CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

REGIONAL BENCH - COURT No. I

Customs Appeal No. 40713 of 2023

(Arising out of Order-in-Original No. 101809/2023, dated 12.05.2023, passed by Commissioner of Customs, Chennai II)

Johnson Lifts Pvt. Ltd. **.... Appellant**
#R8C East Main Road
Anna Nagar West Extension
Chennai 600 101

VERSUS

Commissioner of Customs **...Respondent**
Chennai Customs Commissionerate - II
Custom House,
No.60 Rajaji Salai,
Chennai – 600 001.

APPEARANCE :
Shri Joseph Prabhakar, Advocate for the Appellant
Shri Anoop Singh, Authorised Representative for the Respondent

CORAM :

HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V, MEMBER (JUDICIAL)

FINAL ORDER No.40054/2026

DATE OF HEARING: 28.08.2025
DATE OF DECISION:09.01.2026

Per Mr. Ajayan T.V.

Johnson Lifts Pvt. Ltd., the Appellant herein has preferred this appeal against the Order in Original No.101809/2023 dated 12.05.2023 passed by the Commissioner of Customs, Chennai II.

2. The brief facts are that the Appellant had imported goods classifying them as parts of Lifts / Escalators under CTH 8431. Pursuant to an audit conducted, the Department issued a Show Cause Notice dated 27.06.2022 (SCN) under Section 28(4) of the Customs Act 1962 invoking the extended period of limitation, alleging that the goods Angle Steel, Belt, Bolt and Nut, Brush, Chain, Clamp, Clip, Door Lock, Fish Plate, Hinge, Push Button, Rope, Springs, Springs Pin, Switch, Washer and Buzzer, imported through various ports, which were required to be classified under the respective CTH, have

been mis-classified under CTH 8431 by the Appellant. The notice proposed rejection of the classification adopted by the Appellant and reclassification under the respective headings, consequent to which differential duty of Rs.1,24,08,419/- was demanded along with appropriate interest. Further, alleging liability to confiscation of the imported goods under Section 111(m) and Section 111(o) of the Customs Act, proposals for imposition of penalties under Section 112 (a) , 114 A and 114 AA of the Customs Act were also made in the said notice.

3. After due process of law, the Adjudicating Authority rejected the classification adopted by the importer and reclassified the imported goods under the Customs Tariff items as mentioned below:

Sl.No.	Description	Correct Classification (CTI)
1.	Angle Steel	73089090
2.	Belt	40103999
3.	Bolt & Nut	73181500 for Bolts and 73181600 for nuts
4.	Brush	96035000
5.	Chain	73151290
6.	Clamp	82057000
7.	Clip	73269099
8.	Door Lock	83014090
9.	Fish Plate	73269099
10.	Hinge	83021090
11.	Push Button	85365090
12.	Rope	73121090
13.	Springs	73202000
14.	Springs Pin	73209020
15.	Switch	85365090
16.	Washer	73182200
17.	Buzzer	85311090

The Order confirmed a demand of differential duty of Rs.1,23,45,249/- after dropping an amount of Rs.63,170/- which was demanded in excess due to error in calculation and duplication of entries. An amount of Rs.54,046/- as well as an interest amount of Rs.31,365/-paid was appropriated towards the

said differential duty liability and interest confirmed. After noting that the goods are already cleared, the order, finding the goods liable to confiscation under section 111(m), imposed a redemption fine of Rupees Three crores under the provisions of Section 125 of the Customs Act, 1962 in lieu of confiscation as well as a penalty of Rs.1,23,45,249/- along with interest thereon under Section 114A of the Customs Act and a penalty of Rupees Twelve lakhs under Section 114 AA of the Customs Act, 1962. Aggrieved by the Order in Original and having preferred this appeal, the Appellant is now before this Tribunal.

4. Shri Joseph Prabhakar, Ld. Advocate appearing for the Appellant submitted that the Appellant is engaged in the business of turnkey projects of installation and commissioning of lifts and escalators. The Appellant imports the parts required to install the lifts/escalators according to the purchase orders received by them. In some cases, the Appellant places back to back orders with the overseas vendors. Since the parts are manufactured specifically for lifts and escalators, and can not be used elsewhere, at the time of import, the Appellant has filed the Bills of Entry under CTH 8431. Ld. Counsel submits that the Appellant has been regularly importing these items under CTH 8431 since the year 2000 and there has never been any dispute.

5. It is the submission of Ld. Counsel that the entire goods imported by the Appellant were specifically manufactured for lifts / escalators. All the parts imported are unique and can be used only in the erection and installation of lifts/escalators and are essential for the functioning of the machine. Therefore, parts which are specifically manufactured and essential for functioning of the lifts / escalators would be classified only under CTH 8431.

6. Ld. Counsel relies on Board circular dated 19.04.1989 which has clarified that an installed lift would be regarded as an immovable property. The Circular had gone on to clarify that where parts and components of lifts were brought together as lifts in unassembled /disassembled condition or having the essential character of lifts they would be assessed under Chapter Heading 8428, otherwise such parts and components would be assessed under Chapter Heading 8431.

7. It is submitted that it is well settled law that parts manufactured specifically and imported for a particular machine must be classified as part of the said machinery even if there is Section / Chapter Notes on parts of general use. It is essential to consider the 'predominant use' or 'sole / principal use' test for determining the classification of the products in such cases. Reliance is placed on the decisions in ***G.S Auto International Ltd. Vs. CCE., Chandigarh, 2003 (152) ELT 3 (SC), Westinghouse Saxby Farmer Ltd. Vs. CCE., Calcutta,2021-TIOL-121-SC-CX-LB,Cast Metal Industries (P) Ltd. Vs. CCE., Kolkata, 2015 (325) ELT 471 (SC), Shakti Tech Manufacturing Indian Pvt. Ltd. Vs. CGST & CE,2025-TIOL-137-CESTAT-MAD, Sew Eurodrive India Pvt. Ltd. Vs. CC., Chennai, 2024 (1) TMI 465-CESTAT CHENNAI*** and ***Vestas Wing Technology India Pvt. Ltd. Vs. CCE., Kandla, 2015 (327) ELT 195 (Tri.-Ahmd.)*** in this regard.

8. Ld. Counsel, without prejudice to the above submissions, made the following submissions with respect to the specific products as under:

A) The Adjudicating Authority has classified all types of angle steels imported by the Appellants under Tariff Item 7308 90 90 by relying on Note 1(g) to Section XVI which excludes "parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV)", from classification under Section XVI. However, Heading 7308 is not specified under Note 2(a) to Section XV and hence it is evident that Heading 7308 is not specified under the expression "parts of general use". Therefore, the application of Note 1(g) of Section XVI to classify the "angle steel" under Tariff Item 7308 90 90 by the Commissioner in the impugned order is misplaced. Further, the above finding of the Commissioner in the impugned order is beyond the scope of the Show Cause Notice. The allegation in the Show Cause Notice was that explanatory notes to 8431 refers that all parts do not fall under that and in terms of Rule 1 of GIR, the angle steel imported by the Appellants fall under Tariff Item 7308 9090. Hence, this demand is liable to be set aside. Similar arguments on inapplicability of Note 1(g) of Section XVI, along with the contentions that such findings were beyond the allegations in the show cause notice,

were also made with respect to Bolt, Nut, Chain, Clip, Fish Plate, Rope, Springs, Springs pin and Washer.

B) The Adjudicating Authority has classified the products categorized under "Belt" under Tariff Item 4010 39 99 on the ground that Note 1(a) to Section XVI excludes "transmission or conveyor belts or belting, of plastics of Chapter 39, or of vulcanised rubber (heading 4010), 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 4016)" from classification under Section XVI. That none of the products categorized as BELTS in the impugned order are products of vulcanized rubber and same are used as transmission or conveyor belts. That the other two products viz., Tooth Belt Clip and Lighting Belt have been classified under CTH 4010 on the sole basis that it uses the term "belt", when the same do not even remotely falls within the category "belt". This fact was stated by the Appellants in their Written Submission. Instead of Department proving their claim/case with evidence, now the Commissioner has confirmed the demand on the ground that the Appellants have not submitted any evidence. That the claim of the Appellants had never been rejected or disputed in the Show Cause Notice.

C) The Adjudicating Authority has classified the various types of brushes imported by the Appellant during the period in dispute under Tariff Item 96035000 on the ground that Section Note 1(o) of Section XVI refers that "This section does not cover brushes of a kind used as parts of machines (heading 9603). That some of the items categorized under the heading "BRUSH" would not even qualify as brushes viz., brush fixing plate, sealed head piece, short brush section, straight brush section, so as to classify under Tariff Item 96035000.As far as the other brushes are concerned, the Appellants submit that brushes of Heading 9603 are used mostly for sweeping, cleaning or for applying paint and polishing etc. and the "brushes constituting machinery parts" are such brushes as are used with road sweepers or with floor cleaning machines, polishing machines etc. The brushes imported by the Appellants do not perform any such functions. Reliance in this regard is placed on the decision of the Hon'ble

Tribunal in the case of ***CC., New Delhi Vs. HCC Samsung JV as reported in 2018 (359) ELT 516 (Tri.-Del.)***.

D) The Adjudicating Authority in the impugned order has classified the clamps imported by the Appellants under Tariff Item 8205 70 00 on the ground that Section Note 1(k) to Section XVI specifically excludes "Articles of Chapter 82 or 83" from classification under Section XVI. That Chapter Heading 8205 covers only all hand tools not included in any other headings together with certain other tools or appliances specifically mentioned in the heading. Further, from HSN explanatory notes to CTH 8205, it is apparent that vices, clamps and the like mentioned in the tariff heading covers mainly hand vices, pin vices, bench or table vices, for joiners or carpenters, locksmiths, gunsmiths, watchmakers etc. From the above, it is evident the type of clamps imported by the Appellants do not get covered under heading 8205. Hence, Section Note 1(k) of Section XVI relied by the Commissioner in the impugned order is not applicable to the present case. In any event, the above mentioned finding of the Commissioner in the impugned order regarding the classification of "Clamp" is beyond the scope of the Show Cause Notice. The finding in the impugned order was never the allegation in the Show Cause Notice. Similar arguments on inapplicability of Note 1(k) of Section XVI, along with the contentions that such findings were beyond the allegations in the show cause notice, were also made with respect to Door Locks and Hinges.

E) The Adjudicating Authority has classified the push buttons imported by the Appellants under Tariff Item 85365090 on the ground that the push button is fitted with electric circuit and is a 'switch' which is specifically mentioned in the description of CTH 8536; that by virtue of Rule 1 of General Rules of Interpretation the goods fall under CTH 8536 and that Section Note 1 and 2(a) will take precedence over Note 2(b). It is submitted that push buttons are buttons that are placed in the Landing operating Panel (LOP for short) and the Car Operating panel (COP for short) and are used to determine the desired floor to get to or to call the elevator to a specific floor, opening and closing the elevator doors and are used to control the elevator car. These push buttons are exclusively designed for lifts and cannot be used in anywhere else. Further, these

buttons are in combination placed on the pre-designed panels i.e., LOP & COP installed in lifts. Further, under Section Note 1 to Section XVI, there is no exclusion from the Section for the products under question. Therefore, there is no applicability of Section Note 1 to Section XVI to these products. Further, Note 2 to Section XVI is very much relevant to the production under question. In any event, the finding of the Commissioner in the impugned order with respect to Section Notes are beyond the scope of the Show Cause Notice. The only allegation in the Show Cause Notice was that the push buttons were fitted with electric circuit and therefore it was classifiable under Tariff Item 85365090. Similar arguments that in respect of switch imported the only allegation in the SCN was the switch is specified under CTH 8536 and therefore the findings of the Commissioner with respect to section notes were beyond the allegations in the show cause notice, were also made.

