सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN – 20251271MN000000C7E5

क	फ़ाइल संख्या FILE NO.	S/49-286/CUS/AHD/24-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	AHD-CUSTM-000-APP-491-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	24.12.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	OIO No.: 05/AR/ADC/TUMB/2024-25 dt. 19.12.2024 passed by the Additional Commissioner of Customs (Imports), ICD, Tumb, Village-Tumb, Taluka-Umbergaon, Dist.-Valsad, Gujarat
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	24.12.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Kapsun Resources Corporation , 5, Survey No.-437, Changodar Highway, Near Navapura Sanathal Canal, Ahmedabad-382 210, Gujarat.

कार्यालय आयुक्त (अपील), सीमा शुल्क * अहमदाबाद *

1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते है.
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क(	बैगेज़ के रूप में आयातित कोई माल.
(a)	any goods imported on baggage
(ख(	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग(	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.

4.	**मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं**	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	**सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-**	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.**	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए**	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.**	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के %10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के %10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	**उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.**	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

आयुक्त (अपील), सीमा शुल्क
कार्यालय
अहमदाबाद.

Order-In-Appeal

M/s. Kapsun Resources Corporation, 5, Survey No.-437, Changodar Highway, Near Navapura Sanathal Canal, Ahmedabad-382 210, Gujarat (hereinafter referred to as "the Appellant") have filed the present appeal challenging the Order-In-Original OIO No.: 05/AR/ADC/TUMB/2024-25 dt. 19.12.2024 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner of Customs, ICD, Tumb, Village-Tumb, Taluka-Umbergaon, Dist.-Valsad, Gujarat (herein after referred to as "the "adjudicating authority").

2. Facts of the case, in brief, are that the Appellant had imported goods i.e. "Motor 370W YDK139-370-6 (Part of Air cooler)" (herein after referred as 'impugned goods) under Bills of Entry No. 3503460 dated 28.11.2022, 3505599 dated 28.11.2022, 3659276 dated 09.12.2022 and 3663759 dated 09.12.2022 classifying the same under CTH 8479 9090 on payment of BCD @7.5%, SWS and IGST. Whereas the department proposed classification of the impugned goods under CTH 8501 4090 attracting BCD @10%, SWS and IGST.

2.1 Therefore, a Show Cause Notice F. No.: CUS/SHED/Misc./868/2023 dt. 30.05.2024 was issued to the appellant proposing classification of the impugned goods under CTH 8501 4090, demand of differential duty & interest, confiscation of the goods, imposition of penalty.

2.2 The adjudicating authority, on the basis of DAC Analytics Note No. 02/2022-23 dated 16.05.2023, issued by the Data Analytics Cell (DAC) of the Office of the Chief Commissioner of Customs, Gujarat Zone, carried out an analysis of import data pertaining to goods described as "Electric Motors" imported by various importers during the period 01.01.2021 to 01.05.2023, with a view to ascertaining the appropriate classification of the subject goods under the Customs Tariff Act, 1975. Upon such analysis, it was observed that Electric Motors and Generators are specifically defined and covered under Heading 8501 of the First Schedule to the Customs Tariff Act, 1975. Accordingly, the adjudicating authority classified the impugned goods imported by the appellant under Customs Tariff Heading 8501.

2.3 The adjudicating authority referred the provisions of the Customs Tariff Act, 1975, observing that the Indian Customs Tariff is largely aligned with the Harmonized System of Nomenclature (HSN) evolved by the World Customs Organization (WCO). On this basis, reliance was placed on the HSN Explanatory Notes to Heading 8501 to interpret the scope and meaning of the term "electric motors" for the purpose of classification of the impugned goods.

2.4 The adjudicating authority referred the HSN Explanatory notes for heading no. 8501 for the definition of Electric Motors, which are as under:

"Electric Motor group are machines for transforming electrical energy into mechanical power. This group includes Rotary Motor and Linear Motor.

(a.) Rotary Motor produce mechanical power in the form of rotary motion. They are of many types and sizes according to whether they operate on DC or AC. The motor housing may be adapted to the circumstances in which the motor will operate (e.g. dustproof, drip proof or flame proof etc). Many motors may incorporate a fan or other device for keeping the motor cool during the running.

With exception of starter motors for internal combustion engines (heading 85.11), the heading covers electric motors of all types from low power motors for use in instruments, clocks, time switches, sewing machine, toys, etc., up to large powerful motors for rolling mills, etc.

Motor remains classified in heading 8501 even when they are equipped with pulleys, with gears or gear boxes, or with a flexible shaft for operating hand tools.

Synchronous motors for clock movements are classified in HS code 8501 even if equipped with gears, however, such synchronous motors also associated with a clock train are excluded (heading 9109).

