



सीमा शुल्क के प्रधान आयुक्त का कार्यालय
सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात
**OFFICE OF THE PRINCIPAL COMMISSIONER OF
CUSTOMS**
CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT
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A. File No.	: GEN/ADJ/COMM/387/2024-Adjn-O/o Pr. Commr-Cus-Mundra
B. Order-in-Original No.	: MUN-CUSTM-000-COM-22-25-26
C. Passed by	: Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue:	: 08.09.2025. 08.09.2025
E. SCN No. & Date	: SCN F. No. GEN/ADJ/COMM/387/2024-Adjn-O/o Pr. Commr- Cus-Mundra, dated 10.09.2024.
F. Noticee(s) / Party / Importer	: 1. M/s Valeo India Pvt Ltd (IEC: 0508058899) CeeDeeYes IT Parks, 63, Rajiv Gandhi Salai, (OMR), Navalur, Chennai – 600130.
G. DIN	: 20250971MO0000919546

1. यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर,
बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”

“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के साथ -/ 1000रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रुपये पाँच लाख या कम माँगा हो5000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रुपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बैंचआहरितट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील जापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहाँ केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE:

1.1 M/s Valeo India Pvt Ltd (IEC: 0508058899) having registered address at CeeDeeYes IT Parks, 63, Rajiv Gandhi Salai, (OMR), Navalur, Chennai - 600130 has filed Bill's of Entry No. 2604345 dtd. 16.03.2024 and 2603694 dated 16.03.2024 for import of goods namely Electronic Control Unit / ECU (hereinafter referred as impugned goods).

1.2 Whereas the importer has self-assessed the goods and classified the same under HSN Code 8512 9000 supplied by M/s Valeo Interior Controls (Shenshen) Co. Ltd., China through Bill's of lading No. CNSZX0000524613 dtd. 06.03.2024 and CNSZX0000524612 dtd. 06.03.2024 respectively. The said good were imported with invoice number's 84370618 dtd. 29.02.2024 and 84370620 dtd. 29.02.2024.

1.3 On the basis of Intelligence gathered by the officers of SIIB, Custom House, Mundra, the cargo covered under the said Bill's of Entry No. 2604345 dtd. 16.03.2024 and 2603694 dated 16.03.2024 filed by the importer through their CHA M/s. M/s Avvashya CCI Logistics Pvt. Ltd. were put on hold wherein they have declared the goods as ECU.

1.4 As per the intelligence gathered, the importer is regularly importing the impugned goods under HS Code 8512 9000 having total duty leviable @ 37.47% instead of duty leviable @ 49.12 %.

1.5 The goods were examined on 26.03.2024 in the presence of CFS representative and G-card holder of the custom broker. Representative sealed samples of the impugned goods were drawn during the examination for further course of action.

1.6 As the goods appeared to be liable for confiscation they were seized on 28.03.2024 under the provisions of section 110(1) of the Customs Act, 1962.

1.7 The importer requested for provisional release of the goods, which was considered and granted by adjudicating authority as per the provisions of the Section 110A of the Customs Act, 1962.

2. Investigation

2.1 Considering the nature of irregularities made by the importer a Summon dtd. 02.04.2024 was issued to the importer under the provisions of Section 108 of the Customs Act, 1962 for tendering the statement in the matter and also to produce all relevant documents in respect of the impugned goods.

The statement of Shri Dinesh Raja, Country Customs Manager of M/s Valeo India Private Limited was recorded on 08.04.2024 (RUD-1) wherein he inter-alia stated:

- that he is the country customs manager of M/s Valeo India Pvt. Ltd. and handles custom clearance work related to custom compliances of import and export.
- that he looks after the classification related to bill of entry and shipping bill.
- that M/s Valeo India Pvt. Ltd. are manufacturers and suppliers in automotive industry and they manufacture starter motors, alternators, electric vehicles module, sensors, clutch parts, friction pads and also provide development services related to automotive industry.
- that ECU analyses the data received from the sensor such as parking sensor installed/fitted in vehicles.
- that ECU is composed of a PCB fitted with components such as resistors, capacitors, fuses. The ECU comes pre-installed with a software specific to the reverse parking application.
- that main work of ECU is to analyse the data received from sensors and give output to sound equipment.

2.2 M/s Valeo India Private Ltd. are manufacturers and suppliers in automotive industry and they manufacture starter motors, alternators, electric vehicles module, sensors, clutch parts, friction pads and also provide development services related to automotive industry. The importer amongst other imports, sought clearance of various imported parts/components/equipments to be used in automotive industry under various Bills of entry during the period from 2019 to March 2024.

2.3 It appeared that the importer is regularly importing goods such as sensor painting jigs, sensor, holder, ECU etc. commonly used in the automotive industry.

2.4 Whereas, the importer has filed around 226 Bills of Entry for the import of the goods namely 'ECU' during the period September 2019 – 2024. It appeared that the imported goods are meant for specific purpose to use in the manufacturing of motor vehicles/car parts. Hence, it appears that the impugned goods 'ECU' are appropriately classifiable under chapter 87 and specifically under Custom tariff Heading no. 8708 meant for classification of "Parts and accessories of the motor vehicles of headings 8701 to 8705". The Custom Duty structure in respect of CTH 8708 of the Custom Tariff prevailing at the material time was as under :

BCD : 15%; SWS : 10%; IGST : 28%

2.5 Whereas, a live shipment of the impugned goods imported vide BE No. 2604345 dtd. 16.03.2024 and 2603694 dated 16.03.2024 was intercepted by officers of Special Intelligence and Investigation Branch, Custom House, Mundra and goods were seized by proper officer under the provisions of Section 110 (1) of the Customs Act, 1962. The goods were subsequently assessed provisionally and released as per the orders of competent authority.

2.6 Further, inquiry with regard to classification of the imported goods by the importer in respect of the import of 'ECU' was initiated through summons proceeding under Section 108 of the Customs Act, 1962. The importer through its authorized representative appeared before the SIIB to give the statement wherein he requested for some time for providing the technical details of Electronic Control Unit (ECU).

2.7 The importer thereafter submitted the technical details of the Electronic Control Unit and its production process. The importer in his statement and through his letter, inter-alia, submitted as under :

- that the signal of reverse gear controls the activation or deactivation of Reverse Parking Assistance Systems (RPAS). RPAS will be activated by switching on reverse signal hard wire or through Instrument Panel Cluster (IPC) signal during normal operational voltage.
- that the Electronic Control Unit (ECU) controls the sensor's working mode by the use of a digital signal at the signal line.
- that ECU sends the Local Interconnect Network (UN) signals with warning zones by signal values based on object detection and the driver will be notified by the instrument cluster using the LIN signal value to indicate the distance of the object.

2.8 The importer also produced the working principle of ECU as per which the sonar system will wake up as soon as the ignition is turned/switched ON and ECU will perform a self-check to check the error free-state of the reverse parking system. If there is no error in the system, it will move to standby mode, waiting for the reverse gear information to activate the sensor to detect obstacle presence and warn the driver, when the reverse gear information is available, the ECU activates the sensors, gets the obstacle detection information and provides the warning lever information to Instrument Panel Cluster(IPC). IPC will activate the buzzer based on the input from the ECU.

2.9 The importer also submitted that they have imported 'ECU' for the use in the manufacture of "ultrasonic Reverse Parking Sensor" and had classified the imported goods under 8512 9000 and discharged custom duty at the merit rate of 15%. The importer further submitted that since IGST is creditable and revenue neutral they are paying IGST under protest @28%.