9. The Ld. Counsel further submits that the Bills of Entry which are under dispute pertains to the period June 2017 to September 2020. All the Bills of Entry under dispute were assessed and cleared by the Proper Officer of the Customs. The same has attained finality and has not been reopened till date. The present demand has been confirmed under Section 28 of the Customs Act, 1962. However, the demand made under Section 28 does not provide for re-opening of the assessment of the Bills of Entry already assessed and finalized. Therefore, without questioning the assessment done by the proper officer in the Bills of Entry, the demand of duty on such Bills of Entry cannot be sustained. Reliance is placed on the decisions in ***ITC Ltd. Vs. CCE., Kolkata as reported in 2019-TIOL-418-SC-CUS-LB*** and the decision of the Hon'ble Tribunal in the case of ***Shri Rumen Dey Vs. CC (Prev.) as reported in 2023-TIOL-715-CESTAT-KOL***.

10. Ld. Counsel further submits that the present demand is in respect of imports made during the period June 2017 to September 2020 through various ports / airport as is evident from paragraph 24 in the Show Cause Notice itself. It is an admitted fact that the demand has been confirmed even in respect of goods imported and assessed to duty at various places other than within the jurisdiction of Import Commissionerate, Chennai Customs namely ACC,

Chennai, JNCH Nhava Sheva, ACC Sahar, ICD Tughlakabad and ACC Delhi. The Respondent who has passed the impugned order is only in charge of Chennai Import II Commissionerate and thus the Respondent's jurisdiction is limited to imports undertaken within its territorial limit. Therefore, the demand of duty in respect of bills of entry filed and assessed at Ports / Air Ports beyond its territorial jurisdiction is thus without jurisdiction.

11. Ld. Counsel submits that the demand confirmed for the period beyond the normal period of limitation is liable to be set aside. The demand of duty confirmed by invoking the longer period of limitation under Section 28(4) of the Customs Act is in respect of bills of entry filed during the period June 2017 to September 2020 whereas the Show Cause Notice is dated 27.06.2022. The Commissioner has in the impugned order justified the invocation of longer period on the ground that the case involves mis-statement of the classification. Ld. Counsel submits that the Appellant have been importing these goods from the year 2000 onwards and the Customs Authorities have been clearing the goods after duly examining the documents and details provided by the Appellant from time to time. Further, the classification adopted by the Appellant was in accordance with General Rules of Interpretation, Board's circular and decisions of various judicial fora. Therefore, the finding in the impugned order that the Appellant have wilfully mis-classified the goods is factually incorrect. Further, the Appellant have clearly given the description of the products in the bills of entry. Before the clearance of the goods, the same was inspected by the Customs officials. After verification of the product and approving the classification mentioned in the bills of entry the Appellant have cleared the goods on payment of applicable duties. Hence, it cannot be held that the Appellant have wilfully mis-declared or mis-classified the goods.

12. Ld. Counsel submits that it is settled law that longer period cannot be invoked in a case of classification where the assessee under bonafide belief has classified the products under one heading. The entire issue is of legal interpretation and in cases involving interpretation of law, longer period of limitation cannot be invoked. Reliance is placed on the decisions in ***Uniworth Textiles Ltd. Vs. CCE., Raipur,2013 (288) ELT 161 (SC),Shakti Tech Manufacturing India Pvt. Ltd. Vs. CCGST &***

CE,2025-TIOL-137-CESTAT-MAD, Aureole Inspecs India Pvt. Ltd. Vs. PCC., New Delhi, 2023 (8) TMI 565-CESTAT NEW DELHI, Densons Pultretaknik Vs. CCE, 2003 (155) ELT 211 (SC), Wipro Ltd. Vs. CCE., Aurangabad,2005 (179) ELT 211 (Tri.-Mumbai) and L.G. Balakrishnan & Bros Ltd. Vs. CC(Imports), Chennai, 2024 (389) ELT 117 (Tri.-Chennai) in this regard.

13. Ld. Counsel submits that since the entire issue is on legal interpretation of Tariff Heading the goods imported by the Appellant are not liable for confiscation and therefore redemption fine imposed is liable to be set aside. Reliance is placed on the decision in ***Aureole Inspecs India Pvt. Ltd. Vs. PCC., New Delhi, 2023 (8) TMI 565 CESTAT, New Delhi***.

14. It is also submitted that the penalty is imposed under Section 114 A and 114 AA are liable to be set aside. The Ld. Counsel prayed that the appeal may be allowed with consequential relief.

15. Shri Anoop Singh, Ld. Authorised Representative appeared on behalf of the Respondent and reiterated the findings of the Ld. Adjudicating Authority in the impugned order. It is submitted that the Appellant's submission is that the subject goods are parts of lift and merit classification under Tariff Item 84313100 as it includes parts of lifts, skip hoists or escalators and relying on Section Note 2 of Section XVI. Whereas it is the Revenue's case that if the item is not covered under the exception list mentioned in Section Note 1, only then can the goods be classified under CTH 84. The impugned goods get excluded by virtue of Note 1(g) (Bolt, Nut, Chain, Angle Steels, Clip, Fish Plate, Rope, Spring, Washer); Note 1(a) (Belt); Note 1(o) (Brush); Note 1(k) (Clamp, Hinge, Door Lock) etc. The Appellant's contention placing reliance on Rule 2(a) of GIR is incorrect as it is not the appellant's case that parts imported in the present case constitute unassembled or disassembled "Parts suitable for use solely or principally with machinery of heading 8428/Lifts or Escalators" as they don't fulfil the conditions stipulated therein to be classified as complete or finished goods. The parts as imported are insufficient to constitute a Lift/Parts of Lifts in an unassembled or disassembled condition. Reliance was placed on the decisions in ***Pioneer Embroideries Ltd v CC, Mumbai, 2004 (6)TMI 224-Cestat Mumbai,***

affirmed by Apex Court in 2015(8) TMI 1048-Supreme Court and Sony India Ltd v CC, ICD, New Delhi, 2002 (5) TMI 305-Cegat, New Delhi, affirmed by Apex Court in 2008 (9) TMI 19- Supreme Court and Otis Elevator Company (India) Ltd v CCE, Mumbai V, 2017 (9) TMI 921-Cestat Mumbai. Ld. Authorised Representative prays that the OIO be upheld and the appeal be set aside.

16. We have heard the rival submissions at length, perused the appeal records and decisions submitted.

17. The issue that arises for our consideration is whether the rejection by the Adjudicating Authority, of the classification of the imported goods as adopted by the Appellant, its consequent reclassification, and demand of duty as well as attendant penal detriments with which the appellant was visited by the impugned order, is tenable.

18. Undisputedly it has been the consistent stand of the appellant before the authorities that the appellant is a manufacturer of Lifts and Escalators and are engaged in the business of turnkey projects of installation and commissioning of lifts and escalators. It is the appellant's case that they have imported parts required to install such lifts/escalators according to the purchase orders placed on them. They in turn place back to back orders with the overseas vendors. All the goods under dispute have been purchased from manufacturers engaged exclusively in the manufacturing of parts of lifts/elevators/escalators. The foreign suppliers have classified all the products imported by the appellant as parts of escalators/lifts under CTH 8431 and the Certificate of Origin issuing authority of the exporting country has also certified the description and classification of the products imported. The consignment is received at the ports in containers and the bills of entry are filed under the Chapter Heading 8431 as the entire consignment is used in the erection, installation and commissioning of lifts/escalators. It is the specific stand of the appellant that they do not have any other activity other than such erection, installation and commissioning of lifts and escalators and as such these parts cannot be used elsewhere other than lifts and escalators. It is also seen from the appeal records that pursuant to the intimation of the Final Audit Report after completion of the Audit calling upon

the appellant to put forth its contentions, the Appellant vide its reply dated 14th March 2022 had submitted an exhaustive and detailed submissions contending that all the items imported are parts exclusively used for escalators/lifts and cannot be used elsewhere, along with photographs of each of the items in dispute. It was also submitted, inter-alia, that angle steel articles are uniquely numbered for each of the design and are customised, the angles come with pre-drilled holes, the bolts and nuts are specific to the industry and are of special type which cannot be used for other applications, the belts imported are not made from vulcanized rubber etc. It was also pointed out that most of the classifications proposed by audit was under "others" i.e. residual CTH Code under most of the headings and ignores the underlying reality of the appellant's nature of business. In the reply to the SCN filed by the appellant, apart from reiterating the aforesaid contentions as the factual position, the appellant also contended that their classification of the imported goods under the chapter heading 8431 is in consonance with the Board's Circular dated 19.04.1989 issued pertaining to classification of lifts and parts thereof. Reliance was also placed, inter-alia, on the Judgements of the Apex Court in ***Cast Metal Industries (P) Ltd v CCE Kolkata, 205 (325) ELT 471 (SC)*** and ***G.S.Auto International Ltd v. CCE, Chandigarh, 2003 (152) ELT 3 (SC)***, in support of the appellant's submissions. The Appellant had also submitted that regular import of these items have been made and all these years the Department had never raised any dispute whatsoever with the Appellant.

19. In this backdrop, we note the classification adopted by the appellant impugned in the Notice, is under Chapter Heading 8431 which pertains to the Description of goods "Parts suitable for use solely or principally with the machinery of headings 8425 to 8430" and particularly below the description '-' *of machinery of heading 8428,* against Tariff Item 84313100 which pertains to the Description of goods " – Of lifts, skip hoists or escalators."

20. Further, the Section Notes of Section XVI, is as under:

" 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 4010), 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 4016);
(b) Articles of leather or of composition leather (heading 4205) 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 5910) or other articles of textile material for technical uses (heading 5911);
(f) precious or semi-precious stones (natural, synthetic or reconstructed) of headings 7102 to 7104 or articles wholly of such stones of heading 7116 except unmounted worked sapphires and diamonds for styli (heading 8522);
(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 8207 or brushes of a kind used as parts of machines (heading 9603), 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 6804 or 6909);
(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 9612 if inked or otherwise prepared for giving impressions), or monopods, bipods, tripods and similar articles, of heading 9620.

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 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

(a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473,

8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings:

(b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466. 8473, 8503, 8522, 8529 or 8538 as appropriate, However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517

(c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548.

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."

21. At this juncture, it is apposite to reproduce in extenso from the recent **Judgement of the Honourable Supreme Court delivered on January 06, 2026, in the case of Commissioner of Customs (Import) v. M/s. Welkin Foods, reported as 2026 INSC 19**, which has analysed the entire gamut of the fundamental concepts that govern classification of goods imported into India. The relevant portions of the analysis are as under:

" 17.We recognise that classification disputes, particularly in the Harmonised System Nomenclature (hereinafter referred to as"**HSN**") era, are inherently complex and require careful consideration of an intricate set of notes and interpretation rules. Given this complexity, and to accurately resolve the issue before us, we find it essential to first examine the specific aspects relevant to classification disputes, such as:

a. First, when addressing classification disputes under taxation law, this Court has often had to resort to the common parlance or trade parlance test to interpret the meaning of words in the statute. However, the adoption of the common parlance or trade parlance test is often heavily contested. Therefore, it is vital for us to consider and determine the circumstances in which this Court has, in various decisions, deemed it appropriate to rely on the common parlance test and those in which it has not. This will help us understand whether, in the facts of this case, the common or trade parlance test should be applied to interpret the meaning of the words in the tariff heading.

b. Secondly, as contested in this case, the consideration of end use as a factor for determining classification is a contentious issue in many classification disputes. Consequently, it is essential to understand whether end use can be taken into account when dealing with classification disputes of imported goods under the First Schedule of the Act, 1975, and if so, what principles govern such consideration.

18. Before addressing the specific issues referred to above, **we find it appropriate and necessary to discuss certain fundamental concepts related to the classification of goods imported into India.**

i. Classification under the Act, 1962 and the Act, 1975

19. Section 12 (1) of the Act, 1962, serves as the primary charging section for customs duties in India. It states as follows:

> *12. Dutiable goods - (1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the [Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from India.*

20. The Act, 1975, came into force on 02.08.1976, replacing the Indian Tariff Act, 1934, and its amending acts. The First Schedule of the Act, 1975, now governs the classification of imported goods in India. Whereas the Second Schedule of the Act, 1975 deals with export tariff. Section 2 of the Act, 1975, states that the rates at which customs duties are levied under the Act, 1962, are specified in the First and Second Schedules of the Act, 1975, respectively. It states as follows:

2. Duties specified in the Schedules to be levied. - The rates at which duties of customs shall be levied under the Customs Act, 1962 (52 of 1962), are specified in the First and Second Schedules.

