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 – 20260171MN000000D95F

क	फ़ाइल संख्या FILE NO.	S/49-217/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-523-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	21.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	OIO No.: 141/ADC/VM/O&A/2024-25 dt. 05.09.2024 passed by the Additional Commissioner, Customs, Customs House, Ahmedabad.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	21.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Karl Mayer Textile Machinery India Pvt Ltd, Plot No.: 302/1, Panchratna Industrial Estate, Sarkhej-Bavla Highway, Changodar, Ahmedabad-382 213.

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 है, 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.	

Order-In-Appeal

M/s. Karl Mayer Textile Machinery India Pvt Ltd, Plot No.: 302/1, Panchratna Industrial Estate, Sarkhej-Bavla Highway, Changodar, Ahmedabad-382 213. (hereinafter referred to as "the Appellant") have filed the present appeal challenging the OIO No.: 141/ADC/VM/O&A/2024-25 dt. 05.09.2024 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner of Customs, Custom House, Ahmedabad (herein after referred to as "the "adjudicating authority").

2. Facts of the case, in brief, are that the Appellant had imported goods i.e. "Electric Motors" (herein after referred as 'impugned goods') under Bills of Entry No. 2339838 dated 08.03.20L9, 4154535 dated 20.07.2019, 5330547 dated 06.09.2021, 6837405 dated 25.12.2021, 7683915 dated 28.02.2022, 2080893 dated 20.08.2022, 5071967 dated 16.03.2023, 6327578 dated 08.06.2023, 7382658 dated 17.08.2023 and 8353120 dated 18.10.2023 by classifying under Tariff Item 84483990 and 84481900 of Customs Tariff Act, 1975 and paying Customs Duty (BCD) @ 5%/7.5%, Social Welfare Surcharge @ 10% and IGST @ 18%. Whereas the department proposed classification of the impugned goods under CTH 8501 attracting BCD @10%, SWS and IGST.

2.1 Therefore, a Show Cause Notice F.No.: VIII/10-213/ICD-Khod/OA/HQ./2023-24 was issued to the appellant proposing classification of the impugned goods under CTH 8501, demand of differential duty & interest, confiscation of the goods, imposition of penalty.

2.2 An NCTC alert was received that the goods imported by the appellant "Electric Motors" as specifically designed to work as part of specific machine , have been misclassified under CTH 8448 3900 and 8448 1900 of the Customs Tariff Act, 1975 instead of appropriate classification under CTH 8501, thereby the appellant has paid Customs duty at lower rate of BCD @5%/7.5% instead of 7.5%/10% as given in below mentioned Table-1:

Table-1

Heading	Duty Paid	Duty Payable (CTH Difference 8501)	Difference
BCD	287017	513409	226392
SWS(@10%)	28702	51341	22639
IGST (@18%)	1045406	1090231	44826
Total	1361125	1654981	**293857**

2.3 The appellant submitted vide letter dated 23.11.2023 that Electric Motor, when imported as "individual article" or "part specifically designed to work as part of specific machine" of Chapter 84 or 85 is invariably to be classified only in Chapter Heading 8501 They were requested to pay the short paid duty as given in Table-1 above, along with interest at applicable rate as per the provisions of the Customs Act, 1962. The appellant submitted that (i) The company is engaged in manufacturing of Textile Machinery and they had imported the said electric motors as a part and to be used in textile machinery manufactured by them. (ii) Said Electric Motors imported by them cannot be used for any other application and were imported exclusively for use in manufacture of textile machinery. (iii) Said electric motors should be classified as capital goods under Chapter 84 of the Customs Tariff Act, 1975.

2.4 The contention of M/s. Karl Mayer was not found correct as the Section Note 2 of Section XVI of the CTA, 1975 and Explanatory Notes of Harmonised System of Nomenclature for Section XVI explicitly mention that above do not apply to parts which in themselves constitute an article covered by a heading of this Section (other than headings 84.85 and 85.48) and it has further been provided that these are in all cases classified in their own appropriate heading even if specifically designed to work as part of a specific machine; that this applies in particular to, among others, "Electric motors of heading 85.01".