3. Past Imports

It was found that the past imports of the importer have been self-assessed under HSN 85129000 and at the relevant point of time i.e. from **September 2019 to January 2021**, the prevailing rate under **BCD was @10%, SWS @10% and IGST @18%**. However, the applicable rate at the prevailing times under HSN 87089900 was **BCD 15%, SWS 10% and IGST @28%**.

SUMMARY OF DUTY DIFFERENTIAL ON IMPORT OF ECU from 2019 to January 2021.					
Year	Assessable Value	Duty Payable BCD - 15%, SWS - 10%, IGST - 28%	Duty Paid BCD - 10%, SWS - 10%, IGST - 18%	Difference	
2019	35677632.29	17524852.98	11052930.48	6471922.497	Scrip Utilised in BE No. 5848166 dtd. 27.11.2019 for BCD amount Rs.241199.6
2020	95512517.43	46915748.56	29589778.2	17325970.36	
2021 till January	12146123.12	5966175.677	3762868.8	2203306.877	
Total				26001200	

SUMMARY OF DUTY DIFFERENTIAL ON IMPORT OF ECU from February 2021 to March 2024					
Year	Assessable Value (Rs.)	Duty Payable BCD - 15%, SWS - 10%, IGST - 28% (Rs.)	Duty Paid BCD - 15%, SWS - 10%, IGST - 18% (Rs.)	Difference (Rs.)	
2021 Feb to Dec	80650763.57	39615655.07	30219840.7	9395814.366	
2022	85536459.54	42015508.93	32050511.14	9964997.784	BCD Amount of Rs. 361722.9 paid through RoDTeP in BE No. 3765962 dtd. 16.12.2022
2023	178284365.9	87573280.51	66803152.7	20770127.81	
2024	32043321.95	15739679.74	12006632.73	3733047.007	
				43863986.96	
Total Duty Liability from 2019 to 2024				69865187	

4. Classification

4.1 RPAS stands for Rear Parking Assist System, which is a technology used in cars to help drivers park safely and avoid collisions while reversing. The RPAS system typically involves a series of sensors and electronic components, including an electronic control unit (ECU) that controls the operation of the system.

The RPAS ECU is a small computer that receives signals from various sensors located at the rear of the car such as ultrasonic sensors or cameras, and uses this information

to provide visual and audible feedback to the driver about the proximity of objects behind the car. For example, if the sensors detect an object getting closer to the car, the RPAS ECU will activate an alarm or warning on the car's dashboard to alert the driver.

The RPAS ECU is responsible for ensuring that the RPAS system operates effectively and reliably, and that it provides accurate and timely feedback to the driver to help prevent collisions while reversing. It is typically located in the car's rear bumper or near the rearview camera and works in conjunction with other safety systems to enhance the overall safety of the vehicle.

4.2 It appeared that the impugned goods are parts and accessories of automobiles which are meant to be used solely & principally with/for the motor vehicles of CTH 8701 to 8705, cannot be considered as 'parts of general use' and are therefore required to be classified under appropriate headings of parts and accessories of chapter 87. It appeared that as per explanatory notes to section XVII of the HSN, parts and accessories of the vehicles, aircraft or equipment concerned should be classified under headings of section XVII, only if they comply with the following conditions:

- a. They must not be excluded by the terms of Note 2 to Section XVII
- b. They must be suitable for use solely or principally with the articles of Chapter 86 to 88 and,
- c. They must not be more specifically included elsewhere in the nomenclature

4.3 Section Note 2 and Section Note 3 to Section XVII reads as under:

(2) The Expression "Parts" and Parts and accessories do not apply to the following articles, whether or not they are identifiable as for the goods of this Section.

(a) Joints, washers or the like of any material (classified according to their constituent material or in heading 8484) or other articles of vulcanized rubber other than hard rubber (heading 4016);

(b) Parts of general use, as defined in Note 2 to Section xv, of base metal (Section XV). Or similar goods of plastics (Chapter 39);

(c) Articles of Chapter 82 (tools);

(d) Articles of heading 8306;

(e) Machines or apparatus of headings 8401 to 8479, or parts thereof; articles of heading 8481 or 8482 or, provided they constitute integral parts of engines or motors, articles of heading 8483;

(f) Electrical machinery or equipment (Chapter 85);

(g) Articles of Chapter 90;

(h) Articles of Chapter 91;

(ij) Arms (Chapter 93);

(k) Lamps or lighting fittings of heading 9405; or

(l) Brushes of a kind used as parts of vehicles (heading 9603)."

(3) "References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part of accessory."

4.4 It appears that Parts and accessories, even if identifiable as for the articles of this Section, are excluded if they are covered more specifically by another heading elsewhere in the Nomenclature and following are relevant examples for such cases:

- joints, washers or the like of any material
- *parts of general use;*
- *articles of Chapter 82 such as tools;*
- *articles of heading 8306 such as bells, gongs, picture frame etc.*
- *machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines and motors, articles of heading 8483;*
- *electrical machinery or equipment (Chapter 85);*
- *articles of Chapter 90;*
- *articles of Chapter 91;*
- *arms (Chapter 93);*
- *luminaries and lighting fittings and parts thereof heading 9405;*
- *brushes of a kind used as parts of vehicles (heading 9603).*

It further appeared that as per explanatory note to heading 8708, parts and accessories of motor vehicles of heading 8701 to 8705 which included in heading 8708, are subject to the fulfilment of condition that it must not be excluded by the terms of Note 2 to Section XVII and it must be suitable for use solely or principally with the articles of Chapters Heading 8701 to 8705. It is clear that the impugned goods are solely and principally used in motor vehicle.

4.5 It is to emphasize that importer has classified the goods under HS Code 8512 9000. The Section XVI contains chapter 85 which deals with electrical machinery and equipment and parts thereof; sound recorders and re-producers, television image and sound recorders and reproducers, and parts and accessories of such articles.

The goods classified under HS Code 8512 are electrical lighting or signaling equipment (excluding articles of heading 8539) windscreens wipers, defrosters and demisters, or a kind used for cycles or motor vehicles and further 8512 9000 refers to parts of goods classified in 8512. It is the case of the importer claiming that ECU is a part of signaling equipment to be used in motor vehicle and is rightly claimed by them under 8512 9000. It is seen that importer in its submission have stated that the main function of the ECU is to control ultrasonic sensors, analyse the same and transmit it to the Instrument Panel Cluster (IPC) of the vehicle. The importer in its submission has stated that impugned goods i.e. ECU is a part of sound signaling equipment.

4.6 ECU is in the form of a printed circuit board; it receives signals from the ultrasonic sensors and analyse the information given by the signals and produce sound from buzzer and also display the information on the display panel of the vehicle. It is imperative to understand the working of whole parking system/apparatus used in motor vehicles which is based on 03 major components which are as follows:

- i) Ultrasonic Sensor,
- ii) ECU
- iii) Buzzer/ Display Panel

The working of each of the major component is as below:

- Ultrasonic sensor : It is an instrument that measures the distance to an object using ultrasonic sound waves. It is composed of a transducer which acts as a microphone to receive and send the ultrasonic sound. It emits sound/pulses which travels through the air, and if there is an obstacle or object, it will bounce back to the sensor.