21. Section 2 of the Act, 1975, is subordinate to Section 12 of the Act, 1962, and does not operate as an independent charging section. The provisions of both Acts must necessarily be read together.

22. The First Schedule of the Act, 1975, was originally based on the Brussels Tariff Nomenclature. By Act 8 of 1986, this was amended to adopt the Harmonised Commodity Description and Coding System, commonly known as the Harmonised System Nomenclature. The HSN is an internationally standardised classification system developed by the World Customs Organisation. It provides a structured way to classify traded goods using a standardised numerical code framework. The HSN comprises more than 5,000 commodity groups, each identified by a six-digit code, arranged in a logical and legal framework supported by well-defined rules to achieve uniform classification.

23. The HSN is utilised by over 200 countries as a foundation for their Customs tariff and ensures uniformity in customs procedures, promoting international trade by providing a common language for identifying and categorising goods across various jurisdictions.

24. In the First Schedule of the Act, 1975, commodities are arranged in a fixed pattern with the duty rates specified against each item. The First Schedule is divided into sections, which are further subdivided into chapters. Each section and chapter also includes its respective notes, known as Section Notes and Chapter Notes, respectively. The First Schedule of the Act, 1975, consists of 21 Sections and 98 chapters.

25. A section is a group consisting of a number of chapters which codify a particular class of goods. The Section Notes clarify the scope of chapters, headings, and other elements. The chapters include chapter notes and a brief description of commodities, arranged at four-digit, six-digit, and eight-digit levels. Each four-digit code is called a ‘heading’, each six-digit code is called a ‘subheading’, and an eight-digit code is called a ‘Tariff Item’. The HSN provides commodity/product codes and descriptions only up to the 4-digit (Heading) and 6-digit (Sub-heading) levels. Member countries of WHO are permitted to extend the codes to any level, provided that no changes are made at the 4-digit or 6-digit levels. India has developed an 8-digit

classification to specify particular statistical codes for indigenous products and also to monitor the trade volumes.

26. **Customs classification is best described as the process of identifying the appropriate heading, subheading, or tariff item for a good. This is the most crucial step in the customs law, as it is not just an administrative task. Instead, the classification determines the legal and financial treatment of the goods in question, including the applicable duty rate and eligibility for exemptions.**

(a) General Rules of Interpretation

27. The First Schedule of the Act, 1975, outlines the principles that govern the classification of goods under the schedule and are commonly referred to as the General Rules for Interpretation (hereinafter referred to as "**GRI**"). They are as follows:

1. The titles of Sections, Chapters and Sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions.

2. (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 article 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.

2. (b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) the heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified, as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) when goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

5. In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein:

(a) camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This rule does not, however, apply to containers which give the whole its essential character;

(b) subject to the provisions of (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.

6. For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those sub-headings and any related subheading Notes and, mutatis mutandis, to the above rules, on the

understanding that only sub-headings at the same level are comparable. For the purposes of this rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

28. **GRI 1 is the fundamental rule for effectively navigating the HSN. The influence of GRI 1 is pervasive and forms the basis for customs classification of goods under the Act, 1975. GRI 1 states that: (i) headings of sections, chapters and subchapters are for reference only and (ii) for legal purposes, the classification shall be determined by the terms of headings and the relevant section or chapter notes. Thus, GRI 1 essentially establishes the primacy of the notes and terms of headings for determining the classification of a product.**

29. GRI 2 (a) is expanding the terms of a heading to include (i) incomplete or unfinished goods, as long as the essential character of the complete or finished article is obvious from the goods as presented at the time of importation; or (ii) goods presented in unassembled or disassembled form. [See ***Collector of Customs, Bangalore & Anr v. Maestro Motors Ltd. & Anr***, reported in **(2005) 9 SCC 412,** ***Commissioner of Customs, New Delhi v. Sony India Limited***, reported in **(2008) 13 SCC 145** and ***Salora International Limited v. Commissioner of Central Excise, New Delhi*****,** reported in **(2012) 9 SCC 662**]

30. GRI 2 (b) deals with mixtures consisting of different materials or substances and goods that are produced from different materials or substances. GRI 2 (b) states that a reference in a heading to: (i) to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances and (ii) goods of a given material or substance shall include a reference to goods consisting wholly or partly of such materials or substance. Lastly, those mixtures or goods that consist of mixtures of different materials or substances are classified according to GRI 3.

31. GRI 3 is the rule that acts as a tie breaker when, by application of GRI 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings. Such classification shall be based on the following

    a. As per GRI 3(a), a heading with a more specific description of goods is preferred to a heading with a more general description of goods. However, GRI 3(a) cannot be applied to decide classification when two

or more headings each refer to only part of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale. Each of those headings is to be regarded as equally specific in relation to those goods, even if one gives a more complete or precise description of the goods. The decision of classification will then be made based on GRI 3(b) or GRI 3(c). [See ***CCEC & ST, Vishakhapatnam v. Jocil Limited***, reported in **(2011) 1 SCC 681**]

b. GRI 3(b) concerns the decision for mixtures and goods that consist of different materials or components and for goods put up in sets for retail sale, which cannot be classified by reference to GRI 3(a). The classification shall be determined by the material, substance or component that gives them their essential character, insofar as this criterion is applicable. The criterion that gives goods their essential character differs according to the type of goods. The material or substance, its contents, its amount, its weight, its value or the value of a material for its usage can determine this.

c. GRI 3(c) is applicable only when a classification according to GRI 3(a) and GRI 3(b) was not possible. Consequently, the goods are placed in the heading which occurs last in numerical order among those which equally merit consideration.

32. GRI 4 is invoked very rarely, as many classification disputes are resolved through the application of GRIs 1-3, thereby making it needless to invoke GRI 4. GRI 3 and GRI 4 are mutually exclusive, as once the analysis enters the arena of GRI 3, GRI 4 cannot be invoked, as the dispute would ultimately be resolved by GRI 3(c). GRI 4 is essentially a failsafe rule, an option of last resort, intended to ensure that an HSN provision can be found for even the most unusual product. Under GRI 4, goods are classified under the heading appropriate to the goods to which they are most akin. Thus, kinship is the sole evaluative criterion allowed under GRI 4.

33. GRI 5 is a special rule of interpretation that pertains only to the classification of cases and packing materials.

34. GRI 6 is a procedural rule that explains how to classify a good after the correct 4-digit heading has already been found. In simple terms, it states that the exact same principles from GRI 1 to 5 must be applied again, mutatis mutandis, to determine the correct subheading within that heading.

Classification at the sub-heading level is governed by the specific terms of the sub-headings and any sub-heading notes, with the critical condition that only subheadings at the same level can be compared.

35. **The primary purpose of the GRIs is to establish mandatory boundaries for any classification inquiry, ensuring a structured, uniform, and predictable approach to classification. It is essential not to treat these GRIs as a menu of options that can be invoked randomly, but rather as a legal framework that dictates a precise and sequential methodology for classifying all goods.**

36. **This Court has repeatedly reiterated that GRIs 1-4 must be applied sequentially.** [See ***Commissioner of Central Excise, Nagpur v. Simplex Mills Co. Ltd.***, reported in **(2005) 3 SCC 51** and ***Secure Meters Limited v. Commissioner of Customs, New Delhi***, reported in **(2015) 14 SCC 239**]. **GRI 1, which gives primacy to the headings and notes, is the non-negotiable starting point. GRI 2, which deals with incomplete, unassembled or composite goods or mixtures, often acts as an extension of GRI 1, by deeming the headings to include incomplete/unassembled goods or mixtures or combinations of a material or substance. GRI 3 is only invoked when the application of GRI 1 and/or GRI 2 results in a good being prima facie classifiable under two or more competing headings. GRI 3 exists solely to resolve this tie. GRI 4, the rule of last resort, is mutually exclusive to GRI 3 and is only invoked if GRI 1 and 2 have failed to find even one possible heading for the good. To illustrate, let us take the analogy of "locked doorways":**

    a. **Classification begins and, in most cases, ends at the first door: GRI 1.**

    b. **If, upon applying GRI 1 and/or GRI 2, the result is a *tie* between two or more headings, the key to the GRI 3 door is granted to find the tie-breaker. Further, once the door to GRI 3 is unlocked, the subsequent doors to GRI 3(b) and GRI 3(c) are also unlocked in a sequential manner, i.e., the door to GRI 3(b) unlocks only when the dispute is not resolved through application of GRI 3(a), and similarly door to GRI 3(c) unlocks only when the dispute is not resolved through application of GRI 3(b)**

c. If, upon applying GRI 1 and/or GRI 2, the result seems to be that no heading applies at all, the key to the GRI 4 door is granted to find the "most akin" good.

(b) Role of HSN Explanatory Notes

37. The official interpretation of the HSN is provided in the Explanatory Notes published by the World Customs Organisation (hereinafter "**Explanatory Notes**"). Therefore, these Explanatory Notes form the foundation for interpreting the HSN. Given their importance for classification, it is apposite to understand how they can be used when addressing questions of classification under the First Schedule of the Act, 1975.

38. This Court, in ***Commissioner of Central Excise, Salem v. Madhan Agro Industries (India) Private Ltd.***, reported in **2024 SCC OnLine SC 3775**, while dealing with a classification dispute under excise law, made the following pertinent observations regarding consideration of the Explanatory Notes:

> "***16.*** *Ergo, in resolving disputes relating to tariff description and classification, a ready reckoner is the internationally accepted nomenclature in the HSN. That being said, we must hasten to reiterate what was pointed out in Wood Craft Products Ltd.. If the headings/entries in the First Schedule to the Act of 1985 are different from the headings/entries in the HSN or if they are not fully aligned, reliance cannot be placed upon the HSN for the purpose of classifying those goods under the Act of 1985.*
>
> ***17.*** *To sum up, the First Schedule to the Act of 1985 is based on the HSN, which is an internationally standardized system developed and maintained by the World Customs Organization for classifying products, and unless the intention to the contrary is found within the Act of 1985 itself, the HSN and the Explanatory Notes thereto, being the official interpretation of the Harmonized System at the international level, would be of binding guidance in understanding and giving effect to the headings in the First Schedule. It is only when a different intention is explicitly indicated in the Act of 1985 itself that the HSN would cease to be of guidance. In effect, the legislative intention to depart from the HSN must be clear and unambiguous. For instance, in Camlin Ltd. v. Commissioner of Central Excise, Mumbai, this court found that there was an inconsistency between the Central Excise Tariff description and*

the entry in the HSN and, therefore, reliance upon the HSN entry was held to be invalid. It was affirmed that it is only when the entry in the HSN and the tariff description in the First Schedule to the Act of 1985 are aligned that reliance would be placed upon the HSN for the purpose of classification of such goods under the correct tariff description."