2.5 Therefore a Show Cause Notice F. No. VIII/10-213/ICD-Khod/OA/HQ./2023-24 dated 20.02.2024 was issued to the appellant calling upon them to show cause to the Additional Commissioner of Customs, Custom House, Ahmedabad as to why:-

(i) The imported goods i.e. Electric Motors/ Motors should not be classified under CTH 8501 of the First Schedule of the Customs Tariff Act, 1975,

(ii) The imported goods of assessable value of Rs. 54,92,089/- should not be confiscated under Section 111(m) of the Customs Act, 1962, and as the said goods had already been cleared, Redemption Fine in lieu of confiscation should not be imposed under section 125 of the Customs Act, 1962,

(iii) The differential Customs Duty of Rs. 2,93,857/- should not be demanded and recovered under Section 28(4) of the Customs Act, 1962.

(iv) Interest should not be charged and recovered from them under Section 28AA of the Customs Act, 1962.

(v) Penalty should not be imposed on them under the provisions of Section 112(a) of the Customs Act, 1962.

(vi) Penalty should not be imposed on them under the provisions of Section 114A of the Customs Act, 1962.

2.6 The adjudicating authority after following principles of natural justice vide the impugned order has passed the order as mentioned below: -

(i) He ordered that the impugned goods as mentioned at Sr. No. 1 to 4, 6 to 11, 14, 17 & 20 of Annexure-A to the aforementioned SCN, valued at Rs. 40,75,016/- imported by the appellant, are "Electric Motors and appropriately classifiable under Chapter Heading 8501 of the First Schedule to the Customs Tariff Act, 1975.

(ii) He confirmed the demand of Customs Duty of Rs. 2,10,287/- leviable on the good mentioned in (i) above and ordered for recovery under Section 28 (4) of the Customs Act, 1962 from the appellant,

(iii) He held that the impugned goods at Sr. No. 5, 12, 13, 15, 16, 18 & 19 of Annexure-A to the aforementioned SCN, valued at Rs. 14,17,072/- imported by the appellant, are not electric motors, but parts of electric motors and appropriately classifiable under Chapter Heading 8503 of the First Schedule to the Customs Tariff Act, 1975.

(iv) He confirmed the demand of Rs. 37,586/- as differential duty on the impugned goods at Sr. No. 5 & 12 of Annexure-A to the aforementioned SCN and ordered for recovery of the same under Section 28 (4) of the Customs Act, 1962. He dropped the demand of Customs Duty of Rs. 45,984/- from the appellant as discussed in the impugned order.

(v) He held the impugned goods as mentioned in Annexure-A to the aforementioned SCN, valued at Rs. 54,92,039/- are liable for confiscation under Section 111(m) of the Customs Act, 1962 and gave potion to redeem the goods on payment of Fine of Rs. 2,50,000/- under Section 125 of the Customs Act, 1962.

(vi) He ordered to charge and recover interest at the applicable rate in terms of the provisions of Section 28AA of the Customs Act, 1962 on the above confirmed demand at (ii) and (iv) above from the appellant,

(vii) He imposed penalty of Rs. 2,47,873/- plus penalty equal to the applicable interest under Section 28AA of the Customs Act, 1962 above on the appellant.

(viii) He did not impose any penalty under Section 112(a) of the Customs Act, 1962, on the appellant.

3. Being aggrieved with the impugned order passed by the adjudicating authority, the Appellant have filed the present appeal. The Appellant have in their Appeal memorandum dt. 05.11.2024, has submitted below mentioned points in support of their claim:

- That the appellant hereby says and submit that Ld. Adjudicating Authority has erred in failing to appreciate that the items being customized items cannot be classified as electric motor as commercially understood and marketed. The notice also nowhere pinpoint sub-heading of 8501 under which it was proposed to classify the items. Without pinpointing the classification, it cannot be inferred that the items are electric motor of heading 8501. Ld. Adjudicating Authority has also erred in failing to deal with case laws wherein it is held that driving mechanism per se cannot be considered as electric motor as commercially understood and marketed so as classify them under 8501.

- That the appellant hereby says and submit that the impugned order has travelled beyond the scope of show cause notice insofar as items at Sl. Nos. 5,12,13,15,16,18 & 19 (para 17.4.1 of impugned order) inasmuch as Ld. Adjudicating Authority has found them classifiable under CTH 8503 0090 which has not been proposed in the Show Cause Noticer. Hence, demand of duty amounting to Rs. 37,586/- covered by para 18 (iv) along with interest and concomitant fine and penalty is not tenable in the eyes of law.