(b.) Linear Motor produce mechanical power in the form of a linear motion.

DC Linear motors, whose operation uses the interaction of electromagnets or of electro magnets and permanent magnets, can be used as alternating or oscillating motors (e.g. for reciprocating pumps, weaving shuttle drives), stepper motors (e.g. small conveyors), etc.

Further, electric motor group also includes:

a. Servomotors, presented separately, consisting essentially of an electric motor with speed-reducing gears and equipped with a power transmission device (eg lever, pully) designed to adjust the variable position of a regulating control in a boiler, in a furnace or in other plant

b. Self-synchronising units, with a stator carrying three windings angled at 120 degrees and a rotor carrying a single winding connected to two slip rings, for use in pairs (synchro transmitter and synchro receiver), eg. in telemetering or remote-control systems.

कार्यालय आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

c. Valve actuators, electrical, consisting of an electric motor with reducing gear and drive shaft and in some cases, with various devices (electric starter, transformer, hand-wheel, etc.) to operated valve plug

Classification of goods in the First Schedule ie. Import Tariff is governed by the principles/ Rules General Rules of Interpretation (GIR) of the First Schedule mentioned therein. As per the Rule 1 of General Rules for Interpretation, it is provided that 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. These notes have been given statutory backing and have been incorporated at the top of each Chapter.

Further, Section Note 2 of Section XVI for Chapter 84 and 85 of Customs Tariff is relevant for classification of motors as individual articles or as parts of certain machinery The extract of the same as per HSN Explanatory Notes is reproduced below:

"In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or apparatus subject, of course, to the exclusions, to the exclusions mentioned in Part(I) above. Separate Headings are however provided for:

a. Parts of the engines of heading 84.07 or 84.08 (heading 84.09).

b. Parts of the Machinery of headings 84.25 to 84.30 (heading 84.31).

c. Parts of textile machines of heading 84.44 to 84.47(heading 84.48).

d. Parts of machines of heading 84.56 to 84.65 (heading 84.66).

e. Parts of office machines of heading 84.70 to 84.72 (heading 84.73). f. Parts of the machines of heading of heading 85.01 or 85.02 (heading 85.22)

g. Parts of apparatus of heading 85.25 to 85.28 (heading 85.29).

h. Parts of apparatus of heading 85.35, 85.36 or 85.37 (heading 85.38)."

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

1. Pumps and Compressors (heading 84.13 and 84.14).

....

8. Electric Motors of Heading 8501.

....

19. insulating fittings for electrical machines, etc., of heading 85.47."

2.5 On the basis of above, the adjudicating authority confirmed that the Electric Motor when imported as individual article or "parts specifically designed to work as part of specific machine" of Chapter 84 and 85 required to be classified in Chapter 8501 4090 attracted BCD @10%. The adjudicating authority vide the impugned order has passed the order as mentioned below : -

(i) rejected the declared classification of the subject good viz. Motor- 370 V YDK139-370-6 (Part of Air Cooler)' under Customs Tariff Item No. 84799090 and re-classified the same under CTH 8501,

(ii) ordered for confiscation of the impugned goods and gave option to redeem the goods on payment of redemption Fine under Section 125 of the Customs Act, 1962.

(iii) confirmed demand of total Differential Customs Duty leviable on the impugned goods under Section 28(4) of the Customs Act, 1962,

(iv) ordered for recovery of Interest at the appropriate rate under Section 28AA of the Customs Act, 1962,

(v) ordered for penalty under Section 114A, Section 114AA, 112(a)(iii) of the Custom Act, 1962,

(vi) refrained from imposing penalty on M/s. Kapsun Resources Corporation, Ahmedabad under Section 112(a) of the Customs Act, 1962,

3. Being aggrieved with the impugned order passed by the adjudicating authority, the Appellant have filed the present appeal. The Appellant have, inter-alia, raised various contentions and filed detailed submissions in their Appeal memorandum dt. 07.02.2025 and submitted additional submissions dated 08.12.2025, as given below in support of their claims :

- That the adjudicating authority proceeded to classify the subject goods under Custom Tariff Item (CTI) 85014090, which classification was neither contemplated nor proposed in the original Show Cause Notice. This classification under CTI 8501 4090 by the Adjudicating Authority is ultra vires the scope of the Show Cause Notice, as the principles of natural justice require that the noticee be made aware of the specific allegations and proposed classifications against which they are required to defend themselves.
- That the adjudicating authority has transgressed the boundaries of the show cause notice by suo motu determining the classification of the goods under 85014090. It

is a fundamental and inviolable principle of administrative law, firmly established by a plethora of judicial pronouncements, that an adjudicating authority is strictly circumscribed by the allegations and charges contained within the show cause notice and possesses no jurisdiction to venture beyond its scope.