(Emphasis Supplied)

Thus, in ***Madhan Agro*** (*supra*), this Court clarified the applicability of the Explanatory Notes. Their application is governed by a single, critical condition of 'alignment'. This test is met when the domestic tariff entry (in the First Schedule of the Act, 1975) is fully aligned with the corresponding HSN heading, and no explicit deviation or contrary legislative intent is found in the Act, 1975. Where such alignment exists, the Explanatory Notes are to be treated as binding guidance. The rationale is based on the legislative intent. Since the First Schedule of the Act, 1975 was amended to be in accordance with the HSN, the Explanatory Notes, being the official, international interpretation, are the most authentic guide to understanding the scope of the headings." **(Emphasis Supplied)**

22. The Honourable Apex Court, in the aforecited **Judgement in the case of Commissioner of Customs (Import) v. M/s. Welkin Foods, reported as 2026 INSC 19**, **delivered on January 06, 2026,** thereafter dwelt on the applicability of the common parlance test in classification disputes, prefacing its discussions as under:

"40. **It is a well-established principle of statutory interpretation, as repeatedly affirmed by this Court, that when a particular term in a taxing statute is not defined, it should be understood in the sense recognised by those who deal with it. The common parlance, trade parlance, and popular parlance tests are all iterations of this fundamental rule. For the sake of ease of reference, we would generally refer to the test as the 'common parlance test'. However, it is clarified that any reference to 'common parlance' shall be construed to include trade, commercial, or popular parlance, if the context may require so.**

41. **The rationale behind this principle is that the purpose of a fiscal statute is to generate revenue, and the legislature assumes it is addressing the public and traders, not scientists or technical experts.**

Therefore, the terms used in the statute are based on the understanding of those dealing with the said goods. If a specific scientific meaning had been intended, the statute would have included an explicit definition to that effect. [See ***Indo International Industries v. Commissioner of Sales Tax, Uttar Pradesh, reported in (1981) 2 SCC 528, Pappu Sweets and Biscuits v. Commissioner of Trade Tax, U.P., reported in (1998) 7 SCC 228, Asian Paints India Ltd v. Collector of Central Excise, reported in (1988) 2 SCC 470, and United Offset Process (P.) Ltd v. Asst. Collector of Customs, Bombay, reported in 1989 Supp (1) SCC 131]***

42. For the purposes of understanding the considerations that weighed with this Court while applying the common parlance test in classification disputes, it is necessary to analyse the relevant case law carefully. For the clarity of exposition, the case law discussed is divided into two broad categories: (a) cases where the common parlance test was applied; and (b) cases where the common parlance test was not applied."

23. After discussing a plethora of case laws in both the categories, namely, where the common parlance test was applied and where it was not applied, the Apex Court, in the aforecited **Judgement in the case of Commissioner of Customs (Import) v. M/s. Welkin Foods reported as 2026 INSC 19**, then expressed its cognizance of the frequent classification disputes being encountered by the Tribunal and laid down certain principles that would apply. The aforesaid expression of cognizance and the principles laid down are reproduced below:

63. Tribunals frequently encounter classification disputes in which the importer or manufacturer asserts that the subject goods possess a distinct commercial identity, warranting a classification that is independent of their common or popular understanding. Upon reviewing this Court's observations in **Connaught Plaza** (supra), **Reliance Cellulose** (supra) and **O.K Play** (supra), respectively, the following settled principles emerge regarding such claims of separate commercial identity: (i) first, if the importer or manufacturer claims that a special meaning is attributed to the goods in the market, then the burden lies on such importer or manufacturer to prove this specialised meaning, distinct from its common or commercial understanding; and (ii) secondly, such a specialised meaning cannot be established solely on the basis of the product's marketing and nomenclature in the market.

64. As per this Court's observations in ***Indian Tool Manufacturers*** (supra), it is clear that the mere fact that a product constitutes a sub-type of a broader category does not, by itself, establish a separate commercial identity for classification purposes. To succeed in such a claim, the importer or manufacturer must establish that the product has undergone such a substantial transformation that it can no longer be identified with the general class of goods of a category, but must instead be recognised as a distinct commercial entity.

65. **We wish to emphasise that the operative standard is one of 'substantial' transformation, rather than merely 'incidental' modification. Simple incidental changes, which do not fundamentally alter the nature and character of the goods, do not suffice to remove a product from the grasp of its general class or the common or commercial meaning associated with that class. While the determination of a substantial transformation is inherently fact-specific, as is evident from this court's ruling in *Indian Tool Manufacturers* (supra), the inquiry must focus on whether there are major differences in the design, utility, nature, character, and functions of the good** [See ***Camelbak Products, LLC v. United States***, reported in **649 F.3d 1361**].

(c) Summary

66. **Based on the aforementioned case law, the following governing principles can be culled out with regard to the application of the common or trade parlance test while dealing with classification disputes under taxation laws:**

a. The common or trade parlance test must be applied restrictively. Its function is limited to ascertaining the common or commercial meaning of a term found within a tariff heading or its defining criterion.

b. **The trade or common parlance test can be invoked when dealing with a classification dispute only when the following conditions are satisfied.**

i. The governing statute, including the relevant tariff heading, Section Notes, Chapter Notes, or HSN Explanatory Notes, does not provide any explicit definition or clear criteria for determining the meaning and scope of the tariff item in question.

ii. The tariff heading does not include scientific or technical terms, or the words used in the heading are not employed in a specialised, technical context.

iii. The application of the common parlance test must not contradict or run counter to the overall statutory framework and the contextual manner in which the term was used by the legislature.

Thus, broadly speaking, the common or trade parlance test cannot be invoked where the statute, either explicitly or implicitly, provides definitive guidance. Explicit statutory guidance exists where the legislature provides a specific definition or a clear criterion for a term within the Act itself. Conversely, implicit guidance is found where the terms employed are scientific or technical in nature, or where the statutory context indicates that the words must be construed in a technical sense. **It is only in a state of statutory silence, where the legislative intent remains unexpressed, that the tribunals or courts may resort to the common or trade parlance test.**

c. In the contemporary HSN-based classification regime, the common or trade parlance test cannot serve as a measure of first resort. It should only be employed after a thorough review of all relevant material confirms the absence of statutory guidance.

d. When interpreting terms in a tariff item by relying on the basis of common or trade parlance, an overly simplified approach should be avoided, and the words should be understood within their legal context. Further, when a party asserts a meaning of a term based on common or trade parlance, it must present satisfactory evidence to support that claim.

e. **When a tariff item is general in nature and does not indicate a particular industry or trade circle, the common parlance understanding of that term is appropriate. However, when a tariff item is specific to a particular industry, the term must be understood as it is used within that specific trade circle**."

24. Again, the Hon'ble Apex Court in its aforementioned Judgement in **the case of Commissioner of Customs (Import) v. M/s. Welkin Foods reported as 2026 INSC 19**, went on to examine the consideration of "use" when determining classification under the Customs Tariff Act, 1975. After stating in para 69 thus:

"69. Whether or not the purpose for which goods are used can be considered while deciding on their classification under fiscal statutes is often a highly debatable issue. As with all classification disputes, the parties' position regarding use depends on a single factor: the rate of the taxable duty.

> Importers, manufacturers, and traders will invoke 'use' when it allows them to have the goods taxed at a lower rate. Conversely, the revenue authorities will seek to invoke use when they see the possibility of taxing the goods at a higher rate."

the Apex Court went on to examine cases where there were explicit reference to 'Use' or 'Adaptation' in the Tariff Heading and after analysing Dunlop India case (1983 (13) E.L.T. 1566 (S.C.), observed as under:

> "73. While the judgment of this Court in ***Dunlop India*** (supra) was delivered in the pre-HSN era, **it laid down two principles governing classification under the customs law which remain relevant even in the HSN era. They are: (i) evaluation and classification of goods based on their condition at the time of import, generally referred to as the 'as imported' principle; and (ii) consideration of 'use' only when reference to use or adaptation is provided in the tariff heading**. It is apposite to discuss a few other judgments of this Court to understand how the aforementioned principle concerning 'use' has been applied while dealing with classification disputes under various fiscal statutes."
>
> 74. In ***Indian Aluminium Cables*** (*supra*), this Court addressed the classification of 'Properzi Rods'. The department argued that Properzi Rods were 'aluminium wire rods' and thus fell under Entry No. 27(a)(ii) of the First Schedule to the Central Excises and Salt Act, 1944. Entry No. 27(a)(ii) states: *Aluminium – wire bars, wire rods, and castings, not otherwise specified.* Conversely, the appellants maintained that Properzi Rods were a distinct product, not commercially known as wire rods, differing in manufacturing process and use, and therefore should be classified under the residuary heading, namely Entry No. 68. The Court dismissed the appeal, ruling that Properzi Rods are a species of "wire rods" and correctly fall under Entry No. 27(a)(ii). Moreover, the Court held that the use to which a product is put "*cannot necessarily be determinative of the classification of that product under a fiscal schedule like the Central Excise Tariff". According to the Court, what was more significant was to ascertain if the "broad description of the article fits with the expression used in the Tariff".*

75. In **Indian Aluminium Cables** (supra), this Court's reluctance to consider the use of the subject article must be understood in the context of the entry being dealt with therein, i.e., Entry No. 27(a)(ii). Like in **Dunlop India** (supra), this Court in **Indian Aluminium Cables** (supra) was also dealing with an 'eo-nomine' tariff entry. **An eo-nomine tariff entry is one that describes a commodity by a name rather than by its use. Generally, an eo-nomine tariff entry, with no terms of limitation, will usually include all forms of a named article.** On examining Entry No. 27(a)(ii), it is clear that it covers all forms of aluminium wire bars, aluminium wire rods, and aluminium casting, regardless of their use. Consequently, the Court concluded that 'Properzi Rods' were nothing but a species of aluminium wire rods.

76. In ***Kumudam Publications*** (*supra*) this Court was tasked with determining the correct classification of printing plates imported by the assessees under the Act, 1975. It was the Department's case that these goods fell under Chapter 37.01/08. On the other hand, the assessees contended that the printing plates were properly classifiable under Chapter Heading 84.34. Chapter Heading 37.01/08 broadly covered photographic plates and films, whereas Chapter Heading 84.34 pertained to machinery, apparatus, and accessories for printing purposes, including printing blocks, plates, and cylinders. The Court classified the goods under Chapter 84.34, after coming to the conclusion that the imported goods, in terms of their end use, character and nature, were goods employed in the printing of newspapers and magazines. **The Court further held, citing *Indian Tool Manufacturers* (*supra*), that the end use or function of a good is not always irrelevant for classification purposes. The Court's approach was aligned with the principle established in *Dunlop India* (supra), especially since the case involved Chapter Heading 84.34, which expressly included references to use, as it covered various machinery and apparatus prepared 'for printing purposes'.**

77. **The principle established in *Dunlop India* (supra), which limits the consideration of 'use' to cases where the tariff entry itself explicitly refers to use or adaptation, must be interpreted within the framework of the HSN. Under the HSN, GRI 1 gives legal force to the Section and Chapter Notes, which frequently contain binding definitions or specific criteria for classification. It is**

plausible, and in fact common, that such statutory definitions or criteria explicitly mention 'use'. In these cases, 'use' becomes a relevant consideration for classification, not in breach of the principle from *Dunlop India* (supra), but as a natural outcome of the statutory text.

78. A clear illustration of the aforesaid is the catena of decisions of this Court concerning the classification of goods as 'Medicaments' under the Central Excise Tariff Act, 1985. We are not presently concerned with the specific facts of those cases or all the factors that this Court considered while resolving the classification disputes in those cases. **Our focus is solely on the fact that, for the purposes of chapter heading 30.03, medicaments were referred to as goods for "therapeutic or prophylactic uses". Therefore, it is clear that 'use' is a relevant consideration while determining a goods classification under chapter heading 30.03.** Accordingly, in such cases, the Court examined whether the goods in question were primarily intended for "therapeutic or prophylactic uses". [See ***Commissioner of Customs, Central Excise and Service Tax v. Ashwani Homeo Pharmacy*****,** reported in **2023 SCC OnLine SC 558**, ***Puma Ayurvedic Herbal (P) Ltd v. Commissioner, Central Excise, Nagpur***, reported in **(2006) 3 SCC 266** & ***Commissioner of Central Excise v. Wockhardt Life Sciences Limited***, reported in **(2012) 5 SCC 585**]" **(emphasis supplied)**

25. The Hon'ble Supreme Court, continued to explore the 'Use' or 'Adaptation' inherent in the Tariff Heading by dwelling still further on ***Indian Tool Manufacturers v. CCE,*** reported in **1994 Supp (3)SCC 632**, and ***Commissioner of Central Excise, Delhi vs Carrier Air*****con** ***Ltd***, reported in **(2006) 5 SCC 596**, and observed as under:

"81. This Court's observations in ***Indian Tool Manufacturers*** (*supra*) and ***Aircon*** (*supra*), at first blush, seem to be at odds with the use principle established in ***Dunlop India*** (*supra*). This is because the tariff headings considered there seem to be 'eo-nomine' headings, such as 'tool tips', and 'air conditioning machines', which restrict the consideration of how the goods are intended to be used for classification purposes. However, this Court appears to have taken into account the intended use of the goods by considering the 'function' of those goods. **As laid down above, an eo-nomine provision describes a good by its name, not by its**

use, and thus functions that a good performs are irrelevant considerations when dealing with eo-nomine tariff provisions. However, the Court's approach in *Indian Tool Manufacturers* (*supra*) and *Aircon* (*supra*) is not in breach of the principle set out in *Dunlop India* (*supra*), as it is clear that the tariff headings in consideration therein refer to use or adaptation that is inherent. Thus, reference to use or adaptation in a tariff heading can be explicit or implicit.

