assistance/know-how fees paid by the appellant to the AB Volvo, the overseas supplier of the parts for which the appellant was granted licence to manufacture

products cannot be added to the transaction value."

The next aspect that must be considered is whether there must be any observation against precipitation based on the Investigation Report when the third respondent is required to consider the petitioner's response in the light of this Court's observation.

9. If the Authorities have deferred action pursuant to the Investigation Report because the issue under investigation was being examined by the Tribunal, the proceedings must stand deferred when the petitioner's response is yet to be considered resulting in a final decision. The third respondent must ensure that there is due communication about the pending proceedings, the deferment of the Investigation Report and the outcome of the consideration until the response is considered. In the light of the afore, the following.

ORDER

[A] The petition stands disposed of deferring all proceedings under the impugned Investigation Report dated 20.05.2026 with liberty to the petitioner to file a detailed response to the impugned Show Cause Notice dated 18.08.2026 in reiteration of the reply dated 13.08.2026.

[B] The petitioner shall file a detailed response as aforesaid along with the certified copy of this order within four [4] weeks from the date of receipt thereof.

[C] The third respondent, upon being informed about the outcome in this petition, shall ensure that there is due communication to the Authorities at all

the ports about the pending proceedings and the deferment of the proceedings under the Investigation Report during the consideration of the petitioner's response to the Show Cause Notice. This communication shall be addressed at the earliest.

[D] The third respondent shall also extend an opportunity of personal hearing to the petitioner.

[E] It is needless to observe that all questions are left open for consideration but in the light of the Tribunal's observation as extracted above.

[F] The third respondent shall also communicate the outcome of the consideration of the petitioner's

response within three [3] months from the date of receipt of the petitioner's response.

Sd/-
(B M SHYAM PRASAD)
JUDGE

RB
List No.: 2 Sl No.: 2