- That that the SCN must specifically mention the CTI under which the department wants to classify the goods and the Appellant should be put to notice for the same . However, the concluding charging paragraph of the SCN merely states that the goods should not be re-classified and re-assessed under Customs Tariff Heading (CTH) 8501 of the First Schedule to the Customs Tariff Act, 1975.
- That the Goods are rightly classified under CTI 84799090. The Appellant imported motors, identified as "Motor – 370W YDK139-370-6," have been classified under CTH 84799090 by the importer. This classification is based on Customs Tariff Act, 1975, and the Harmonized System of Nomenclature (HSN), which is based on, Designed for Air Coolers (Heading 8479): These motors are specifically designed and primarily used as integral parts of air coolers, which fall under heading 8479 of the HSN. Further, the Appellant rely upon following vital points which establishes that the goods are classified under CTI **84799090 :**

(i) Chartered engineer inspection certificate-

The Chartered Engineer inspection certificate is appended certifying that the motors are specifically designed and primarily used as integral parts of air coolers.

(ii) Compliance with General Rules for Interpretation (GIR):

This classification adheres to the General Rules for Interpretation (GIR) outlined in the First Schedule of the Customs Tariff Act.

(iii) Full Declaration and Verification**:**

The imported goods, including motors, cooling pads, and suction filters, are all specifically designed for use in evaporative air coolers. A complete description, classification, and value of the goods were declared accurately. The goods in question are similar in all consignments and even the Bill of Entry No. 3505599 dated 28.11.2022 underwent a proper assessment and Examination of goods, with the consignment matching the declared description.

(iv) Section Note 2 of Section XVI:

- Section Note 2(a): Parts included in any of the headings of Chapter 84 or 85 are to be classified in their respective headings. Since heading 8479 is not excluded, parts of heading 8479 should be classified under 8479 itself.
- Section Note 2(b): Parts suitable for use solely or principally with a particular kind of machine should be classified with that machine. The imported parts

are specifically designed for use in Evaporative Air Coolers (heading 84796000) and should thus be classified under heading 847990.

(v) Explanatory Notes to Chapter Heading 8479:

- The Explanatory Notes confirm that parts of machinery of heading 8479 are included under the same heading, reinforcing that the imported parts should be classified under 847990.

(vi) Intention of Tariff Classification:

- The various machinery classified under headings 847910 to 847989 have their parts classified under 847990, indicating that parts of machinery under heading 8479 should also fall under 847990.

(viii) General Rules for the Interpretation of Import Tariff:

- Rule 3(a): The heading providing the most specific description shall be preferred. The parts specifically designed for Evaporative Air Coolers fall under 84799090.
- Applying Rule 3(a), the parts should be classified under heading 84799090.

(ix) Interpretation of Taxing Statutes:

- Taxing statutes should be interpreted strictly, and any ambiguity should benefit the importer. This principle is upheld by various judicial precedents.
- The case of Commissioner of Cus. (Import), Mumbai v. Dilip Kumar & Co. reaffirms that ambiguity in taxing statutes should benefit the taxpayer.

(x) More Advantageous Entry:

- If two tariff entries are applicable, the importer is entitled to the more advantageous one.
- Various case laws support the principle that the importer can claim the more advantageous classification.

(xi) Interpretation of Words and Law:

Each word in the statute must be construed strictly, and no words should be read into the statute that are not present.

The relevant section notes and explanatory notes should be interpreted as they are written without any insertions.

Therefore, the imported Motors are solely and principally designed for use in Evaporative Air Coolers. They are correctly classifiable under CTI 84799090 as declared.

➢ That the similar goods held as correctly classifiable under CTI 84799090 vide order -in-original issued by JNCH. Kind attention is sought to Order-In-Original No 318/2020-21/ADC/Gr-V/NS-V/CAC/JNCH dated 01.10.2020, passed by the Addl. Commissioner of Customs, Gr. V, NS-V, JNCH in case of import vide Bill of Entry No. 8514696 dated 18.08.2020 filed at JNCH by M/s. Kapsun Resources

Corporation for import of similar goods. The importer had imported similar goods **"Motor – 370W YDK139-370-6"** vide the said BOE and similar objection was raised, whether the goods "Motor' is classifiable under CTH 8501. After discussions, the Ld. Addl. Commissioner of Customs, Gr. V, NS-V, JNCH held that;

ORDER

26. I decide the classification of goods imported vide Bill of Entry No. 8514696 dated 18.08.2020 under CTH 84799090.

This order supports our stance and further emphasizes that parts specifically designed for use in air coolers, such as motors, is correctly classifiable under CTH 84799090. We request that this precedent be taken into account when considering our case. The dept. has accepted the subject order as no appeal has been filed against the order, and thus has attained finality. It is a settle law that once an issue of classification is finalised, it needs to be followed by dept.