82. Let us examine this concept of inherent use more carefully. An inherent reference to 'use' or 'adaptation' in a tariff heading may possibly be present in these two scenarios:

a. **Firstly, the language of the tariff heading or the supporting chapter and section notes is inherently indicative of consideration of use. For example, a heading that reads as 'refrigerating or freezing equipment' or 'tool tips' inherently refers to 'use' in the form of 'function' (refrigeration or freezing and cutting or working point of a larger tool, respectively). Consequently, use can be considered a factor when classifying goods under this heading. Another example is the heading, which reads, "Motor vehicles principally designed for the transport of goods." This clearly indicates consideration of "use" (transportation of goods), albeit such consideration of use should be primarily derived from the design features of the good.**

b.**Secondly, in cases where the common or commercial meaning adduced to the eo-nomine good provided for in the tariff heading is such that the 'use' of the article is an important and defining component of an article's identity. For example, the common parlance meaning of 'air conditioning machines' would indicate that the 'use' of an 'air conditioning machine' is an important and defining component of its identity**.

83. **The core method used in *Aircon* (*supra*) to identify the intended use of goods was through examining the product's function. This is because a product's function is often the clearest indicator of its intended use** [See ***Atul Glass Industries (Pvt) Ltd. & Ors v. Collector of Central Excise & Ors,*** reported in **(1986) 3 SCC 480 &** ***Thermax Ltd v. Commissioner of Central Excise, Pune-1*****,** reported in **(2022) 17 SCC 68]. This function-focused approach offers one**

way to determine intended use. However, it should be noted that function is not the only criterion. Depending on the specific tariff item and relevant statutory context, intended use can also be assessed through other objective factors, such as design features and composition. These factors may be considered individually or together, as demonstrated in *Indian Tool Manufacturers* (*supra*), where the Court examined not only the function but also the design features of the throw-away inserts.

Actual Use and Objective Characteristics and Properties

84. **Furthermore, two other aspects that are clearly evident after reading the Court's observations in *Indian Tool Manufacturers* (*supra*) and *Aircon* (*supra*) are as follows: (i) the actual use to which a product is put is irrelevant for determining classification and only intended use can be considered and (ii) if an imported or manufacturer wishes to classify based on the intended use of the product, then such 'intended use' must be inherent in the product and should be discernible from the objective characteristics and properties of the good in question.**

85. **The twin factors mentioned should be regarded as fundamental principles while determining the classification of a product under the First Schedule of the Act, 1975. This is because, according to Section 12 of the Act, 1962, it is evident that the goods are taxable at the point of import. Therefore, as recognised by this Court in *Dunlop India* (*supra*), what is crucial is the condition of the goods at the time of import, which is the taxable event under the Act, 1962. By excluding consideration of actual use and subjective intentions regarding use, it is ensured that classification aligns with the taxable event. Actual use can be considered only in those rare instances where there is overwhelming statutory evidence to that effect.**

86. **Furthermore, relying on 'objective characteristics and properties' ensures legal certainty and ease of verification. The core of the principles outlined above is to prevent 'subjectivity' from influencing classification disputes. Reckless and unfounded consideration of subjective elements can lead to a cascade of**

issues in classification, as such elements may be used as a shield to import goods at a lower duty.

Standard of Intended Use

87. **A further issue concerns the standard of intended use that an importer must establish. This standard varies, depending on the exact wording and legal context of the tariff heading itself. The burden on the importer is to show that the product's intended use, supported by its objective features, aligns with the specific standard set by the statute.** Let us understand this through a set of hypothetical illustrations:

a. A tariff heading might cover "Motor vehicles principally designed for the transport of goods". If an importer seeks classification under this heading, it is not enough to merely prove the vehicle can *carry* goods. The law itself defines the standard. The importer must demonstrate, using objective evidence of the vehicle's design and features, that its principal use is to transport goods.

b. An importer imports certain LCDs and wants to classify them under the heading "Electricity meters". The relevant chapter contains a note that states parts or accessories must be classified under the same heading that describes the final good if they are intended to be used solely in such final good. In such a situation, to classify the goods under the heading of "Electricity meters", the importer has to satisfy that the LCDs were such that they could solely be used in electricity meters.

88. **Upon a bare textual reading of the several headings and chapter/section notes in the Act, 1975, it is clear that for headings in which use is the main consideration or a descriptive factor, the legislature has generally provided a standard of use that is necessary to be achieved by a good to be classified in the said headings. If the notes mandate 'sole use', then the good must be such that it can be used only for the purpose envisaged by the heading. Alternatively, if the standard is of 'principal use', then the good must be such that it is used predominantly for the purpose envisaged by the heading. Whether the good meets the**

standard so stipulated can only be decided on a case-to-case basis.

89. **In the same breath, we must also clarify that, where the statute is silent as to the applicable standard of use for headings, then the statutory context of the said tariff heading, i.e., the relevant section and chapter notes, have to be perused to gauge the legislative intent with regard to standard of use i.e. whether the standard of use is that of simpliciter use, principal use or sole use. Generally, consideration of 'use' in most situations would involve providing proof of at least 'principal' use**.

Interlinking consideration of 'use' and the common and commercial meaning of a good

90. **From the preceding discussion, it is evident that the consideration of 'use' and the common or commercial meaning of a good are often inextricably linked. In many instances, the two do not operate in isolation but rather reinforce one another to provide a comprehensive understanding of a product's identity.** This interlinkage manifests in two primary ways.

91. First, in cases involving explicit 'use' provisions, the common or commercial meaning is frequently employed to define the scope of the 'use' mandated by the statute. For instance, where a heading provides for "chemicals to be used for industrial purposes", the Court must necessarily inquire into the commercial understanding of the terms "chemical" and "industrial purposes". Such an inquiry serves a dual purpose: it ensures the product matches the threshold of what constitutes a 'chemical,' and it clarifies the ambit of the qualifying use, i.e., what the trade recognises as an 'industrial purpose,' thereby determining if the subject goods fall within the ambit of the said tariff heading.

92. Second, in provisions where use is inherent to the eo nomine description, the interlinkage with common or common parlance may play out in the following ways:

    a. In the first instance, the tariff heading itself may employ descriptors that necessitate a consideration of use, such as "household soap" or "industrial soap". When dealing with such

headings, common or commercial understanding is utilised to determine the scope of these qualifying terms. The Court applies the parlance test to discern what is recognised as having a 'household' versus an 'industrial' application, thereby identifying whether the specific article in issue fits within that designated category.

b. In the second instance, the common or commercial identity of a good may be so fundamentally tied to its application that its very name implies a specific use. Emphasis is on the aspect that goods identity is ‘fundamentally’ and ‘substantially’ linked to a certain use or adaptation. In such cases, the trade recognises the article not merely by its physical composition, but by the use for which it is intended.

93. However, a note of caution must be struck. **The invocation of common or commercial meaning in these interlinked scenarios must strictly adhere to the broad parameters established in the preceding sections of this judgment regarding when the common or trade parlance test can be invoked. Specifically, the common parlance test cannot be used to override or bypass explicit statutory guidance. Where the statute, through a Section or a Chapter Note, provides a definition or a specific criterion, for example, by prescribing exactly what constitutes “household soap”, “chemical”, “industrial purposes” and “industrial soap”, there is no occasion to resort to commercial understanding.**

Eo-Nomine component not to be ignored

94. **When dealing with eo-nomine tariff headings, which inherently refer to use, it is important to ensure that the consideration of use is not done in complete ignorance of the eo-nomine component.** To illustrate, an importer tomorrow cannot classify any product that regulates temperature as an air conditioning machine. The importer must demonstrate that the goods are air conditioning machines and, in doing so, can emphasise their use and function as helpful tools that assist in this effort. However, apart from use and function, other factors, such as physical characteristics, also need to be satisfied for the good in question to be considered as an air conditioning machine. Let us consider another example: an importer claims to classify a cardboard box as a bag, as both are intended for the same purpose. However, despite

their similarity in intended use, objectively, bags and cardboard boxes are distinct products, and in common parlance, a bag does not encompass a cardboard box.

95. **The above discussion also applies to provisions that explicitly refer to use but also have an eo-nomine component. For example, if a tariff heading refers to machinery used for printing purposes, the court must satisfy itself of a two-fold criterion: (i) the goods are machinery, and (ii) the goods are capable of being used for printing purposes**.

Summary

96. Based on the aforesaid discussion, the legal position regarding consideration of use when dealing with classification disputes under the First Schedule, Act 1975, can be summarised as follows:

a. **'Use' can be considered as a relevant factor when dealing with classification, only if the concerned tariff heading allows for consideration of 'use' or 'adaptation', either explicitly or implicitly**.

b. A tariff entry is said to allow consideration of 'use' or 'adaptation' for classification in the following scenarios:
   i. The tariff heading itself explicitly contains a reference to use or adaptation.
   ii. The notes related to a tariff item provide a legal definition or criterion that includes a reference to use or adaptation.
   iii. Use or adaptation is inherent in the wording of the tariff entry itself.
   iv. The heading is an *eo nomine* term with no statutory definition, and based on the common or trade parlance test, the Court concludes that the common or commercial meaning of the good includes 'use' or 'adaptation' of the good as a defining aspect of its identity.

c. Unless statutory intention to the contrary is proven, an importer cannot classify goods based on the actual use to which the goods are put.

d. If the importer wishes to classify goods based on their 'intended use', then the following conditions must be fulfilled:

i. First, the tariff heading under which the importer seeks to classify should allow consideration of 'use' as a relevant factor;

ii. Secondly, if such a tariff heading allows for consideration of 'use', the 'use' mentioned in the tariff heading and the 'intended use' claimed by the importer must be consistent.

iii. Lastly, the intended use as claimed by the importer:

1. should be inherent in the goods in question and should be discernible from their objective characteristics and properties, which include, among other things, factors such as function, design and composition; and

2. should conform to the standard of use established for that entry.

e. When a tariff heading contains both an eo nomine component and a use component, both criteria must be satisfied. An importer cannot rely on the use criterion to ignore the product's fundamental eo nomine identity.

97. **We may clarify that our endeavour here is not to establish a comprehensive framework or a universal test for classification in all cases. Such an exercise is unfeasible.** This Court, on multiple occasions, had observed that there can be no single test to resolve classification disputes [See ***O.K Play*** (*supra*) & ***A.Nagraju Bros v. State of A.P.***, reported in **1994 Supp (3) SCC 122**]. **Our present discussion is broadly limited to understanding in which scenarios intended use can be considered and vice versa. The exact criterion for determining such intended use and the test to be applied for final classification would depend on the type of goods, the wording of the tariff entries under review, and other relevant material, such as chapter, section, and explanatory notes. Furthermore, we once again wish to emphasise that the consideration of intended use when determining the classification**

of a good cannot be considered in isolation from other relevant considerations." **(emphasis supplied)**

26. The Hon'ble Supreme Court, has also struck a note of caution in the Welkin foods decision as under:

> 98. It is wise not to rely heavily on foreign cases concerning customs classification disputes, even though the HSN is adopted by most countries. This is because each nation may introduce specific additional subheadings, notes, and rules that govern customs classification under its own law alone. However, with that being said, it remains undeniable that foreign jurisprudence is especially valuable for understanding the broad principles related to customs classification under the HSN regime."