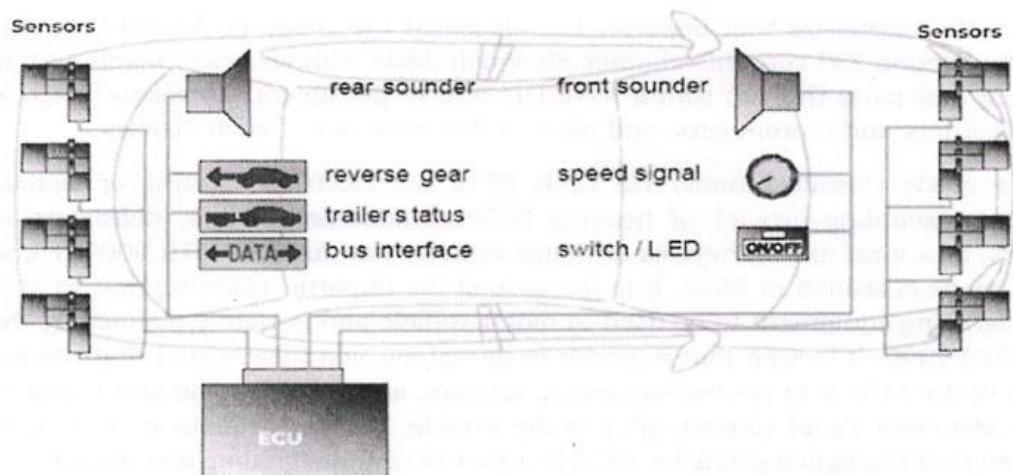
Parking Sensor



It basically determines the distance to a target by measuring time lapses between the sending and receiving of the ultrasonic pulse. Such information of time-lapses is forwarded to ECU in a form of data.

- ECU : The data given by the sensor is evaluated by ECU and output of the same is then forwarded to Buzzer/Display panel.
- Buzzer/Display Panel : On the basis of input given by ECU, the buzzer emits sound and an Icon is also displayed on Display Panel of vehicle.

4.7 The placement of the items is as below:



4.8 The importer has claimed that ECU is a part of sound signaling equipment that is to be used in motor vehicle. The word 'equipment' in common parlance means a set of things that are used for a particular activity or purpose. It is to be consciously remembered that CTH 8512 also bears the goods pertaining to motor vehicles. Other articles appearing in heading 8512 are head lamps, tail lamps, stop lamps, side lamps and blinkers, horns, windscreens wipers, defrosters and demisters. Sound signaling equipment means equipment which are dependent on sound signals in order to become functional.

4.9 ECU is an individual unit having its own identity used in motor vehicles that analyses the data and issues instructions in the form of electrical signals to the buzzer and/or display panel of the vehicle and by virtue of the same it is clearly identified as parts and accessories of motor vehicles of heading 8701 to 8705.

4.10 In furtherance to above, the said good meet the required condition that:

- it is not be excluded in terms of Note 2 to Section XVII,

- it is suitable for use solely or principally with the articles of Chapter 86 to 88 and,
- it is not more specifically included elsewhere in the nomenclature.

5 Rules of interpretation

5.1 As specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), Classification of goods in this Schedule shall be governed by the following principles.

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 failing to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

(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.

6. Differential duty liability

6.1 From **September 2019 to January 2021**, the duty paid by importer under CTH 8512 9000 was as follows :

BCD : 10%

SWS : 10%

IGST : 18%

Total Custom Duty @ 30.98%

However, during the relevant time the actual duty payable under cth 8708 9900 was as follows:

BCD : 15%

SWS : 10%

IGST : 28%

Total Custom Duty @ 49.12%

The importer has imported impugned goods having assessable value of Rs.14,33,36,273/- (Rupees Fourteen Crore Thirty Three Lakh Thirty Six Thousand Two Hundred and Seventy Three only) and paid duty @30.98% amounting to Rs.4,44,05,577/- (Rupees Four Crore Forty Four Lakh Five Thousand Five Hundred and Seventy Seven only). However, the actual duty payable @ 49.12 % in respect of the same is Rs.7,04,06,777 (Rupees Seven Crore Four Lakh Six Thousand Seven Hundred and Seventy Seven only) resulting in unpaid differential duty of Rs.2,60,01,200 (Rupees Two Crore Sixty Lakh Oen Thousand Two Hundred Only).

6.2 From February 2021 to March 2024, the duty paid by importer under CTH 8512 9000 was as follows :

BCD : 15%

SWS : 10%

IGST : 18%

Total Custom Duty @ 37.47%

However, during the relevant time the actual duty payable under cth 8708 9900 was as follows:

BCD : 15%

SWS : 10%

IGST : 28%

Total Custom Duty @ 49.12%

The importer has imported impugned goods having assessable value of Rs. 37,65,14,911 /- (Rupees Thirty Seven Crore Sixty Five Lakh Fourteen Thousand Nine Hundred and Eleven only) and paid duty @37.47% amounting to Rs.14,10,80,137 /- (Rupees Fourteen Crore Ten Lakh Eighty Thousand One Hundred and Thirty Seven only). However, the actual duty payable in respect of the same @43.12% is Rs. 18,49,44,124 (Rupees Eighteen Crore Forty Nine Lakh Forty Four Thousand One Hundred and Twenty Four only) resulting in differential duty of Rs. 4,38,63,987 (Rupees Four Crore Thirty Eight Lakh Sixty Three Thousand Nine Hundred and Eighty Seven Only).

7. Relevant Provision of Law:

SECTION 17 *Assessment of duty — (1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.*

SECTION 46 *Entry of goods on importation*

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

SECTION 28 *Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded :*

(1) Where any duty has not been levied or not paid or short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or

erroneously refunded, for any reason other than the reasons of collusion or any willful mis-statement or suppression of facts,-

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;

Provided that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed;

(b) the person chargeable with the duty or interest, may pay before service of notice under clause (a) on the basis of,-

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by the proper officer,

the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid.

Provided that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.

(2) The person who has paid the duty along with interest or amount of interest under clause (b) of sub-section (1) shall inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a) of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made thereunder in respect of such duty or interest:

Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.

(3) Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of [two years] shall be computed from the date of receipt of information under sub-section (2).

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

a. collusion; or

b. any willful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(5) Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub- section (4) by the

proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

Explanation- For the purposes of this section, "relevant date" means,-

(a) in a case where duty is not levied or not paid or short-levied or short-paid, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;

- b. in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof or re-assessment, as the case may be;
- c. in a case where duty or interest has been erroneously refunded, the date of refund;
- d. in any other case, the date of payment of duty or interest.

SECTION 28AA Interest on delayed payment of duty— (1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to paid interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty -six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

SECTION 111 Confiscation of improperly imported goods, etc. - The following goods brought from a place outside India shall be liable for confiscation:

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54.

SECTION 112. Penalty for improper importation of goods, etc..

Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding the value of the goods or five thousand rupees], whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher :

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;]

³ [iii] in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty ⁴ [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;]

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty ⁵ [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty ⁶ [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.]

SECTION 114A. Penalty for short-levy or non-levy of duty in certain cases. - Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined.

Provided that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28, and the interest payable thereon under section 28AA, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 28AA, and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect:

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

Explanation. - For the removal of doubts, it is hereby declared that-

(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest under sub-section (8) of section 28 relates to notices issued prior to the date* on which the Finance Act, 2000 receives the assent of the President;

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.

8. Outcome of the Investigation

8.1 From the foregoing paras, it appears that the importer has mis-classified the goods under 8512 9000 instead of correct CTH 8708 9900 and therefore rendered the goods liable for confiscation under relevant provisions of section 111 of the Custom Act, 1962.

8.2 In view of the above, it appears that for rendering the goods liable for confiscation, the importer is also liable for penal action under Section 114A of the Customs Act, 1962 for their act of omission and commission to evade duty on account of willful mis-statement of facts.