- That the provision of section 28(4) cannot be invoked.
- That the classification, the leviability of duty on the goods were verified at examination by the officers of Customs and no discrepancy was noticed at the time of examination, thereafter the goods were released by the proper officer after giving out of charge. The goods are liable for confiscation only in case of the goods which do not correspond in respect of value or in any other particular with the entry made, no discrepancy was pointed out in examination. The goods were released by proper officer under section 47 of the Customs Act 1962.

  The goods were self-assessed and classification done by the Appellant as per the best of his knowledge, he disclosed all the information and the complete description in the Bill of Entry. ***Assessment of duty*** is under Section 17 of Custom act 1962.

  The section 17 stipulates that a self- assessment is done under subsection (1) by importer/exporter, <u>but the said self- assessment is to be verified by proper officer under sub section (2) and for this purpose he may examine or test the goods. Further subsection (3) says that for verification of self-assessment the proper officer may call for documents and where it is found that self-assessment is not done correctly the proper officer may re assess such self-assessment under subsection (4) of section 17 of Customs act 1962</u>. Therefore, a self-assessment by importer is not sacrosanct and the self- assessment is subject to verification and examination by proper officer under sub section (2) and (3) of Customs Act1962. An assessment is final only after it crosses the rigors of sub-section (2) and (3) of Section 17 of Customs act 1962. As the goods were given out of charge by proper officer under section 47 of Customs without raising any objections (as per records) the act of verification of CTH dully done by various sets of officers of Customs. Once the Customs officers themselves have undertaken the verification of classification, there is no basis to hold the Appellant liable for not independently verifying the classification. In case of SHRI JOSHY M.J., SHRI DEV NARAYAN & SHRI RAJESH M.P. VERSUS COMMISSIONER OF CUSTOMS, NOIDA reported in 2018 (11) TMI 580 - CESTAT ALLAHABAD, the Hon,ble Tribunal observed:

> *"**We find that in the present case the goods were duly cleared after completing customs formalities from the control of customs from ICD Dadri. The proceedings are not throwing any light as to how the Customs Authorities did not come to know about the mis-declaration of the goods when the goods were examined when they were in the custody of customs. It is, therefore, not free from doubt that when the goods were cleared from customs control they were not Velvet Fabric but they were Knitted Polyester Fabric as declared by the importer**. We do not find any statement recorded by the Customs Authorities from the officers in charge who were responsible for examination of goods before issuing order of out of charge. We, therefore, do not find that there was any case for imposition of any penalty under Customs Act on the present appellants. We, therefore set aside the impugned order in so far as the same is concerned about the present appellant"*
>
> (Underline supplied)

- That the Adjudicating Authority upheld the charge of suppression. However, they failed to explain how suppression could have occurred when all declarations were submitted to and verified by Customs officers. Suppression of facts requires concealment of information. When facts are known to both parties, as in this case, a charge of suppression is unsustainable. The act must be deliberate. In taxation, it can have only one meaning that the correct information was not disclosed deliberately to escape from payment of duty. Where facts are known to both the parties the omission by one to do what he might have done and not that he must have done, does not render it suppression. This view is supported by the judgement of Hon'ble Supreme court COMMISSIONER OF CENTRAL EXCISE, JALANDHAR Versus ROYAL ENTERPRISES reported in 2016 (337) E.L.T. 482 (S.C.) The Adjudicating Authority's finding of suppression and/or willful misstatement is demonstrably flawed. All pertinent details regarding the goods were readily available to the department during the assessment and examination process. The importer/appellant concealed nothing; there was no information withheld from the department. Furthermore, it cannot be argued that Customs officers were incapable of correctly classifying the goods based on the declared descriptions. Verifying the proper classification based on the provided description is an inherent and fundamental duty of Customs officials. Given these circumstances, the charge of suppression and/or willful misstatement is wholly untenable. As all material facts were known to the department, there can be no legitimate basis for invoking Section 28(4) of the Customs Act, 1962. The very foundation for applying Section 28(4) – the deliberate concealment of facts – is absent in this case. The appellant rely on the decision of hon'ble Gujrat High Court in case of COMMISSIONER OF CENTRAL EXCISE & CUSTOMS Versus RIVAA TEXTILES INDS. LTD reported in 2015 (322) E.L.T. 90 (Guj.)

- **That no mis-declaration by the importer – no case for confiscation under section under 111(m) of customs act 1962.**

D.1 As there is no misdeclaration on the part of the Appellant and also that the goods were verified by the proper officer before clearance, the goods cannot be held liable for confiscation. Section 111(m) of the Act reads as under:

The following goods brought from a place outside India shall be liable to confiscation

......