27. It is also pertinent that how to interpret the First Schedule of the Import Tariff, is specified therein, under the title, "General Rules for the Interpretation of This Schedule". It is stipulated that classification of goods in the Schedule shall be governed by the principles stated therein. Rule 1 of these rules state that the titles of Sections, Chapters and Sub-Chapters are provided for easy of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such heading or notes do not otherwise require, according to the following provisions. When we peruse the Tariff, it can be seen that the it groups the goods in Sections, Chapters and sub-Chapters which have been given titles that indicate the categories or types of goods that they cover. Understandably, the variety is so vast that it would be impossible to cover or cite all of them fully detailed in the title. Hence the stipulation in Rule 1 that the titles are provided for ease of reference only. They have no legal bearing on classification. Thus, the mandate of Rule 1 is that for legal purposes, classification shall be determined according to the terms of the headings and any relative Section Notes or Chapter Notes. If the headings or any relative Section Notes or Chapter Notes are worded such that they obviate any need to refer to the remaining rules of the general rules of interpretation, then they do not arise for consideration. If there is no such indication in the headings or any relative Section Notes or Chapter Notes that the remaining rules are to be excluded, then the remaining rules also arise for consideration, if need be. This has been lucidly

explained by the three judge bench of the Hon'ble Apex Court in ***Khandelwal Metal & Engineering Works v Union of India, 1985 (20) ELT 222 (SC)***, wherein it has been held as under:

> "28……. Putting Rule 1 in simple language, classification has to be determined according to the description of the article in the heading and, if the Heading or a Note does not otherwise require, according to the provisions of the other Rules and Notes. In the instant case, the terms of the relevant Heading do not, by themselves, yield an answer to the question whether copper waste and scrap includes brass scrap. But, the particular Heading does not require or provide that the other rules should be excluded while determining the classification of articles under that Heading. That is how, Rules 2 to 4 become relevant for deciding the question whether `copper waste and scrap' includes brass
>
> scrap. What is meant by the clause in Rule 1 : "and, provided such Headings or Notes do not otherwise require" is not that a Heading must require that the provisions contained in the rules following Rule 1 should be applied. What it means is exactly the opposite, namely, that if a Heading does not require the exclusion of the other rules, those other rules must also be applied for determining the classification of an article. Therefore, all the relevant rules of interpretation in the Import Tariff come into play in the classificatory process. Rules 2 to 4 of the Import Tariff are not a mere adornment. Nothing ever is an adornment in an Import Tariff. Therefore, classification has to be determined both according to the terms of the Headings and according to the provisions of the rules unless, a particular Heading or Note excludes the application of rules other than Rule 1."

28. Thus, given the aforesaid exhaustive exposition of law elaborately dealing with the principles that govern classification of goods in the aforesaid pellucid terms, by the Hon'ble Supreme Court in Welkin Foods case as extensively reproduced supra, it is evident that the sentence "*Therefore, classification has to be determined both according to the terms of the Headings and according to the provisions of the rules unless, a particular Heading or Note excludes the application of rules other than Rule 1"* as held in the Khandelwal Judgement of the Hon'ble Apex court as reproduced above, does not lend itself to an understanding divested of the context in which it was explained, that is while examining the phrase "*and, provided such Headings or Notes do not otherwise require*". Therefore the former sentence can be understood to be stating that it does not necessarily mean that it should always be an explicit

exclusion in as many words, but if the particular Heading or Note categorically states that it applies only to certain goods, then the remaining rules will not come into play so as to bring it within their fold given the non-negotiable primacy of GRI1, and likewise, if the particular Heading or Note categorically excludes certain goods then the remaining GIR rules cannot be banked upon to include them therein. However, if there is no such clear indication emanating from the headings or notes as to the precise classification of the good, then classification has to be determined both according to the terms of the Headings and according to the provisions of the rules, in the sequential manner as elaborated in the Judgement in Welkin Foods case supra.

29. At this juncture, it is also apposite to note that it is a settled position in law that if Revenue is proposing to redetermine the classification being claimed by an assessee, on the contention that the goods are to be classified under a different tariff heading, then the burden of proof is squarely on the Revenue. It has been held in ***HPL Chemicals Ltd v. CC, Chandigarh, 2006 (197) ELT 324 (SC),*** as under:

> "29. This apart, classification of goods is a matter relating to chargeability and the burden of proof is squarely upon the Revenue. If the Department intends to classify the goods under a particular heading or sub-heading different from that claimed by the assessee, the Department has to adduce proper evidence and discharge the burden of proof. In the present case the said burden has not been discharged at all by the Revenue….."

The said view has been consistently reiterated by the Hon'ble Apex Court as can be seen from the decision in ***CC & CE, Amritsar v. D.L. Steels, 2022 (381) ELT 289 (SC)*** wherein it was held that when the Revenue challenges the classification made by the assessees, the onus is on the Revenue to establish that the item in question falls in taxing category as claimed by them. The burden is on the Revenue to adduce proper evidence to show that the goods are classifiable under a different heading than that claimed by the assessee. The recent decisions in ***Hewlett Packard India Sales Pvt Ltd v Commr of Cus (Import), Nhava Sheva, 2023 (383) ELT 241 (SC)*** as well as ***Gastrade International v CC, Kandla, ,2025 (392) ELT 529 (SC)*** also hold to the same effect.

30. A perusal of the impugned order reveals that the Adjudicating Authority has rejected the classification of the goods imported by the Appellant and redetermined the classification of the goods as indicated in the tabulation above by placing reliance on :

    a) Note 1(g) to Section XVI which excludes "parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV)", from the cover of Section XVI with respect to the Angle Steels, Bolt, Nut, Chain, Clip, Fish Plate, Rope, Springs, Springs pin and Washer imported by the Appellant.

    b) Note 1(a) to Section XVI which excludes "transmission or conveyor belts or belting, of plastics of Chapter 39, or of vulcanised rubber (heading 4010), 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 4016)" from the cover of Section XVI with respect to Belts imported by the Appellant.

    c) Section Note 1(o) of Section XVI which, inter-alia, excludes "brushes of a kind used as parts of machines (heading 9603)" from the cover of Section XVI with respect to the various types of brushes imported by the Appellant.

    d) Section Note 1(k) to Section XVI which excludes "Articles of Chapter 82 or 83" from classification from the cover of Section XVI with respect to the clamps, Hinges and Door Locks imported by the Appellant.

    e) Rule 1 of General Rules of Interpretation to contend that that push buttons and switches imported by the Appellants fall under CTH 85365090 on the ground that the push button is fitted with electric circuit and is a 'switch' which is specifically mentioned in the description of CTH 8536 along with the contention that Section Note 1 and 2(a) will take precedence over Note 2(b).

31. We observe that the Learned Adjudicating Authority, after acknowledging the appellant's specific arguments regarding each of the aforementioned imported goods, has also quoted the CTI recommended by audit and reclassified the imported goods as per the said recommendation. This reclassification is further justified by additional reliance on the specific exclusions in Section Note 1 mentioned earlier. However, there is no

discussion of any evidence placed on record which is being relied upon by the Ld. Adjudicating Authority to establish that the goods in question fall under the tariff item as has been redetermined. Evidence at the bare minimum, for example, literature about the specific product imported which is sought to be treated to be of general use for the purpose of such reclassification, that indicates such general use, or any expert opinion obtained on examination of these products such as Angle Steels, Bolt, Nut, Chain, Clip, Fish Plate, Rope, Springs, Springs pin and Washer, that they are indeed parts of general use, as sought to be treated by the Adjudicating Authority in order to bring them within the ambit of the Note 1 (g) relied upon, evidence by way of a test report as to the nature of the belt which is sought to be treated as made of vulcanised rubber so as to attract Note 1(a) for the purpose of classification by the Ld. Adjudicating Authority, evidence that the pushbuttons and switches are such that they are not designed for the exclusive use in lifts or escalators as claimed by the appellant, or any statement of the appellant obtained which can be proved to be relevant and attest to the fact that these products are of the character, type or nature which would attract the classification being so redetermined by the Ld. Adjudicating Authority, etc., are completely absent. The Adjudicating Authority, ignoring that it is the Department which is choosing to change the classification contending that the belts are of vulcanized rubber and thus has to evidence the fact, has instead stated that the appellant has not adduced any evidence in support of their submission. Such an attempt to shift the burden of proof is not correct. Neither has any evidence been collected to substantiate the redetermined classification, nor any evidence shown to discredit the averments as to facts as contended by the appellant; the burden to disprove in the instant case being cast upon the Revenue, given its attempt to upset the appellant's claimed classification. Therefore, absent any evidence relied upon by the Ld. Adjudicating Authority to justify such redetermination of the classification, we are of the considered view that the burden on the Revenue to adduce proper evidence to show that the goods are classifiable under a different heading than that claimed by the appellant, as mandated by the aforecited Apex Court Judgements, has not been discharged in the instant case. The reclassification of the goods on this basis therefore fails, except in the case of door locks. In the case of door locks,

despite the absence of such evidence, we find the reclassification justifiable for other reasons, as explained below.

32. Further, it is pertinent that the consistent stand of the appellant is that as a manufacturer of Lifts and Escalators and being engaged in the business of turnkey projects of installation and commissioning of lifts and escalators, they have imported these goods filing the bills of entry classifying the goods under the customs tariff heading 8431 as the entire consignment is used in the erection, installation, and commissioning of lifts/escalators. It is the specific stand of the appellant that they do not have any other activity other than such erection, installation and commissioning of lifts and escalators. It has also been their case that these parts cannot be used elsewhere other than lifts and escalators. The appellant has contended that such imports were being made since 2000 and such declarations filed earlier have been verified by the customs officers and there has been no dispute in this regard. Sample purchase order placed, along with the connected invoice of the foreign supplier and certificate of origin and the Bill of entry No.2433535 dated 13.07.2017 filed, as annexed to the appeal records, reflect that the description of goods is shown as escalator parts under H S Code/CTH 8431. It is this Tariff item 84313100 that is seen indicated in the aforementioned Bill of entry. When the description of goods as indicated against the Customs Tariff Item 8431 is "Parts suitable for use solely or principally with the machinery of headings 8425 to 8430" and particularly below the description '-' *of machinery of heading 8428,* against Tariff Item 84313100 the Description of goods is shown as " – Of lifts, skip hoists or escalators.", evidently the chapter heading reflects that the classification is dependent on the commercial identity of such specific parts based on their suitability for use solely or principally with lifts/escalators. The aforesaid documents adduced thus attest to this fact that those who purchase and sell these goods also identify them as such. While the general principle is that end use is not typically considered when classifying goods at the time of import—since classification should be based on the goods as they are presented—there are exceptions as was elaborated in the Welkin foods case reproduced above. In cases like this, where the description of the heading explicitly requires that the parts be suitable for use solely or primarily with the

machinery of the specified headings, it is clear that the tariff heading under which the importer has sought to classify the goods allows consideration of 'use' as a relevant factor, and thus the classification claimed by the appellant is in sync with the principles laid down in the Welkin Foods case as elucidated above. The evidence in this regard can then be the nature of the activity in which the importer is engaged including the exclusivity or primacy of such activity, the customised nature of the imported goods that makes it unusable for purposes other than what is described, or which makes it primarily usable with such machines etc. Given that the importer has classified the goods under tariff item 84313100 and the 'Use' or 'Adaptation' is inherent in the Tariff Heading 8431, and since the revenue which is seeking to discredit such classification has not adduced any evidence that the goods in question by their function or design are denuded of the exclusivity of intended use as claimed by the appellant, we find no reason to disbelieve the contentions of the appellant in this regard.

33. Therefore, since the Department has failed to provide evidence, even after the audit based on premises, that the appellant is not operating its business as claimed, that the appellant is not using the imported goods as declared, or that the appellant is using these goods for purposes other than lifts/escalators, or that the imported parts are of general use, we believe the appellant's claim regarding the specificity of the goods—suitable solely or principally for use with lifts/escalators—should be accepted, with the exception in the case of door locks, in that the door locks even if it is being used solely or principally with lifts/escalators are not to be classified under 8431 for the reasons discussed below. As we have found that the Department has not let in any evidence as to the category or type, use or character of the goods to justify the application of the exclusions stated in Note 1 of Section XVI and the consequent redetermination of the classification as made by the Ld. Adjudicating Authority premised on the relied on exclusions stated in Note 1 of Section XVI, we have no hesitation to hold that the Department has failed to adduce any evidence that the exclusions stated in Note 1 of Section XVI are attracted in respect of the goods imported by the appellant to which the Adjudicating Authority seeks to apply such exclusions.