9. Now, therefore, M/s Valeo India Private Limited are hereby called upon to show cause within thirty days from the date of receipt of this notice, to the Pr. Commissioner of Customs, Mundra, having his office situated at First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370421, as to why:

- i. the classification of impugned goods imported vide bills of entry mentioned in annexure A under HS Code 8512 9000 should not be rejected and same should not be re-classified and re-assessed under 8708 9900;
- ii. the goods imported vide B/E's mentioned in annexure having assessable value of **Rs. 51,98,51,184/-** (Rupees Fifty-One Crore Ninety-Eight Lakh Fifty-One Thousand One Hundred and Eighty-Four Only) should not be held liable for confiscation under section 111(m) of the Customs Act, 1962;
- iii. The differential duty of **Rs. 6,98,65,187/-** (Rupees Six Crores Ninety-Eight Lakhs Sixty-Five Thousand One Hundred and Eighty-Seven only) should not be demanded, and recovered under section 28(4) of the Customs Act, 1962;
- iv. Interest at appropriate rates should not be levied and recovered from them under Section 28AA of the Customs Act, 1962;
- v. Penalty should not be imposed upon them under the provisions of Sections 112 of the Customs Act, 1962.
- vi. Penalty should not be imposed upon them under the provisions of Sections 114A of the Customs Act, 1962.

WRITTEN SUBMISSION AND PERSONAL HEARING

10. **I observe that** 'Audi alteram partem', is an important principle of natural justice that dictates to hear the other side before passing any order. Therefore, personal hearing in the matter was granted to the noticee on 29.07.2025. Accordingly, Advocate Shri Sridharan P., authorized representative of the noticee appeared on behalf of the Noticee and during PH, he has reiterated the written submission dated 24.10.2024 and he inter alia stated that:

A. The Classification adopted by the Noticee is correct.

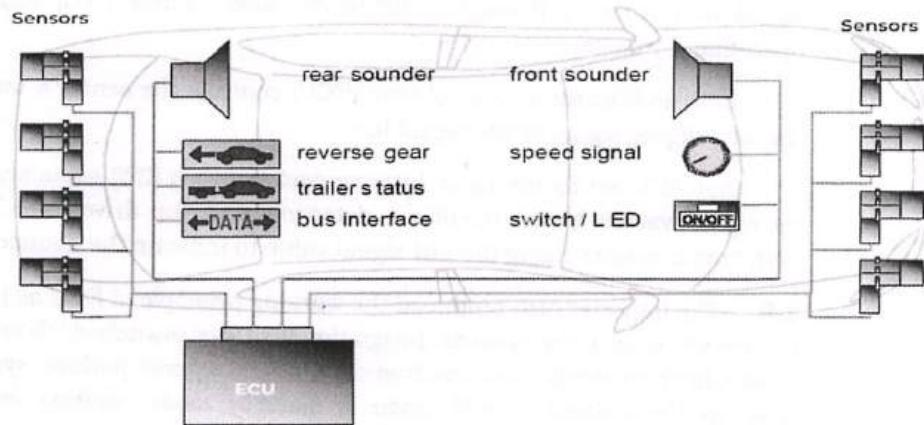
A.1 The Noticee manufactures a range of components used in automobiles. The impugned ECU is identifiable for use in the Reverse Parking Assistance Systems (hereinafter referred to as "RPAS") or an Ultrasonic Reverse Parking Sensor manufactured by the Noticee. There is no dispute on these facts.

A.2 The working of the RPAS or the Ultrasonic Reverse Parking Sensor is explained in the following paragraphs:

"Technical Description: Ultrasonic Sensor & ECU (Electronic Control Unit) and buzzers (front and rear sounders).

Technical Details: These parts are used in vehicles to detect the object during vehicle reverse parking to protect from hitting the object. It will alarm the driver with an automatic beep sound when the object comes very close to the passenger vehicle.

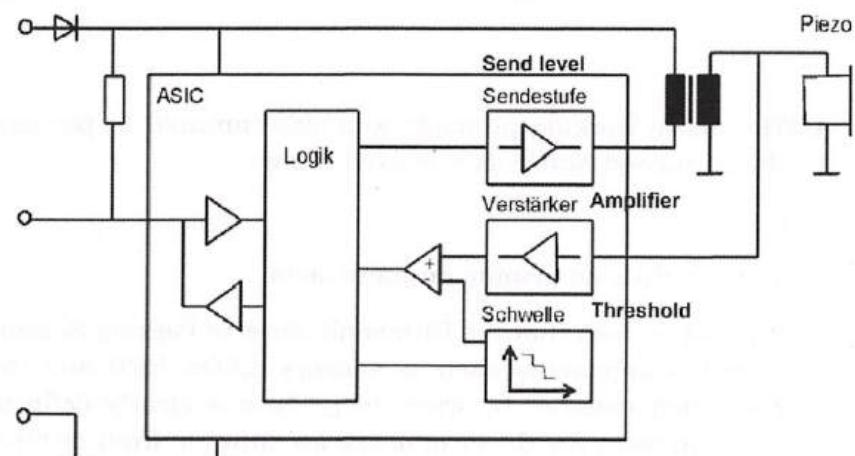
- The schematic diagram given below represents how Sensors will be connected with the car through ECU.



- Sensor measures the radial distances to obstacles within the detection field and number of these sensors varies from 2 to 12 based upon car model.
- Whereas ECU controls sensors will process raw signals and provide information to driver during reverse car parking.
- ECU will also play a vital role as communication media between sensor and internal car network.

Refer the schematic diagram given to understand working of Sensor with ECU."

Refer below schematic diagram to understand working of Sensor with ECU.



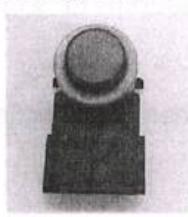
2.7 The importer thereafter submitted the technical details of the Electronic Control Unit and its production process. The importer in his statement and through his letter, inter-alia, submitted as under :

- that the signal of reverse gear controls the activation or deactivation of Reverse Parking Assistance Systems (RPAS). RPAS will be activated by switching on reverse signal hard wire or through Instrument Panel Cluster (IPC) signal during normal operational voltage.
- that the Electronic Control Unit (ECU) controls the sensor's working mode by the use of a digital signal at the signal line.
- that ECU sends the Local Interconnect Network (UN) signals with warning zones by signal values based on object detection and the driver will be notified by the instrument cluster using the LIN signal value to indicate the distance of the object.

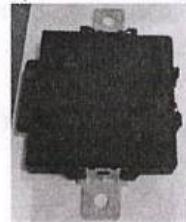
2.8 The importer also produced the working principle of ECU as per which the sonar system will wake up as soon as the ignition is turned/switched ON and ECU will perform a self-check to check the error free-state of the reverse parking system. If there is no error in the system, it will move to standby mode, waiting for the reverse gear information to activate the sensor to detect obstacle presence and warn the driver, when the reverse gear information is available, the ECU activates the sensors, gets the obstacle detection information and provides the warning lever information to Instrument Panel Cluster(IPC). IPC will activate the buzzer based on the input from the ECU.

Images of the part for reference :

1. Parking Sensor



2. ECU (Electronic Control Unit)



A.3 The above working principle was also captured in paragraphs 2.7 and 2.8 of the impugned Notice as extracted below:

A.4 There is thus no dispute on these facts.

A.5 It could be seen that the Ultrasonic Reverse Parking Sensor is a combination of various components such as sensors, LEDs, ECU and the sound buzzers all connected together by wires to perform a clearly defined function of sound alarm to warn the driver of obstacles either in front or rear of the vehicle. The classification of the Ultrasonic Reverse Parking Sensor under CTH 85122090 and classification of the parts identifiable for use with the ultrasonic reverse parking sensor under CTH 85129000 will be legally appropriate as explained below:

Settled legal principles for classification under HSN.

HSN Explanatory Notes

A.6 For uniform interpretation of the HSN, the WCO has published detailed Explanatory Notes to the HSN which have long been recognised as a safe guide to interpret the Schedules to the Customs Tariff. To further interpret the relevant Headings, Sub-Headings and Section Notes under the First Schedule of the Customs Tariff, reliance can also be placed on the Explanatory Notes to the HSN.