(m) Any goods which do not correspond in respect of value or in any other particular with the entry made under this Act.....

The Adjudicating Authority in para 17 of the impugned order observed :

*It is to reiterate that in the subject matter, it is evident that the imported goods is mis-classified in the concerned import documents **__with an intention to evade Customs Duty__** at the applicable rate as per the CTH pertaining to the 'Electric Motors'. Importer has mis-classified the said goods imported by them and thereby contravened the provisions of Section 46 of the Customs Act, 1962 further the Bills of Entry have not been filed in compliance to Section 46(4) of the Customs Act, 1962. The subject goods have been improperly imported wherein the CTH declared in the subject bills of entry is incorrect and due to the importer has evaded the applicable custom duties payment.*

(bold underline supplied)

The Appellant respectfully submits that the Adjudication Order is fundamentally flawed due to the complete absence of any findings whatsoever establishing how the Appellant purportedly misclassified the goods with the intent to evade duty. This grave deficiency is further compounded by the fact that no investigation into this serious allegation was conducted, nor was any statement from the Appellant ever recorded. Such a lack of due process and evidentiary basis renders the imposition of such charges against the Appellant wholly unsustainable and demonstrates a clear disregard for principles of natural justice. The Adjudicating Authority has, in effect, levied a serious accusation without any supporting evidence or opportunity for the Appellant to be heard, leaving absolutely no legal basis for these charges to stand.

There has been no misdeclaration whatsoever. This is not a case where Customs officers detected undeclared goods. On the contrary, all declarations were accurately presented to the officers, who subsequently verified the assessment and examined the goods. Despite the facts as above, and without any specific evidence the proceedings has simply aver that the goods are liable to confiscation, which is improper and unlawful. In SATRON Versus COMMISSIONER OF CUSTOMS (IMPORTS) JNCH, NHAVA SHEVA as reported in 2020 (371) E.L.T. 565 (Tri. - Mumbai),Hon'ble Tribunal held:

from which, it would appear even though the goods are not presented in the final form for the purpose, rate of duty as finished goods should be applied. It is also not the case of the customs authorities that there has been a misdeclaration of the finished products. The obligation of the importer is fulfilled by declaration of the goods as imported. It is plainly an application of the Interpretation Rules that has altered the classification and rate of duty. In the absence of any evidence of misdeclaration of goods, the confiscation as a consequence of reclassification will not sustain.

The Appellant also relies on followings decision:

-1998 (7) TMI 91 - Supreme Court - Northern Plastic Ltd. Versus Collector of Customs & Central Excise

-2019 (5) TMI 922 - CESTAT Mumbai Kores (India) Ltd. Versus Commissioner of Customs (I), N.S.

-2021 (12) TMI 744 - CESTAT KOLKATA -M/S. Shree Creations Pvt. Ltd. Versus Commissioner Of Customs (Port) (Vice-Versa)

D.2 Further, it is a settled law that goods which are not physically available cannot be confiscated. In case of COMMISSIONER OF CUSTOMS (IMPORT), MUMBAI Versus FINESSE CREATION INC.as reported in 2009 (248) E.L.T. 122 (Bom.), the Hon'ble Bombay High Court held

"The question of confiscating the goods would not arise if there are no goods available for confiscation nor consequently redemption. Once goods cannot be redeemed no fine can be imposed. The fine is in the nature of computation to the state for the wrong done by the importer/exporter."

The Hon'ble Supreme Court after condoning the delay dismissed the Petition for Special Leave to Appeal (Civil) No. CC 7373 of 2010 filed by Commissioner of Customs (Import) against this Judgment and Order dated 25-8-2009 in C.A No.

66 of 2009 of the High Court of Bombay.

The Adjudicating Authority relied upon the case of Visteon Automotive system of Hon,ble Madras high Court .While deciding the issue whether the redemption fine can be imposed when goods are physically not available, the Hon'ble CESTAT in CESTAT MUMBAI SHASHI DHAWAL HYDRAULICS PVT LTD VERSUS COMMISSIONER OF CUSTOMS (IMPORT) MUMBAI 2018 (11) TMI 500 distinguishing the case of Visteon Automotive system ,held:

"It is clear from the decision of the Hon'ble High Court of Bombay in re Finesse Creation Inc that redemption fine cannot be imposed on goods that are not available for taking possession of upon confiscation under section 111 of Customs Act, 1962. There is no dispute that the impugned goods are not available. The decision of the Hon'ble High Court of Madras in re Visteon Automotive Systems India Ltd, relied upon by Learned Authorised Representative, has merely observed that the decision of the Hon'ble High Court of Bombay did not apply to the case of the appellant before them. Hence, we are bound by the decision in re Finesse Creation Inc. The imposition of redemption fine under section 125 of Customs Act, 1962 fails"

(*Underline* supplied)

- That no case of malafide intention no penalty imposable Under 114A.
- That no penalty can be imposed under 114AA.
- That the prayer has been made by the appellant to set aside impugned order passed by the Additional Commissioner, Customs, ICD, Tumb, Valsad.