34. Furthermore, we find that the SCN itself, while placing reliance on Rule 1 of General Rules of Interpretation has not invoked these exclusions stated in Note 1 and has merely relied on the reference in the explanatory notes to the heading 8431 that " It should also be noted that many parts do not fall in this heading since they are specified elsewhere in the nomenclature, e.g. suspension springs (heading 7320)". It is well settled that HSN notes can be brought into the picture only when there is doubt or ambiguity about the scope of any tariff entry. The decisions in ***Coen Bharat Ltd v. CCE, Vadodara, 2007 (217) ELT 165 (SC)*** and ***G.M.Pens International Ltd v. Commr of Cus. (Sea Port), Chennai, 2005 (187) ELT 180 (Tri-LB)*** are authorities for the said proposition. Given that the chapter Heading 8431 in the Tariff itself has reference to various machinery of headings 8425 to 8430, the aforesaid explanatory note cited in the SCN at best strikes a cautionary note, more so when there are also residuary headings at six digit level indicated therein under. In any case, since the specific sub heading 84313100 pertains to parts of lifts, skip hoists or escalators suitable for use solely or principally with such machinery, we do not find any ambiguity therein that would invite the application of the aforesaid explanatory note relied on in the SCN. Our view is also fortified by the fact that HSN explanatory notes pertaining to parts of heading 8428, categorically states that, subject to the general provisions regarding the classification of parts(see the general explanatory notes to Section XVI), parts of the machines of this heading are classified in heading 8431. The general explanatory notes in turn refer to the exclusion of parts of general use, which are those as stated in Section note 1(g) of Section XVI, and for the reasons already elucidated above and others given infra; which we find cannot be applied to the impugned goods imported by the appellant in the facts and circumstances of the instant case. Moreover, apart from the fact that the tailormade nature of these imported goods to be used solely in lifts/escalators by the appellant remains uncontroverted, it is seen that the Adjudicating Authority has also while redetermining the classification chosen to consign most of the imported goods to residuary headings, which itself is opposed to the settled principle in law pertaining to classification, namely, that specific tariff entry available is to be preferred to a residuary entry.

Push Button and switches, on which too the aforesaid explanatory note was cited to justify the reclassification, for instance, has been consigned to 85365090. The Honourable Apex Court in ***Dunlop India Ltd & Madras Rubber Factory Ltd v UOI, 1983 (13) E.L.T. 1566 (S.C.)*** has held that when an article has, by all standards, a reasonable claim to be classified under an enumerated item in the Tariff Schedule, it will be against the very principle of classification to deny it the parentage and consign it to an orphanage of the residuary clause. The said view has been consistently reiterated as can be seen from the decisions in ***Hindustan Poles Corporation v CCE, Calcutta, 2006 (196) E.L.T. 400 (S.C.)*** and ***Bharat Forge & Press Indus Pvt Ltd v CCE, 1990 (45) E.L.T. 525 (S.C.)*.** It is also to be noted that the Apex Court has in ***Mauri Yeast India Pvt Ltd v State of U.P., 2008 (225) ELT 321 (SC)***, held that *In interpreting different entries, attempts shall be made to find out as to whether the same answers the description of the contents of the basic entry and only in the event it is not possible to do so, recourse to the residuary entry should be taken by way of last resort.* In the said decision in Mauri Yeast case, the Apex Court in fact also holds that as the classification had been accepted by the revenue for a long time, the onus would be on it to show as to why a different interpretation thereof should be resorted to particularly when no change in the statutory provision has taken place. In any event, it is also a settled principle in law that in a classification dispute, involving two competitive headings, heading beneficial to the assessee is to be adopted. The decision in ***CCE Bhopal v Minwool Rock Fibres Ltd, 2012 (278) ELT 581 (SC)***, and ***CC, Customs v Lotus Inks, 1996 (87) ELT 580 (SC)*** refers in this regard. For the aforesaid reasons, we are of the firm opinion that the reliance placed on the explanatory note to Section 8431 and the reclassification of the goods consigning them to residuary headings, are both untenable in the facts and circumstances of the instant case.

35. Consequent to our aforesaid analysis, we are of the considered view that as per Rule 1 of the General Rules for the Interpretation of the Schedule itself, in terms of the headings of 8431 and particularly CTI 84313100, the goods imported by the appellant, except for door locks to the extent stated and for the reasons elucidated infra, are entitled to the classification as claimed by

the appellant and the redetermination of their classification as done by the Adjudicating Authority will not sustain and is liable to be set aside. Our aforesaid view is also fortified by the decision of a coordinate bench of this Tribunal in ***Sew Eurodrive India Ltd v. CC, Chennai, 2024 (1) TMI 465-Cestat Chennai*** which has been relied upon by the appellant, wherein on similar facts, finding that the claim of the appellant therein that the flanges imported were specifically designed to suit its industry/purpose was not controverted and was not rejected on any palpable evidence, it was held that the reclassification attempt by the Revenue cannot be sustained and was set aside.

36. As was observed by us supra, the Ld. Adjudicating Authority has sought to furnish additional reasons to justify the proposals in the notice by placing reliance on the specific exclusions in Section Note 1 as well as on Section Note 2(a) for classification of push button and switches, as observed above. It is pertinent that these specific exclusions in Section Note 1 as well as the Section Note 2(a) were neither relied on by the audit in their observations as reproduced in the SCN, nor did the SCN itself place any independent reliance on these specific exclusions in Section Note 1 and Section Note 2(a) stating the reasons for such reliance and how they are attracted in the case of the Appellant. Therefore, absent any notice of such reliance on these specific exclusions in Section Note 1 and Section Note 2(a), the reliance placed on these by the Adjudicating Authority in the impugned order tantamount to new justifications of the proposal in the SCN being made by the Adjudicating Authority behind the Appellant's back. Such an improvisation by the Adjudicating Authority beyond the Show Cause Notice itself, as the show cause notice has not put the appellant to notice of any such reliance, is violative of the principles of natural justice. It is a settled position in law that the principles of natural justice have to be complied at every stage and violation at the initial stage can't be cured through additional reasons incorporated in the final order, thereby the said findings are vitiated on this count also. The decision in ***Mulchand Malu v. UOI and others, [2016]383 ITR 367 (Gauhati)*** refers in this regard. It is also well settled that SCN is the foundation and if there is no clear invocation of a particular provision, it is not open to the Adjudicating Authority to invoke the said

provisions. The decision of the Apex Court in ***CCE, Bhubaneswar v. Champdany Industries Ltd, 2009 (241) ELT 481 (SC***) is an authority for the said proposition and would apply in this instance. Reliance placed by the appellant on the decisions in ***CC, Mumbai v. Toyo Engineering India Ltd, 2006 (201) ELT 513 (SC)*** and ***Godrej Industries Ltd v CCE, Mumbai, 2008 (229) ELT 489 (SC)*** for its contention that the Adjudicating Authority cannot travel beyond the grounds raised in the show cause notice is also found to be apposite in this context. Be that as it may, even if for arguments sake Section 2(a) is taken to be applicable in so far as it relates to the classification of push button and switches, we find that the Adjudicating Authority has misapplied section 2(a). When Section 2(a) itself excludes parts which are goods included in headings 8431, without letting in evidence that the push button and switches imported by the appellant are not covered under heading 8431, reliance placed on Section 2(a) to classify these goods under the residuary heading 85365090 is wholly misconceived and thus unsustainable. In the aforesaid circumstances, we hold that the findings recorded redetermining the classification of the imported goods, which is sought to be justified by the Adjudicating Authority, based on the specific exclusions in Section Note 1 as well as the reliance on section Note 2(a), are unsustainable on this count too.

37. Furthermore, the reliance placed by the Appellant on the Apex Court decisions in ***Cast Metal Industries (P) Ltd v CCE Kolkata, 205 (325) ELT 471 (SC)*** and ***G.S.Auto International Ltd v. CCE, Chandigarh, 2003 (152) ELT 3 (SC)***, in its reply, although noted by the Adjudicating Authority, remain uncontroverted. We find that the appellant has placed reliance on the said decision in support of its contention that parts manufactured specifically and imported for a particular machine must be classified as parts of the said machinery taking into account the "predominant use" or "sole/principal use" test for determining the classification of the products in such cases. We also find that the appellant has categorically relied on a Circular dated 19.04.1989 issued on the subject of classification of lifts and scope of heading 8428 as a clarification, albeit in the context of exigibility to excise levy of a lift assembled at site, wherein it was inter-alia stated that duty would be chargeable on parts and

components leaving the factory in the condition in which they are removed. Thus, if together, they can be regarded as lifts in unassembled/disassembled condition or having the essential character of lifts, they would be assessed under heading 8428, otherwise such parts and components would be assessed under heading 8431. The Ld. Adjudicating Authority, despite noting the same, has not controverted or distinguished such reliance placed by the appellant on the said circular to support its contention that parts and components of lifts are to be assessed under heading 8431. It is settled position in law that Circulars issued by the Central Board of Excise & Customs are binding on the department and the department cannot be permitted to urge that the Circulars issued by the Board are not binding on it. ***Union of India v Arviva Industries (I) Ltd, 2007 (209) ELT 5 (SC)*** refers in this context.

38. We also find that the Adjudicating Authority has also not controverted the reliance placed by the Appellant on the decision in ***CC., New Delhi Vs. HCC Samsung JV as reported in 2018 (359) ELT 516 (Tri.-Del.)***. This was a case wherein the contention of the Revenue was that Note 1(o) to Section XVI of Customs Tariff says that brushes of a kind used as parts of machines (heading 9603) are not covered under Section XVI and since Section XVI covers Chapters headings 84 and 85 of Customs Tariff, Revenue argued that the subject item imported, which has been named as 'Tail Brush FIRC' cannot be classified under Chapter 84 but it should go under Chapter Heading 9603. The Tribunal held that Revenue's contentions for classifying the subject item under 9603 50 00 do not deserve acceptance mainly on account of the fact that the item imported is suitable for use principally with the machinery namely TBM, which appears to be covered under Chapter Heading 8430 of the Customs Tariff. Given the aforesaid facts and circumstances of this case, we find no reason to differ from the view taken by the coordinate bench in the said decision and hold that the findings in the instant case relating to the exclusion of brushes imported by the appellant citing Note 1(o) are untenable on this count too.

39. However, when it comes to the classification of door locks, the SCN has put the appellant to notice that the explanatory notes of heading 8431 stipulates

that "The heading also excludes locks for passenger and goods lifts, etc. (heading 8301)". Indisputably the appellant's contention is also that such door locks are used in lifts/escalators while seeking classification under CTI 84313100. The appellant has not given any credible reason or justification as to why the specific exclusion provided in the explanatory notes would be inapplicable. The Adjudicating Authority too has rendered a specific finding that the WCO HSN explanatory notes to Heading 8431 clearly excludes Locks for passenger and goods lifts from classification under CTH 8431. Thus, when there is a specific exclusion in the explanatory notes for locks for passenger and goods lifts from the heading 8431, we concur with the aforesaid finding of the Adjudicating Authority that such exclusion would apply. Therefore, even if the reliance placed by the Adjudicating Authority on Note 1(k), which has been protested by the appellant, is discounted, given the categorical exclusion provided in the HSN explanatory notes of CTH 8431 to locks for passenger and goods lift from classification under CTH 8431, we are of the view that the contention of the appellant that the door locks imported by them specifically for use in lifts/escalators, are classifiable under 8431, is unsustainable. We are therefore of the firm opinion that the redetermination of the classification in so far as it pertains to the door lock imported by the appellant is concerned, as made by the Adjudicating Authority under CTH 83014090, is liable to be upheld. Be that as it may, the extent to which such demand would sustain in the present case is held to be only for the normal period and for the imports made within the territorial jurisdiction of the Adjudicating Authority, for reasons further elucidated below.