A.7 The Hon'ble Supreme Court of India held that in case of doubt, HSN is a safe guide for ascertaining true meaning of any expression used in the Act, unless there is an express different intention indicated in the Customs Tariff itself. The decision in the case of Wood Craft Products Ltd. (supra) was subsequently followed by the Hon'ble Supreme Court in the case of CC vs. Business Forms. This proposition was also affirmed, upheld and followed in catena of cases by various judicial authorities.

A.8 The Ultrasonic Reverse Parking Sensor in question is a combination of different components such as sensors, LEDs, ECU and the sound buzzers all connected together by wires to perform a clearly defined function of sound alarm to warn the driver of obstacles either in front or rear of the vehicle.

A.9 As inferred from the technical write-up, the combination of ultrasonic sensors, LEDs, ECU and the sound buzzers are electrically connected together and are designed to operate together as Ultrasonic Reverse Parking Sensors in motor vehicles.

A.10 It is seen that ultrasonic reverse parking sensors used in motor vehicles are specifically covered under the heading 8512 as could be seen from the description of the heading and the HSN Explanatory notes under the heading 8512 as extracted below:

"8512- ELECTRICAL LIGHTING OR SIGNALLING EQUIPMENT (EXCLUDING ARTICLES OF HEADING 8539), WINDSCREEN WIPERS, DEFROSTERS AND DEMISTERS, OF A KIND USED FOR CYCLES OR MOTOR VEHICLES.

HSN ENs under the heading 8512

This heading covers electrical apparatus and appliances specialised for use on cycles or motor vehicles for lighting or signalling purposes. It does not, however, cover, dry batteries (heading 85.06), electric accumulators (heading 85.07) or dynamos and magneto-dynamos of heading 85.11. The heading also includes electrical windscreen wipers, defrosters and demisters for motor vehicles.

The heading includes, inter alia:

(13) Electrical apparatus which emit audio signals to warn the driver of the proximity of vehicles or other objects behind the vehicle when reversing. These apparatuses usually comprise ultrasonic sensors, an electronic control unit, a buzzer or beeper and associated wiring.
(emphasis supplied)

A.11 The Electrical apparatus which emits audio signals to warn the driver of the proximity of vehicles or other objects behind the vehicle when reversing specified in Sl. No 13 of the HSN ENs under the heading 8512, also comprises of ultrasonic sensors, an electronic control unit (ECU) and a buzzer. It should be noted that this combination is classified as a single equipment under CTH 8512. This classification is supported by Note 4 to Section XVI.

A.12 It is significant to note that despite the apparatus being specifically meant for use with the motor vehicle, it is classified under CTH 8512 and not as a part of motor vehicle under CTH 8708.

A.13 The Notice has simply brushed aside these well settled legal principles for classification of an Ultrasonic Reverse parking Sensor under CTH 8512 by holding that Sound signalling equipment means equipment which are dependent on sound signals in order to become functional.

A.14 Having established by reference to the legal principles of classification of the Ultrasonic Reverse Parking sensors manufactured by the Noticee is appropriately classifiable under CTH 85122090, the Noticee will now explain as

to why the classification under CTH 85129000 adopted by them for the impugned ECU is also appropriate below in the succeeding paragraphs.

A.15 The classification of the Electronic Control Unit (ECU) as a part of the Ultrasonic Reverse Parking sensors, will be governed by Note 2 Section XVI as explained below.

A.16 Note 2 to Section XVI provides for classification of parts of machinery/appliances of chapter 84 & 85. The same is extracted below for ease of reference:

"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 84.84, 85.44, 85.45, 85.46 or 85.47) 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 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) 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. 2[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, and parts which are suitable for use solely or principally with the goods of heading 8524 are to be classified in heading 8529];

(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 8485 or 8548."

A.17 On a reading of Note 2, it can be seen that parts which are specifically covered under any of the Heading of Chapter 84 or 85 must be classified in their respective headings. Those parts which are not classifiable under Note 2(a) will be classified in terms of Note 2(b) and Note 2(c). This is clear from the usage of the phrase 'other parts' in Note 2(b) and 'all other parts' in Note 2(c).

A.18 It is settled position of law that classification of parts can be made in terms of Note 2(b) or 2(c) to Section XVI only if classification of such part cannot be made as per Note 2(a) to Section XVI. Thus, Clauses (a), (b) and (c) of Note 2 are to be applied in a sequential manner.

A.19 The above position has also been affirmed by the Hon'ble Apex Court in CCE v. Delton Cables Ltd. [2005 (181) E.L.T. 373 (S.C.)] wherein the Hon'ble Supreme Court has held that 'one cannot therefore directly jump over to Note 2(b) without exhausting the possibility of Note 2(a)'. The relevant portion of the decision is extracted below:

"4. It is clear from a reading of the two clauses to the Section Note that Clause-b would only apply once it was found that the items in question were not specifically classifiable under their respective headings. As has been clearly said by the Collector (Appeals) "from the sequence of the paragraphs given under Section Note 2 it is clear that the question of switching over to Section Note 2(b) can arise only after ensuring that the parts are not covered by Section Note 2(b) which begins with the expression "other parts" meaning thereby that the parts which are not covered by Section Note 2(a) would be considered for coverage by Section Note 2(b). One cannot therefore directly jump over to Section Note 2(b) without exhausting the possibility of Section Note 2(a).

5. In our opinion, the Tribunal erred in wholly ignoring Section Note 2(a) and only considering the applicability of 2(b). The decision is, therefore, erroneous and we, accordingly, set it aside."

A.20 Applied to the impugned ECU, the ECU is not covered specifically as an instruments or apparatus in any of the headings of Chapter 84 or 85. Therefore Note 2(a) to Section XVI will have no application. There is no dispute that the said ECU is identifiable for use with the Ultrasonic Reverse Parking Sensor and therefore by application of Note 2(b) to Section XVI, the classification of the impugned ECU under CTH 85129000 as part of the Reverse parking sensor will be appropriate.

A.21 The Noticee has applied these legal classification principles while classifying the impugned ECU under CTH 85129000 and therefore the classification adopted by the Noticee is legal and appropriate. It is significant to note that the Notice does not make any attempt to rule out classification of the Ultrasonic Reverse Parking Sensor under CTH 8512 and as a consequence there was no attempt rule out the application of Note 2 to Section XVI for classifying the parts of Ultrasonic Reverse Parking Sensor. In this regard, Paras 4.8, 4.9 and 4.10 where the justification for classifying the ECU under CTH 8708 was provided, are extracted below:

4.8 The importer has claimed that ECU is a part of sound signaling equipment that is to be used in motor vehicle. The word 'equipment' in common parlance means a set of things that are used for a particular activity or purpose. It is to be consciously remembered that CTH 8512 also bears the goods pertaining to motor vehicles. Other articles appearing in heading 8512 are head lamps, tail lamps, stop lamps, side lamps and blinkers, horns, windscreens wipers, defrosters and demisters. Sound signaling equipment means equipment which are dependent on sound signals in order to become functional.

4.9 ECU is an individual unit having its own identity used in motor vehicles that analyses the data and issues instructions in the form of electrical signals to the buzzer and/or display panel of the vehicle and by virtue of the same it is clearly identified as parts and accessories of motor vehicles of heading 8701 to 8705.

4.10 In furtherance to above, the said good meet the required condition that:

- it is not be excluded in terms of Note 2 to Section XVII,
- it is suitable for use solely or principally with the articles of Chapter 86 to 88 and,
- it is not more specifically included elsewhere in the nomenclature.