PERSONAL HEARING:

4. Personal hearing in the matter was held on 09.12.2025 in Virtual mode. Shri Kuldeep Singh Nara, Advocate appeared for hearing on behalf of the Appellant. He reiterated the submissions made in the appeal memorandum and requested to set aside the impugned order. He sought consequential relief, including setting aside of the demand, confiscation of the goods, redemption fine, and the penalty imposed.

DISCUSSION & FINDINGS:

5. Before going into the merits of the case, I find from the Form C.A.- 1, the date of communication of the Order-In-Original dated 19.12.2024 has been shown as 19.12.2024 and the present appeal has been filed on 07.02.2025. Therefore, it is observed that the present appeal have been filed within the statutory time limit of 60 days as prescribed under Section 128(1) of the Customs Act, 1962. Further, it is observed that the appellant has paid Rs. 44,500/- as pre-deposit vide Challan number 7165637963 dt. 30.01.2025. Hence, the condition relating to pre-deposit, as mandated under Section 129E of the Customs Act, 1962, is duly complied with. As the appeal has been filed as

per the provision of stipulated time-limit as per Section 128 of the Customs Act, 1962 and complies with the requirement of Section 129E of the Customs Act, 1962, the appeals has been admitted and being taken up for disposal on merits.

6. I have carefully gone through the appeal memorandum as well as records of the case and the submission made on behalf of the Appellant during the course of hearing. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority rejecting the classification of the subject goods viz *"Motor 370W YDK139-370-6 (Part of Air Cooler)"* under CTH 8479 9090 and reclassified the same under CTH 8501 4090 , in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 It is observed that the appellant has contended that the goods described as *"Motor 370W YDK139-370-6 (Part of Air Cooler)"*, imported under Bills of Entry No. 3503460 dated 28.11.2022, 3505599 dated 28.11.2022, 3659276 dated 09.12.2022 and 3663759 dated 09.12.2022, are classifiable under Customs Tariff Heading (CTH) 8479 90 90 as parts of air coolers. Accordingly, the appellant has discharged customs duty by paying Basic Customs Duty (BCD) @ 7.5%, along with applicable Social Welfare Surcharge (SWS) and Integrated Goods and Services Tax (IGST). However, the department is of the view that the impugned goods are electric motors, having an independent and specific function, and therefore merit classification under CTH 8501 40 90, attracting BCD @ 10%, along with applicable SWS and IGST. In view of this, a Show Cause Notice bearing F. No. CUS/SHED/Misc./868/2023 dated 30.05.2024 was issued to the appellant, proposing re-classification of the impugned goods under CTH 8501 40 90, recovery of differential customs duty along with applicable interest, confiscation of the goods under the relevant provisions of the Customs Act, 1962, and imposition of penalty on the appellant.

6.2 The adjudicating authority, on the basis of DAC Analytics Note No. 02/2022-23 dated 16.05.2023, issued by the Data Analytics Cell (DAC) of the Office of the Chief Commissioner of Customs, Gujarat Zone, undertook an analysis of import data relating to goods described as "Electric Motors" imported by various importers during the period 01.01.2021 to 01.05.2023, with the objective of determining the correct classification of such goods under the Customs Tariff Act, 1975. Upon examination of the said data, it was observed that electric motors and generators are specifically described and covered under Heading 8501 of the First Schedule to the Customs Tariff Act, 1975. Accordingly, the adjudicating authority held that the impugned goods imported by the appellant, being electric motors, are appropriately classifiable under Customs Tariff Heading 8501.

6.3 The adjudicating authority placed reliance on the Harmonized System of

Nomenclature (HSN) Explanatory Notes to Heading 8501 to ascertain the scope and meaning of the expression "Electric Motors" for the purpose of correct classification under the Customs Tariff Act, 1975.

Further, Classification of goods in the First Schedule i.e. Import Tariff is governed by the principles/ Rules General Rules of Interpretation (GIR) of the First Schedule mentioned therein. As per the Rule 1 of General Rules for Interpretation, it is provided that 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. These notes have been given statutory backing and have been incorporated at the top of each Chapter.