40. We find that the Adjudicating Authority has invoked extended period of limitation on the ground that but for audit the misstatement of classification would not have come to light. It is also stated that in a few bills of entry the appellant had earlier classified the impugned goods as per the classifications presently redetermined by the Adjudicating Authority. It is further stated that under the self-assessment procedure the onus lay on the importer to declare particulars such as the true description, quantity, classification etc for assessment to applicable rate of duties. Reiterating that the case involves

misstatement of classification the Adjudicating Authority has gone on to hold that the extended period of limitation is rightly invoked.

41. We are unable to concur with the aforesaid reasoning of the Ld. Adjudicating Authority. As was observed by us supra, the sample purchase order placed, along with the connected invoice of the foreign supplier and certificate of origin and the Bill of entry No.2433535 dated 13.07.2017 filed, as annexed to the appeal records, reflect that the description of the goods is shown as escalator parts under HS Code/CTH 8431. It is this Tariff item 84313100, that is seen indicated in the aforementioned Bill of entry. There has been no evidence let in that the declarations made by the appellant are at variance with the supplier's document or the certificate of origin, be it as to the quantity, description, or classification. It is also pertinent to note that when the Department is alleging misclassification, it has not controverted the appellant's specific contention that the appellant has been importing these consignments for many years in the past without any dispute. That in a few instances if at all the appellant had cleared the goods under classification at variance with what has presently been claimed, which the appellant has contended was an inadvertent error/mistake at the end of CHA, the fact remains that whether to remedy such classification and seek refund in such few instances are all commercial calls that are taken by the appellant factoring in various considerations and any inaction on this count does not translate into evidence of deliberate misstatement. In other words, neither does this estop the appellant from contesting a notice requiring the appellant to perpetuate such mistake, nor does it prevent the appellant from claiming the entitlement to the classification the appellant deems to be correct. It would be apposite at this juncture to recall the observation of the Hon'ble Apex Court in ***Dunlop India Ltd & Madras Rubber Factory Ltd v. Union of India, 1983 (13) ELT 1566 (SC)***, wherein, after observing in para 38 that "*But where the very basis of the reason for including the article under a residuary head in order to charge higher duty is foreign to a proper determination of this kind, this Court will be loath to say that it will not interfere*", the Apex Court went on to hold that there is however no estoppel in law against a party in a taxation matter.

42. We also find that the Hon'ble Supreme Court has, in the Judgement ***in Uniworth Textiles Ltd v. CCE, Raipur, 2012 (288) ELT 161 (SC),*** held that the onus is on the Department to prove the malafide of the appellant and it is not for the appellant to prove its Bonafide conduct. The relevant portions are as under:

> "**19.** Thus, Section 28 of the Act clearly contemplates two situations, viz. inadvertent non-payment and deliberate default. The former is canvassed in the main body of Section 28 of the Act and is met with a limitation period of six months, whereas the latter, finds abode in the proviso to the section and faces a limitation period of five years. For the operation of the proviso, the intention to deliberately default is a mandatory prerequisite.
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> **20.** This Court in *Aban Loyd Chiles Offshore Limited and Ors.* v. *Commissioner of Customs, Maharashtra* - (2006) 6 SCC 482 = 2006 (200) E.L.T. 370 (S.C.) observed :-
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> "The proviso to Section 28(1) can be invoked where the payment of duty has escaped by reason of collusion or any willful misstatement or suppression of facts. So far as "misstatement or suppression of facts" are concerned, they are qualified by the word "willful". The word "willful" preceding the words "misstatement or suppression of facts" clearly spells out that there has to be an intention on the part of the assessee to evade the duty."
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> xxxxx
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> **24.** Further, we are not convinced with the finding of the Tribunal which placed the onus of providing evidence in support of *bona fide* conduct, by observing that "the appellants had not brought anything on record" to prove their claim of *bona fide* conduct, on the appellant. It is a cardinal postulate of law that the burden of proving any form of *mala fide* lies on the shoulders of the one alleging it. This Court observed in *Union of India* v. *Ashok Kumar & Ors.* - (2005) 8 SCC 760 that "it cannot be overlooked that burden of establishing *mala fides* is very heavy on the person who alleges it. The allegations of *mala fides* are often more easily made than proved, and the very seriousness of such allegations demand proof of a high order of credibility."

In view of our discussions supra, when the appellant can hardly be faulted for making a declaration as to the classification in line with the Certificate of Origin as well as its belief that the classification is correct, as is also borne out of its past experience while making imports under the same classification with respect to the impugned goods that had sailed through since 2000 without any dispute, we do not subscribe to the Department's view that

malafide can be imputed to the appellant. In light of the observations of the Apex Court in the aforesaid Uniworth Textiles case since we have found that no malafide can be attributed to the appellant, we are also of the view that the invocation of extended period is untenable and this aspect is to be held in the appellant's favour.

43. That apart, it is a settled proposition in law that claiming a classification as believed by the importer does not amount to misclassification. We find that in the decision relied upon by the Appellant, ***Aureole Inspecs India Pvt Ltd v. Principal Commissioner, Customs, New Delhi, 2023 (8) TMI 565-Cestat New Delhi : (2023) 11 Centax 211 (Tri-Del),*** it has been held as under:

> **"27. The imported goods do not become liable to confiscation under section 111(m) on the ground that the importer classified the goods under a CTH different from the opinion of the officer. Firstly, the importer is not an expert in taxation and can make mistakes and he cannot be penalized for making mistakes. Secondly, classification is a matter of opinion and the importer's goods cannot be confiscated nor can he be penalized for his opinion. Thirdly, the filing of the Bill of Entry and the self-assessment precede re-assessment by the proper officer and it is impossible for the importer to anticipate under which heading the officer is likely to classify the goods and file the Bill of Entry accordingly. Fourthly, there is no legal obligation on the importer to conform to the possible subsequent view of the officer. The law cannot be read to obligate the importer to do the impossible task of predicting the views of the officer and following them. For all these reasons, wrong classification or wrong claim of an exemption notification, in the Bill of Entry even if they are found to be completely incorrect, do not attract section 111(m) or the consequential penalty under section 112**."

We find that similar view has been held by the Tribunal repeatedly as can be seen from the decisions in ***Reliance Jio Infocomm Ltd v. CC (Import), Mumbai, (2023) 3 Centax 234 (Tri-Bom),*** and ***Vivo Mobile India Pvt Ltd v. PCC, New Delhi, (2024) 20 Centax 393 (Tri-Del) as affirmed in PCC New Delhi v. Padget Electronics Pvt Ltd, 2025 (394) ELT 49 (SC)***. The appellant is also correct in its submission that the present dispute relating to classification is primarily an interpretational dispute based on

chapter headings, section notes etc. and in matters involving interpretational disputes, attributing malafide is untenable. Thus, the finding of the adjudicating authority as to the invoking of extended period of limitation, misstatement of classification by the appellant, consequent liability to confiscation under Section 111 (m) and the resultant redemption fine imposed under Section 125 of the Customs Act, 1962 and penalties imposed under Section 114 and Section 114AA are wholly untenable to the extent we have reasoned above and are hence liable to be set aside.

44. We further find that the Appellant has raised a specific ground in its Appeal that the Adjudicating Authority could not have confirmed the demands with respect to the imports made by the Appellant through ports outside the territorial jurisdiction of the Adjudicating Authority. The said ground has not been controverted in any manner by the Department. We note that the Central Board of Indirect Taxes and Customs (CBIC, formerly CBEC), in exercise of the powers derived from Sections 4 and 5 of the Customs Act, 1962, issues specific notifications to assign one officer to handle cases that span several ports, airports, or ICDs with respect to the cases investigated by the Directorate of Revenue Intelligence and similar agencies. The powers to appoint such common adjudicating authority had also been delegated to the respective Director Generals of DRI and DGCEI. Such appointment of common adjudicating authority are in matters where pursuant to an investigation, the show cause notices issued to the Noticee that initially requires the Noticee to reply to the relevant authorities under the Commissionerate that covers the ports through which the Noticee has made its imports, are subsequently directed to be adjudicated by the Common Adjudicating Authority appointed by the Central Board of Indirect Taxes and Customs or by the delegated authorities, as per current administrative circulars and notifications in this regard. Therefore, we find merit in the submissions of the Appellant that the Adjudicating Authority in the instant case has acted in excess of his powers and beyond his authority inasmuch as no such authorisation appears to have been granted to the Adjudicating Authority—the Commissioner of Customs, Chennai II Commissionerate—by any communication/orders from the Board. We believe this to be the fact situation for two reasons, firstly, the Adjudicating Authority, while

adjudicating the present show cause notice (issued by the Commissioner of Customs, Chennai-II Commissionerate), has not stated in the impugned order, the notification/ order or communication, by which he has been empowered and tasked to adjudicate with respect to the imports made through ports outside his territorial jurisdiction. Secondly the specific ground that the adjudicating authority has acted in excess of his jurisdiction, raised in the grounds of appeal as well as during the submissions before us, has remained uncontroverted by the Department. In such circumstances, when neither the show cause notice cites the authority under which the SCN issuing Authority has been empowered to issue a demand in respect of goods imported and assessed to duty at various places other than within the jurisdiction of the said Authority, nor the impugned Order indicates that the Adjudicating Authority has been duly appointed as a Common Adjudicating Authority and thereby empowered to adjudicate the show cause notice issued making such demands for imports made outside the territorial jurisdiction of the SCN issuing authority; we are constrained to hold that the Adjudicating Authority has acted outside his jurisdiction to the extent he has confirmed the demands even in respect of goods imported and assessed to duty at various places other than within his territorial jurisdiction. We are therefore of the considered view that for the aforesaid reasons, the confirmation of demands in the impugned order, to the extent it pertains to the goods imported and assessed to duty at various places outside the territorial jurisdiction of the Ld. Adjudicating Authority, being null and *void abinitio*, cannot be sustained and are liable to be set aside to that extent on this ground alone.

45. We have examined the decisions relied upon by the Ld. A.R. in support of his submissions. The reliance placed on the decision in Sony India Ltd is misconceived as the issue therein pertained to whether the goods imported are components or whether the components as presented can be considered to be a complete or finished article by virtue of the deeming provisions of Rule 2(a) and resultantly entitled to the benefit of the exemption notification applicable. In the decision in the case of Pioneer Embroideries Ltd, the issue pertained to whether the impugned goods were classifiable as computerized embroidery machine so as to be extended the exemption under notification

No.11/97-Cus dated 01.03.1997. Again, in the decision in Otis elevator Company relied upon by the Ld. A.R. the matter pertained to the claim of the appellant therein that the items manufactured by them can be classified as "lifting machinery" and are exigible to excise duty under CTH 8428. We find that the fact of all these cases as well as the issues therein are entirely distinguishable and different from that of the instant case as is also evident from our discussions above. Hence the reliance placed on the said decisions are misconceived and they are found to be inapplicable.

46. In the wake of our discussions made hereinabove, the impugned order, to the extent of the reclassification of door locks and the consequent demand of differential duty along with interest, only for the normal period and confined to the imports made within the territorial jurisdiction of the Ld. Adjudicating Authority, is hereby held to be tenable and is therefore upheld to this limited extent. The rest of the impugned order does not otherwise stand to scrutiny and in so far as it confirms the demand on the remaining imported goods along with applicable interest, finds goods liable to confiscation, imposes consequent redemption fine and attendant penalties on the appellant, is therefore hereby quashed and set aside to that extent. Given our aforesaid findings in favour of the appellant, we do not deem it necessary to address the remaining contentions raised by the appellant.

The appeal is disposed of in the above terms and the appellant is entitled to consequential relief(s) in law, if any.

(Order pronounced in open court on 09.01.2026)

(AJAYAN T.V.)
Member (Judicial)

(M. AJIT KUMAR)
Member (Technical)

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