A.22 It could be seen that there has been no attempt to establish that the Ultrasonic Reverse Parking Sensor manufactured by the Noticee comprising of ultrasonic sensors, ECU and buzzers cannot be classified under CTH 8512 by application Note 4 to Section XVI, and also as to why the electronic apparatus described in SI. No 13 of the HSN ENs under CTH 8512 is not identical to the Ultrasonic Reverse Parking Sensor manufactured by the Noticee and also as to why Note 2(b) to Section XVI is not applicable to arrive at the classification of the ECU under CTH 85129000.

A.23 The Notice has baldly alleged that a) Sound signalling equipment means equipment which are dependent on sound signals in order to become functional to rule out classification of the RPAS under CTH 8512 and b) the ECU being an individual unit having its own identity and being used in motor vehicles is clearly identified as parts of motor vehicles and c) the impugned ECU also met the required condition inter-alia, that it is not excluded by Note 2 to Section XVII.

A.24 The Noticee has already clearly explained as to why the Ultrasonic Reverse Parking Sensors manufactured by them will be classifiable under CTH 85122090 in terms of Note 4 to Section XVI read with the HSN ENs under CTH 8512 and supported by the classification rationales laid down by Hon'ble Supreme Court.

A.25 However, the Notice did not provide any justification for ruling out classification of the Ultrasonic Reverse Parking Sensor under CTH 85122090.

Once it is established that the Ultrasonic Reverse Parking Sensor will be appropriately classifiable under CTH 85122090, the classification of ECU identifiable for use with the Ultrasonic Reverse Parking Sensor will also remain classified under CTH 85129000 in terms of Note 2 (b) to Section XVI.

B. The impugned ECU cannot be classified under CTH 8708 notwithstanding the fact that the Ultrasonic Reverse Parking Sensor is meant for use in a Motor vehicle.

B.1 The Noticee submits that having established the case for classification of the Ultrasonic Reverse Parking Sensor under CTH 85122090, the proposal of Customs seeking classification under CTH 8708 for the impugned ECU will be clearly contrary to the legal principles for classification of motor vehicles parts and accessories laid down in Note 2 to Section XVII, the related HSN ENs under Section XVII, 8708 and also the well settled legal principles for classification of motor vehicle components accepted by the Department.

B.2 The classification of motor vehicles parts and accessories is governed by Note 2 and 3 to Section XVII and the related HSN ENs under Section XVI and 8708 as extracted below:

"Note 2 to Section XVII

2. The expressions "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:

(a) joints, washers or the like of any material (classified according to their constituent material or in heading 8484) or other articles of vulcanised rubber other than hard rubber (heading 4016);

(b) parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);

(c) articles of Chapter 82 (tools);

(d) articles of heading 8306;

1/[e) machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines and motors, articles of heading 8483.]

(f) electrical machinery or equipment (Chapter 85);

(g) articles of Chapter 90;

(h) articles of Chapter 91;

(ij) arms (Chapter 93);

(k) luminaires and lighting fittings and parts thereof of heading 9405; or

(l) brushes of a kind used as parts of vehicles (heading 9603).

HSN ENs under Section XVII (page XVII-3 and 4)

(III) PARTS AND ACCESSORIES

It should be noted that Chapter 89 makes no provision for parts (other than hulls) or accessories of ships, boats or floating structures. Such parts and accessories, even if identifiable as being for ships, etc., are therefore classified in other Chapters in their respective headings. The other Chapters of this Section each provide for the classification of parts and accessories of the vehicles, aircraft or equipment concerned.

It should, however, be noted that these headings apply only to those parts or accessories which comply with all three of the following conditions :

(a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A) below).

and (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below).

and (c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below).

(A) Parts and accessories excluded by Note 2 to Section XVII.

This Note excludes the following parts and accessories, whether or not they are identifiable as for the articles of this Section:

Electrical machinery or equipment of Chapter 85, for example :

- (a) *Electric motors, generators, transformers, etc., of heading 85.01 or 85.04.*
- (b) *Electro- magnets, electro-magnetic clutches, brakes, etc., of heading 85.05.*
- (c) *Electrical ignition or starting equipment of a kind used for spark-ignition or compression-ignition internal combustion engines (sparking plugs, starter motors, etc.) (heading 8511).*
- (d) *Electrical lighting, signalling, windscreen wiping, defrosting, demisting; equipment for cycles or motor vehicles (heading 85.12); electrical signalling apparatus for other vehicles (e.g., trains) or for aircraft or ships (heading 85.31); electrical defrosters or demisters for such other vehicles, aircraft or ships (heading 85.43).*

B.3 It is thus apparent from a harmonious reading of Note 2 to Section XVII, the HSN ENs thereunder, that all articles of Chapter 85 are excluded from being classified as parts/ accessories of motor vehicles under CTH 8708 by Note 2(f) *ibid* even when such parts/ accessories are identifiable for use with the motor vehicles of Chapter 87.

B.4 Further, in the light of the discussions *supra* the ultrasonic reverse parking sensor is more specifically covered under CTH 85122090. Therefore, the third condition is also not satisfied, notwithstanding the fact that the ultrasonic reverse parking sensor is identifiable for use with motor vehicles. Therefore, classification of the ultrasonic reverse parking sensor in question under CTH 8708 can be ruled out in terms of Note 2(f) to Section XVI read with the HSN explanatory notes under Section XVI cited *supra*.

C. Without prejudice, Section 28(4) of the Customs Act, 1962 cannot be invoked by the Department for issuing the SCN:

C.1. The Noticee submits that the SCN has been issued invoking the provisions of Section 28(4) of the Customs Act, 1962, which is not justified.

C.2. The extract of the provisions of Section 28(4) of the Customs Act, 1962 is as follows:

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, -

- (a) collusion; or*
- (b) any wilful mis - statement; or*
- (c) suppression of facts,*

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been 11/so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

C.3. In the present case, the Department has not asserted that the Noticee is guilty of any such misdeeds and there is no whisper of an indication or allegation against the Noticee in this respect. Under the circumstances the Noticee cannot be accused of having suppressed or made any wilful misdeclaration with a view to claiming any ineligible concession.

C.4. The Noticee has been classifying the impugned ECU under CTH 85129000 for a long time and without any questions being raised on the classification by Customs. It is not the case of Customs that any information relevant for the correct classification of the impugned ECU was withheld from Customs with an intent to evade payment of duty.

C.5. In CCE v. Essel Propack Ltd., [2015 (323) E.L.T. 248 (S.C.)] it was held that when all the information was already available with the department, extended period cannot be invoked. The same ratio was followed by the Hon'ble Tribunal in Highland Dye Works Pvt. Ltd. v. CCE [2000 (121) E.L.T. 502 (Tribunal), which was also affirmed by the Hon'ble Supreme Court in Commissioner v. Highland Dye Works Pvt. Ltd. [2006 (198) E.L.T. A66 (S.C.)].

C.6. In the case of Cosmic Dye Chemical v. CCE, Bombay, (1995) 6 SCC 117, wherein the Hon'ble Supreme Court held that suppression and misrepresentation of fact should be wilful in order to constitute a permissible ground for invoking extended period of limitation.

C.7. It is also submitted that the Hon'ble Supreme Court in the case of Pahwa Chemicals Pvt. Ltd. v. Commissioner [2005 (189) E.L.T. 257 (S.C.) and also in the matter of Densons Pultretaknik v. Commissioner [2003 (155) E.L.T. 211 (S.C.)] has laid down the ratio that claim of classification under different heading than the one adopted by the Revenue does not amount to suppression of facts. To the similar effect is another decision of Supreme Court in the case of O.K. Play (India) Ltd. v. Commissioner [2005 (180) E.L.T. 300 (S.C.)].