In this context, Section Note 2 of Section XVI, covering Chapters 84 and 85, assumes critical relevance. The said Note provides that parts which are suitable for use solely or principally with a particular machine are generally classifiable with that machine. However, a clear and categorical exception is carved out for parts which themselves constitute articles covered by a specific heading of Section XVI. Such goods are required to be classified in their own appropriate heading, even if they are specifically designed to function as part of a particular machine.

6.4 On the basis of above, the adjudicating authority confirmed that the Electric Motor when imported as individual article or "parts specifically designed to work as part of specific machine" of Chapter 84 and 85 required to be classified in Chapter 8501 4090 attracted BCD @10%. The adjudicating authority vide the impugned order rejected the declared classification of the subject good viz. Motor- 370 V YDK139-370-6 (Part of Air Cooler)' under Customs Tariff Item No. 84799090 and re-classified the same under CTH 8501, order for demand of differential duty, interest, confiscation and option to redeem the goods, imposed penalties.

7. I find that the appellant in his CA-1 memorandum of appeal dated 07.02.2025 has drawn the kind attention to the Order-In-Original No 318/2020-21/ADC/Gr-V/NS-V/CAC/JNCH dated 01.10.2020, passed by the Addl. Commissioner of Customs, Gr. V, NS-V, JNCH in case of import vide Bill of Entry No. 8514696 dated 18.08.2020 filed at JNCH by M/s. Kapsun Resources Corporation for import of similar goods. The importer had imported similar goods "Motor – 370W YDK139-370-6" vide the said BOE and similar objection was raised, whether the goods "Motor' is classifiable under CTH 8501. The adjudicating authority Addl. Commissioner of Customs, Gr. V, NS-V, JNCH, after discussion , decided the classification of goods imported vide Bill of Entry No. 8514696 dated 18.08.2020 under CTH 84799090. The appellant further submitted that this OIO supports their stance and further emphasizes that parts specifically designed for use in air coolers, such as motors, is correctly classifiable under CTH

84799090. The appellant requested that this precedent be taken into account when considering their case. The department has accepted the subject order as no appeal has been filed against the order, and thus has attained finality. It is a settle law that once an issue of classification is finalised, it needs to be followed by department.

7.1 Further, I find that the OIO No.: 318/2020-21/ADC/Gr-V/NS-V/CAC/JNCH dated 01.10.2020, passed by the Addl. Commissioner of Customs, Gr. V, NS-V, JNCH in the matter of M/s Kapsun Resources Corporation having their registered address at Shed No 5, Raj Estate, B/H Vallabh Dinning Hall, Sarkhej, Ahmedabad, Gaujrat-380010. The importer filed B/E No. 8514696 dated 18.08.2020 for home clearances of imported goods, declared as "Motor-YDK 139-550-6(Parts of Air cooler)" under CTH 8479 9090. The department contended that there is a specific CTH of Motor which is classifiable under CTH 8501. Further, reliance was placed on Section Note of Section XVI of Ch.85 by the department. As per Note 2(a), it has been observed that since the main machine ie. Air Cooler is classifiable under heading 84796000 which is excluded in section Note, therefore, parts of Air Cooler will be classified under their respective heading. Since, for classification of Motor there is specific heading ie. 8501, the same may be classified under these respective headings. Regarding other goods, other than Motor, has also been declared as part of Air Cooler the correct classification may be decided by the concerned Group in view of above Section Note in their respective heading.

7.2 I find that Order-in-Original No. 318/2020-21/ADC/Gr-V/NS-V/CAC/JNCH dated 01.10.2020, passed by the Additional Commissioner of Customs, Group-V, NS-V, JNCH, has examined the identical issue in detail. The adjudicating authority therein, after due analysis of the tariff provisions, Section Notes, Chapter Notes and relevant interpretative rules, arrived at a well-reasoned conclusion that the subject goods are appropriately classifiable under CTH 8479 90 90. I find myself in agreement with the reasoning, discussion and conclusion recorded in the said order. Accordingly, reliance is placed on the relevant findings of the said Order-in-Original in the present appeal, the extracts of which are reproduced below in support of the present decision :

> 21. *I have carefully gone through the facts of the Case. The docks Objection and the written submissions and oral submissions made by the importer during personal hearing. I find that the issue involved in this case to decide the classification of the goods imported vide Bill of Entry No. 8514696 dated 18.08.2020 i.e. whether they are liable to classification under CTSH 8501 as observed by the docks examining officers or under CTH 8479 9090 and 8477 9000 as declared and argued by importer and accordingly I proceed to decide the issue.*
>
> 22. *I find from the product catalogue and company profile submitted during the personal hearing that the importer is in the business of manufacturing of the EVAPORATIVE AIR COOLER for industrial as well as commercial application. I find*

that M/s. Kapsun Resources Corporation, Ahmedabad are manufacturers of "KAPSUN" brand air coolers for industrial use and they have even patented and registered the design developed by us under the provisions of Design Act, 2000 and Design Rules, 2001. They have produced the Certificate of Registration of Design issued by the Controller General of Patents, Designs and Trade Marks, Patent Office, Govt. of India vide No. 85290 dated 20.01.2020. They have submitted that the parts which are imported vide Bill of Entry No. 8514696 dated 18.08.2020 are principally used for manufacture of the patented Evaporative Air Coolers.