- That the appellant hereby says and submit that no appeal is filed against assessment orders on the bills of entry covered by the notice. Hence, the assessment has already attained finality. On this basis, it is submitted without challenge, assessment cannot be reopened by fresh show cause notice and impugned order.

- That the appellant says and submit that the issue is confined to classification and does not involve mis-declaration or suppression of any kind. Hence, invocation of extended period so as to demand duty against goods cleared earlier than 02 years, by invoking Section 28 (4) of Customs Act,1962, is not tenable in the eyes of law. For the same reason, imposition of penalty under Section 114A of Customs Act,1962 is not tenable in the eyes of law.

- That inasmuch as demand of duty is not tenable on merit as well as limitation, the appellant is not liable to interest under Section 28AA and penalty under Section 114A of Customs Act,1962.

- That the appellant hereby says and submit that classification is solely within the domain of department and hence, any change in classification cannot result in confiscation or liability of confiscation under Section 111 (m) of Customs Act,1962 which deals with mis-declaration and not mis-classification. Moreover, goods are not available physically and hence, on this ground also, Ld. Adjudicating Authority has erred in imposing fine in lieu of confiscation under Section 111 (m) of Customs Act,1962.

- That the appellant craves leave of this Hon'ble Appellate Authority to add, amend, alter, rescind and/or modify any of the foregoing grounds/paragraphs, if deemed necessary in the interest of justice.

Additional submission filed by the appellant vide mail dated 13.01.2026, contents of same is reproduced herein below :

- The impugned order has travelled beyond the scope of show cause notice insofar as items at Sl. Nos. 5,12,13,15,16,18 & 19 of Annexure-A is concerned inasmuch as there is no proposal in the notice to classify these items under CTH 8503 (as ordered by Ld. Adjudicating Authority). Hence, demand of Rs. 37,586/- [as per Sl. No. (iii) & (iv)] of para 18 of impugned order is liable to be quashed and set aside, being untenable in the eyes of law.
- According to the notice (and impugned order), electric motors of Heading 8501 must be classified in their own appropriate heading even if specifically designed to work as part of a specific machine. On this basis, items at Sl. Nos. 1 to 4, 6 to 11, 14, 17 & 20 of Annexure-A, that were classified by appellant under respective headings (8448 3990 and 8448 1900) have been classified under CTH 8501. However, there is a legal lacunae in the exercise carried out by department inasmuch as it is nowhere alleged or held that items under consideration are Electric motors of Heading 8501. The averment at para 5 of impugned notice that "Electric motors" are goods included in Chapter Heading 85.01 is not sufficient to bring the goods under CTH without actually determining the correct classification of the items under consideration. Since this is not done, the legal requirement of determining the correct classification of goods is not satisfied and hence, application of General Rules of Interpretation is premature and cannot be sustained.
- Ld. Adjudication Authority has erred in failing to appreciate the settled legal position that when goods are not available, imposition of redemption fine is not in accordance with law as held by Larger Bench of Hon'ble Tribunal in the case of Shiv Kripa Ispat Pvt. Ltd. v/s Commissioner of C. Ex. & Cus., Nasik, 2009 (235) ELT 623 (Tri.-LB), as well by Hon'ble High Court of Bombay in the case of Finesse

Creations Ltd., 2009 (248) ELT 122 (Bom.), which is duly maintained by Hon'ble Supreme Court, as reported at 2010 (255) ELT A 120 (S.C). On this basis, it is submitted that imposition of fine is not tenable.

- The appellant hereby says and submits that Ld. Adjudicating Authority has erred in failing to appreciate that the notice is time barred, having been issued by invoking section 28 (4) of Customs Act,1962. Section 28 (4) of Customs Act, 1962 can be invoked in the facts and circumstances involving three factual parameters i.e. (a) collusion (b) wilful mis-statement and (c) suppression of facts. The impugned order does not contain evidence showing presence of any one or more of these parameters in this case. The appellant has never colluded with anyone. They have not made any wilful mis-statement. They have not suppressed any facts inasmuch as all the bills of entry and supporting documents like invoice, packing list, etc. have been duly filed with the concerned assessing officer at the material time. This is not disputed anywhere in the impugned order. Similar goods that were imported earlier were duly examined and no objection was taken qua classification. The dispute therefore, is confined to classification made by appellant under a bona fide belief only. Hence, invocation of extended period for the purpose of demanding duty under section 28 (4) of Customs Act, 1962 is not tenable in the eyes of law. Consequently, demand of interest under section 28AA and imposition of penalty under section 114A ibid is not tenable in the eyes of law. Reliance is placed on the following amongst a large number of decisions in this regard:

  i) Shahnaz Ayurved Products, 2004 (173) ELT 337 (All.)
  ii) Ishaan Research Lab. (P) Ltd., 2008 (230) ETL 7 (S.C.)
  iii) Northern Plastic Ltd.,1998 (101) ELT 549 (S.C.)
  iv) Hindustan Ferodo Limited,1997 (89) ELT 16 (S.C.)
  v) HPL Chemicals Ltd., 2006 (197) ELT 324 (S.C.)
  vi) Calcutta Steel Industries,1989 (39) ELT 175 (S.C.)
  vii) D. L. Steels, 2022 (381) ELT 289 (S.C.)

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- The appellant also says and submits that assessment has already attained finality in all these cases. Department has never challenged final assessment in any bill of entry under consideration. Hence, as per the settled law, assessment cannot be re-opened under any pretext. Reliance is placed on the following amongst other citations:

  (i) Aspen International Pvt. Ltd., 2024 (11) TMI 1148 – CESTAT AHMEDABAD
  (ii) Asha Enterprises, 2025 (3) TMI 344 – CESTA KOLKATA

(iii) Hijaz Kuroda Gloves Company Pvt. Ltd., 2024 (12) TMI 478 – MADRAS HC

(iv) SJS International, 2021 (12) TMI 1339 – GUJARAT HIGH COURT

(v) Sova Solar Limited, 2025 (12) TMI 381 – CESTAT KOLKATA

(vii) Shri Rumen Ray, 2023 (7) TMI 70 – CESTAT KOLKATA

(viii) Décor India and others, 1987 (31) ELT 400 (T)

- It is prayed to give consideration to the above submissions and citations and allow the appeal filed by appellant with consequential relief.

PERSONAL HEARING:

4. Personal hearing in the matter was held on 24.12.2025 in physical mode. Shri Vikas Mehta, Consultant, appeared for hearing on behalf of the Appellant. He reiterated the submissions made in the appeal memorandum. He submitted that further submissions would be made in the matter within one week and, accordingly, vide email dated 13.01.2026, he filed additional submissions, which already been mentioned above at para 3.

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 05.09.2024 has been shown as 06.09.2024 and the present appeal has been filed on 05.11.2024. 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 from details mentioned at Sr.No.06 of the Form No. CA 1, that the appellant has paid entire amount of duty, interest, fine and penalty @25% within 30 days of receipt of the order. Thus, the requirement of pre-deposit is deemed to be satisfied. 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 *"Electric Motor"* under CTH 8448 3990 and 8448 1900 and reclassified the same under CTH 8501 and 8503, in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 It is observed from the available records that the appellant had imported various Electric Motors, as per Annexure-A to the SCN, classifying the same under CTH 8448 3990 and 8448 1900. The adjudicating authority, in the impugned order, on the basis of available records, reclassified the imported goods under consideration under CTH 8501 and 8503 and accordingly confirmed the demand of duty along with interest, imposed penalty, and ordered confiscation with option for redemption fine against the appellant.

6.2 It is observed that the appellant in his appeal memorandum and additional submission submitted that the impugned order has travelled beyond the scope of show cause notice in so far as items at Sl. Nos. 5,12,13,15,16,18 & 19 of Annexure-A is concerned inasmuch as there is no proposal in the notice to classify these items under CTH 8503 (as ordered by Ld. Adjudicating Authority). Hence, demand of Rs. 37,586/- of para 18 of impugned order is liable to be quashed and set aside, being untenable in the eyes of law.

6.2.1 It is further observed that the appellant contends the impugned goods are customized items and not electric motors as commercially understood or marketed. The Show Cause Notice does not specify the sub-heading under CTH 8501 proposed for classification and, therefore, such classification cannot be presumed. It is further contended that the Adjudicating Authority failed to consider the judicial precedents holding that a driving mechanism per se is not classifiable as an electric motor under CTH 8501.