C.8. To invoke the extended period of limitation, there must be an act or omission on the Appellant's part equivalent to wilful misrepresentation, or suppression of facts to evade tax payment. The Appellant draws support from the case of J.K. Cotton Spinning and Weaving Mills Co. Ltd. vs. Collector of Central Excise [1998 (99) E.L.T. 8 (S.C.)], wherein the Hon'ble Supreme Court held that an extended period of limitation is only invokable if the impairment of the levy is attributable to any fraud, collusion or wilful misrepresentation or suppression of facts. Hence, in the absence of any wilful act or omission on the part of the assessee, the extended period of limitation cannot be invoked.

C.9. Invocation of the extended period to cover the import of the impugned ECU made between September 2019 to March 2024 cannot, therefore, be justified and the Notice fails on this count also.

D. Without prejudice, demand for interest under Section 28AA of the Customs Act, 1962 cannot be justified in this case.

D.1 It is submitted that when tax/ duty itself is not payable or demandable, there is no question of the levy of interest. However, the Department had levied interest on the Noticee under Section 28AA of the Customs Act, 1962.

28AA. Interest on delayed payment of duty--

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made there under, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,-

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment."

D.2 It is therefore well settled that when there is no liability to pay duty/ tax, there could be no demand for interest. In the present case, there is no liability to pay any differential duty as the Noticee has clearly established in the light of the legal principles and settled ratios laid down by Hon'ble Supreme Court that the classification adopted by them for the impugned ECU under CTH 85129000 during the disputed period was appropriate and does not require any revision to CTH 87089000 as proposed by Customs. Therefore, there is no case for demand of any differential duty/ tax.

D.3 The ratio in this regard was also laid down in *Pratibha Processors and Ors. v. Union of India and Ors.*, 1996 (88) ELT 12 (SC), where it has been held that interest is compensatory in character and is imposed on an assessee who has withheld payment of any tax as and when it is due and payable.

"14. ... Calculation of interest is always on the principal amount. The "interest" payable under Section 61(1)(2) of the Act is a mere "accessory" of the principal and if the principal is not recoverable/payable, so is the interest on it. This is a basic principle based on common sense and also flowing from the language of Section 61(1)(2) of the Act. The principal amount herein is the amount of duty payable on clearance of goods. When such principal amount is nil because of the exemption, a fortiori, interest payable is also nil. In other words, we are clear in our mind that the interest is necessarily linked to the duty payable. The interest provided under Section 61(2) has no independent or separate existence. When the goods are wholly exempted from the payment of duty on removal from the warehouse, one cannot be saddled with the liability to pay interest on a non-existing duty. Payment of interest under Section 61(2) is solely dependent upon the exigibility or factual liability to pay the principal amount, that is, the duty on the warehoused goods at the time of delivery. At that time, the principal amount (duty) is not payable due to exemption. So, there is no occasion or basis to levy any interest, either. We hold accordingly."

D.4 Therefore, when there is no liability to pay any differential duty/ tax as already explained supra, there could be no liability to pay interest on other goods under Section 28AA ibid.

E. Without prejudice, the impugned goods are not liable for confiscation under Section 111(m) of the Customs Act, 1962

E.1 It has been proposed to confiscate the goods imported by the Noticee under Section 111 (m) of the Customs Act, 1962.

"Section 111. Confiscation of improperly imported goods, etc. - 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 or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54;"

E.2. It is submitted that Section 111(m) is invocable in a case wherein any goods do not correspond in respect of value or any other particular with the entry made under the Customs Act, 1972.

E.3. In this regard, it is submitted that discussed supra, the Noticee has appropriately classified the impugned ECU and as already discussed supra the case for reclassification under CTH 87089000 is not based on sound legal grounds. Therefore, the Notice has wrongly proposed to invoke the provisions of Section 111(m) of the Customs Act.

E.4. It is submitted that the Hon'ble Supreme Court in Northern Plastic Ltd. versus Collector of Customs & Central Excise [1998 (7) TMI 91 - SUPREME COURT] has held that merely claiming the benefit of exemption or a particular classification under the bill of entry does not amount to mis-declaration or suppression of facts. The ratio laid down in this case is squarely applicable in this case also.

E.5. Further it is also well settled that no confiscation of goods can be ordered if the same is not physically available for confiscation. Reference is made to Munja Showa Ltd. Vs. CCE, 2008 (227) ELT 330 (T).

E.6. Further in Bussa Overseas and Properties Pvt. Ltd. v. C.L. Mahar, Asst. Collector [2004 (163) E.L.T. 304(Bom.)], the High Court had held that once the imported goods are cleared for home consumption they cease to be 'imported goods' as defined in Section 2 of the Customs Act, 1962 and are consequently not liable to confiscation.

E.7. The Special Leave Petition filed against this decision was also dismissed by the Hon'ble Supreme Court in Assistant Collector v. Bussa Overseas and Properties Pvt. Ltd. [2004 (163) E.L.T.A160 (S.C.)].

E.8. Therefore, it is submitted that the impugned ECU imported by the Noticee cannot be confiscated under Section 111(m) of the Customs Act, 1962.

F. Without prejudice, the penalty under Section 112(a) of the Customs Act, 1962 is not imposable in the present case.

F.1. Further, the Department has also proposed to invoke the provisions of Section 112 of the Customs Act, 1962 to impose a penalty on the Noticee. The relevant portion of Section 112 is produced as under:

"SECTION 112. Penalty for improper importation of goods, etc. - Any person, (a) who, in relation to any goods, does or omits to do any act which act, or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or"

F.2. As stated above, the goods are not liable for confiscation under Section 111(m) of the Customs Act and further no act has been committed by the Noticee which will render the goods liable for confiscation.

F.3. Consequently, the question of imposing penalty under Section 112(a) of the Act does not arise. It is submitted that penalty under the said provision only be imposed when the goods are liable for confiscation. Since in the present case, the goods are not liable for confiscation, the department has erred in imposing penalty under Section 112(a) of the Act.

F.4. It is submitted that in order to impose penalty under Section 112 (a) of the Act, mens rea is necessary to be established. However, as discussed supra, the classification adopted by the Noticee is in accordance with the legal principles of classification and also in accordance with the ratios laid down by the Hon'ble Supreme Court. The Notice significantly does not have any

grounds to controvert this position. Therefore, the Noticee entertained a bonafide belief that the stand taken by them is the correct position of law.

F.5. Reference is made to Hindustan Steel Ltd. v. The State of Orissa, 1969 (2) SCC 627, the Hon'ble Apex Court has observed as under:

“... Penalty will not be imposed merely because it is lawful to do so. Whether a penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose a penalty will be justified in refusing to impose a penalty, where there is a technical or venial breach of the provisions of the act or where the breach flows from the bonafide belief that the offender is not liable to act in the manner prescribed in the statute.”

(emphasis supplied)

F.6. Hence, as it is a quasi-criminal proceeding, the penalty will not be ordinarily imposed unless and until “mens rea” on the part of the defaulter is proved beyond all reasonable doubts. The department has failed to bring out the essential “mens rea” or the guilty mind of the Noticee. Therefore, the department's proposal to impose a penalty under Section 112(a) of the Act on the Notice is incorrect.

No case for levy of penalty under Section 114A ibid

F.7. It has also been proposed to levy penalty under Section 114A ibid. Section 114A is extracted below for ready reference:

“SECTION 114A. Penalty for short-levy or non-levy of duty in certain cases. - Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under 1[sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined :

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.”