23. I find that there is specific entry for Evaporative Air Cooler under Custom Tariff i.e. CTH 84796000. In view of above discussions, I have no hesitation in holding that the parts imported are parts of Evaporative Air Cooler. Now for the purpose of classification of parts of Evaporative air cooler, I find that Section Note 2 to Section XVI of Customs tariff is relevant.

23.1 I find that Section note 2 to Section XVI states as follows

Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note1 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.

23.2 On perusal of above section note, I find that Section note 2(b) is relevant in present case wherein it is implied that parts which are suitable for use solely and principally with machine of heading 8479600 i.e. evaporative air cooler in this case are to be classified with the machine of that kind. In view of above position emerging *from Section note, I have no hesitation in holding that the imported parts being solely and principally designed for use as parts of Evaporative Air Coolers classifiable under CTH 8479 6000 appears classifiable under its respective heading. I find that the suction filters are classified by the importer in the Bill of entry under CTH 84779000 are parts of Evaporative air cooler and also classifiable under 84799090.*

23.3 I find that as per Explanatory notes to Chapter heading 8479, it has been categorically mentioned in the last for inclusion and classification of parts of machinery of heading 8479 that ,

PARTS

"Subject to the general provisions regarding the classification of parts, the heading also covers parts of machinery of this heading"

I find that the explanatory notes also confirm the classification of parts of evaporative air cooler under CTH 8479 9090.

24. In view of above discussions and finding, I find that goods imported vide Bill of Entry No. 8514696 dated 18.08.2020 are rightly classifiable under CTH 8479 9090.

25. In view of above, I pass the following order.

ORDER

26. I decide the classification of goods imported vide Bill of Entry No. 8514696 dated 18.08.2020 under CTH 8479 9090.

(Emphasis supplied)

8. In view of the foregoing discussion, analysis of the relevant tariff entries, Section Notes and Chapter Notes of Section XVI, the General Rules for the Interpretation of the Customs Tariff, the Explanatory Notes to Heading 8479, and the settled legal position on consistency in classification, I find that the issue involved in the present appeal is no longer res integra. The identical issue of classification of similar goods has already been examined in detail and conclusively decided by the competent adjudicating authority vide Order-in-Original No. 318/2020-21/ADC/Gr-V/NS-V/CAC/JNCH dated 01.10.2020, which has attained finality as the same has been accepted by the department and no appeal has been preferred there against. Judicial discipline and administrative consistency require that such a settled classification be followed in identical facts and circumstances. I am in full agreement with the reasoning and findings recorded in the said Order-in-Original, which clearly establish that the impugned goods i.e. namely *"Motor 370W YDK139-370-6 (Part of Air Cooler)"*, being parts solely and principally designed for use in evaporative air coolers classifiable under CTH 8479 6000, are correctly classifiable under CTH 8479 90 90. The classification adopted by the appellant cannot be held to be incorrect or contrary to the statutory provisions. Consequently, the demand of differential

duty, proposal for confiscation of goods, Fine and the levy of interest and penalties, based on re-classification of the goods under CTH 8501, are not sustainable on merits.

Accordingly, the impugned order is set aside on merits, the demand of differential duty along with applicable interest and penalties is unsustainable and is hereby dropped, and the appeal is allowed with consequential relief, if any, in accordance with law.

(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-286/CUS/AHD/2024-25

Date: 24.12.2025

By email (as per Section 153(1)(c) of the Customs Act, 1962)

By Speed post.

To
M/s. Kapsun Resources Corporation ,
5, Survey No.-437, Changodar Highway,
Near Navapura Sanathal Canal,
Ahmedabad-382 210, Gujarat

Email-kapsunresources@gmail.com

Copy to:

1.The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in)
2.The Principal Commissioner of Customs, Custom House, Ahmedabad. (email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)
3. The Additional Commissioner of Customs, (ICD- Tumb,) Custom House, Ahmedabad. (cus-ahmd-adj@gov.in)
4. The Assistant Commissioner of Customs, ICD-Tumb, . (cusicd-tumb@gov.in icdtumb@gmail.com)
5. Shri Kuldeep Singh Nara, Advocate, (taxelysian@gmail.com)
6. Guard File.