6.2.2 It is also observed that the appellant contended that the impugned order does not contain evidence showing presence of any one or more of parameters related to collusion, will full mis-statement and suppression of the facts in this case. The appellant has never colluded with anyone. They have not made any wilful mis-statement. They have not suppressed any facts inasmuch as all the bills of entry and supporting documents like invoice, packing list, etc. have been duly filed with the concerned assessing officer at the material time. This is not disputed anywhere in the impugned order. Similar goods that were imported earlier were duly examined and no objection was taken qua classification. The dispute therefore, is confined to classification made by appellant under a bona fide belief only. Hence, invocation of extended period for the purpose of demanding duty under section 28 (4) of Customs Act, 1962 is not tenable in the eyes of law.

6.3 I find that the appellant has specifically contended that in respect of items appearing at Sl. Nos. 5, 12, 13, 15, 16, 18 and 19 of Annexure-A, the Show Cause Notice does not propose classification of the said items under CTH 8503. A perusal of the Show Cause Notice confirms that there is no proposal whatsoever for classification of these items under CTH 8503. However, the Adjudicating Authority has proceeded to classify the said items under CTH 8503 and confirmed duty demand of Rs. 37,586/-, as reflected in para 18 of the impugned order. It is a settled principle of law that an adjudicating authority cannot travel beyond the allegations and proposals contained in the Show Cause Notice, as the notice forms the foundation of adjudication. Any confirmation of demand on a ground or classification not proposed in the Show Cause Notice is legally unsustainable. On this count alone, the impugned order suffers from a serious infirmity.

6.4 I further find that the appellant has contended that the impugned goods are customized items and are not electric motors as commercially understood or marketed. It is also noticed that the Show Cause Notice does not specify the exact sub-heading under CTH 8501 proposed for classification. In the absence of a clear and specific proposal, classification of the impugned goods under Heading 8501 cannot be presumed. Further, the appellant had relied upon judicial precedents holding that a driving mechanism per se cannot be classified as an electric motor under CTH 8501. However, the impugned order does not contain any discussion or findings on these submissions or the cited case laws. I find merit in the appellant's contention that the adjudicating authority has failed to pass a speaking order on the issue of classification.

6.5. I also find force in the appellant's submission that the impugned order does not bring on record any evidence to establish fraud, collusion, wilful misstatement or suppression of facts. It is undisputed that all Bills of Entry and supporting documents such as invoices and packing lists were duly filed at the time of import and assessed by the department. It is also on record that similar goods were imported earlier and cleared without objection on classification. The dispute appears to be confined to classification adopted by the appellant under a bona fide belief, and the impugned order does not rebut this contention with any cogent evidence. However, the impugned order does not specifically examine or record findings on the appellant's submissions regarding non-invocability of the extended period under Section 28(4).

7. In view of the above facts and findings, I hold that the Adjudicating Authority has travelled beyond the scope of the Show Cause Notice by classifying certain items under CTH 8503, which was not proposed in the notice. The impugned order does not deal with the appellant's specific submissions on classification under CTH 8501, including the issue of customization, commercial understanding and relied upon judicial precedents. The impugned order also lacks a reasoned finding on the invocation of extended period under Section 28(4).

Accordingly, the matter is remanded to the adjudicating authority. The adjudicating authority is directed to examine the issues afresh and pass a reasoned and speaking order, after duly considering all submissions of the appellant and strictly confining the adjudication to the proposals contained in the Show Cause Notice, in accordance with law.

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

F. No. S/49-217/CUS/AHD/2024-25 Date: 21.01.2026

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

By Speed post.

To

M/s. Karl Mayer Textile Machinery India Pvt Ltd,
Plot No.: 302/1, Panchratna Industrial Estate,
Sarkhej-Bavla Highway,
Changodar,
Ahmedabad-382 213.

Email: info.in@karlmayer.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- Khodiyaar,) Custom House, Ahmedabad. (cus-ahmd-adj@gov.in)
4. The Assistant Commissioner of Customs, ICD-Khodiyaar, Gandhinagar . (icdkhd-ahd@gov.in icd_ahd@yahoo.co.in)
5. Shri Vikas Mehta, Consultant, Ahmedabad (vikas@dlegal.in)
6. Guard File.