F.8. It could be seen that the penalty under Section 114A ibid, is indicated only in cases where the short levy or non-levy is on account of collusion or any wilful mis-statement or suppression of facts. The Notice has clearly explained elsewhere in the reply, relying on the ratio laid down by the Hon'ble Supreme Court that in matters of classification there could be no case made out for mis-declaration. It is also now well settled that claiming a classification different from that proposed by Revenue cannot be construed as collusion or any wilful mis-statement or suppression of facts. Therefore, there is no case for invoking Section 114 A ibid at all in this case.

11. Advocate Shri Sridharan P, authorized representative of M/s Valeo India Pvt. Ltd. has sent additional submission on 12.08.2025 wherein he interalia stated that

A. Additional Submission countering Para 4.8 of the SCN

A.1 The Department has alleged that sound signalling equipment means equipment which are dependent on sound signals in order to become functional to rule out classification of the RPAS under CTH 8512 and this

contention can be inferred from Para 4.8 of the Notice. In this regard, a snip of the relevant para is given below.

4.8 The importer has claimed that ECU is a part of sound signaling equipment that is to be used in motor vehicle. The word 'equipment' in common parlance means a set of things that are used for a particular activity or purpose. It is to be consciously remembered that CTH 8512 also bears the goods pertaining to motor vehicles. Other articles appearing in heading 8512 are head lamps, tail lamps, stop lamps, side lamps and blinkers, horns, windscreens wipers, defrosters and demisters. Sound signaling equipment means equipment which are dependent on sound signals in order to become functional.

A.2 The Noticee submits that the RPAS primarily comprises ultrasonic parking sensors integrated with an ECU. These components jointly operate to provide an audio-based sound signaling function, thereby alerting the driver of nearby obstacles while reversing the vehicle. The Noticee submits that the combination of ultrasonic sensors, LEDs, ECU and the sound buzzers are electrically connected together and are designed to operate together as Ultrasonic Reverse Parking Sensors in motor vehicles.

A.3 The Noticee submits that the system is designed to emit an audible signal, typically in the form of a buzzer or beep, to alert the driver of any nearby obstruction. The intensity or frequency of the sound signal increases progressively as the distance between the vehicle and the obstacle decreases. This graduated auditory alert allows the driver to gauge the nearness of the object and take necessary action.

A.4 The Noticee submits that the RPAS falls squarely within the scope of "sound signaling equipment," as its essential function is to produce an auditory alert. Hence, RPAS is classifiable under CTH 8512, which covers electrical sound or visual signaling apparatus.

DISCUSSION AND FINDINGS:

12. I have carefully gone through the Show Cause Notice, the relied upon documents, the submission made by the Noticee, the legal provisions and the records available before me. The issues before me to decide are as under:

- i. Whether the classification of impugned goods imported vide bills of entry mentioned in annexure-A under HS Code 8512 9000 be rejected and same should be re-classified and re-assessed under 8708 9900;
- ii. Whether the goods imported vide B/E's mentioned in annexure-A having assessable value of **Rs. 51,98,51,184/-** (Rupees Fifty-One Crore Ninety-Eight Lakh Fifty-One Thousand One Hundred and Eighty-Four Only) be held liable for confiscation under section 111(m) of the Customs Act, 1962;
- iii. Whether the differential duty of **Rs. 6,98,65,187/-** (Rupees Six Crores Ninety-Eight Lakhs Sixty-Five Thousand One Hundred and Eighty-Seven only) be demanded, and recovered under section 28(4) of the Customs Act, 1962;
- iv. Whether the interest at appropriate rates be levied and recovered from them under Section 28AA of the Customs Act, 1962;
- v. Whether the penalty be imposed upon them under the provisions of Sections 112 of the Customs Act, 1962.
- vi. Whether the penalty should not be imposed upon them under the provisions of Sections 114A of the Customs Act, 1962.

13. I have carefully examined the allegations in the SCN and the submissions made by the Noticee. On the issue of classification of the impugned imported goods, namely the Electronic Control Unit (ECU), the competing Headings from the Customs Tariff are reproduced below:-

8512	ELECTRICAL LIGHTING OR SIGNALLING EQUIPMENT (EXCLUDING ARTICLES OF HEADING 8539), WINDSCREEN WIPERS, DEFROSTERS AND DEMISTERS, OF A KIND USED FOR CYCLES OR MOTOR VEHICLES			
8512 10 00	-	Lighting or visual signalling equipment of a kind used on bicycles	u	15% -
8512 20	-	Other lighting or visual signalling equipment :		
8512 20 10	---	Head lamps, tail lamps, stop lamps, side lamps and blinkers	u	15% -
8512 20 20	---	Other automobile lighting equipment	u	15% -
8512 20 90	---	Other	u	15% -
8512 30	-	Sound signalling equipment:		
8512 30 10	---	Horns	u	15% -
8512 30 90	---	Other	u	15% -
8512 40 00	-	Windscreen wipers, defrosters and demisters	u	15% -
8512 90 00	-	Parts	kg	15% -

8708 PARTS AND ACCESSORIES OF THE MOTOR VEHICLES OF HEADINGS 8701 TO 8705

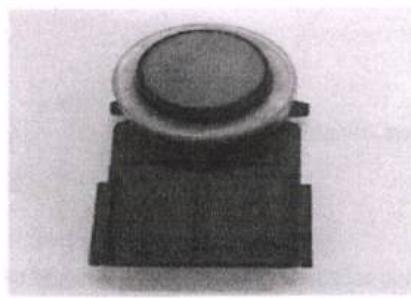
8708 10	-	Bumpers and parts thereof :		
8708 10 10	---	For tractors	kg.	15% -
8708 10 90	---	Other	kg.	15% -
	-	Other parts and accessories of bodies (including cabs) :		
8708 21 00	--	Safety seat belts	u	15% -
8708 22 00	--	Front windscreens (windshields), rear windows and other windows specified in Sub-heading Note 1 to this Chapter	Kg.	15% -
8708 29 00	--	Other	kg.	15% -
8708 30 00	-	Brakes and servo-brakes and parts thereof	kg.	15% -
8708 40 00	-	Gear boxes and parts thereof	kg.	15% -
8708 50 00	-	Drive-axles with differential, whether or not provided with other transmission components Non-driving axles and parts thereof	kg.	15% -
8708 70 00	-	Road wheels and parts and accessories thereof	kg.	15% -
8708 80 00	-	Suspension system and parts thereof (including shock-absorbers)	kg.	15% -
	-	Other parts and accessories :		
8708 91 00	--	Radiators and parts thereof	kg.	15% -
8708 92 00	--	Silencers (mufflers) and exhaust pipes; parts thereof	kg.	15% -
8708 93 00	--	Clutches and parts thereof	kg.	15% -
8708 94 00	--	Steering wheels, steering columns and steering boxes; parts thereof	kg.	15% -
8708 95 00	--	Safety airbags with inflator system; parts thereof	kg.	15% -
8708 99 00	--	Other	kg.	15% -

14. Before proceeding further, it is necessary to describe, factually, what is an ECU and what are its functions. ECU functions as the decision-making component of the ultrasonic Reverse Parking Assistance System (RPAS) used in a motor vehicle to assist

in parking the vehicle. The primary role of the ECU is to analyze data received from ultrasonic sensors and generate output signals to sound equipment such as a buzzer. Upon ignition of the vehicle, the RPAS is activated, and the ECU performs a self-diagnostic check to ensure the system is free of errors. If no errors are detected, the ECU transitions to standby mode, awaiting input from the reverse gear. Once the reverse gear is engaged, the ECU activates the sensors to detect obstacles by measuring radial distances within the detection field. When an object is detected in close proximity, the ECU issues a warning by activating the buzzer and simultaneously displaying the information on the vehicle's display panel, thereby alerting the driver. The three main components of RPAS which include ECU are as below:

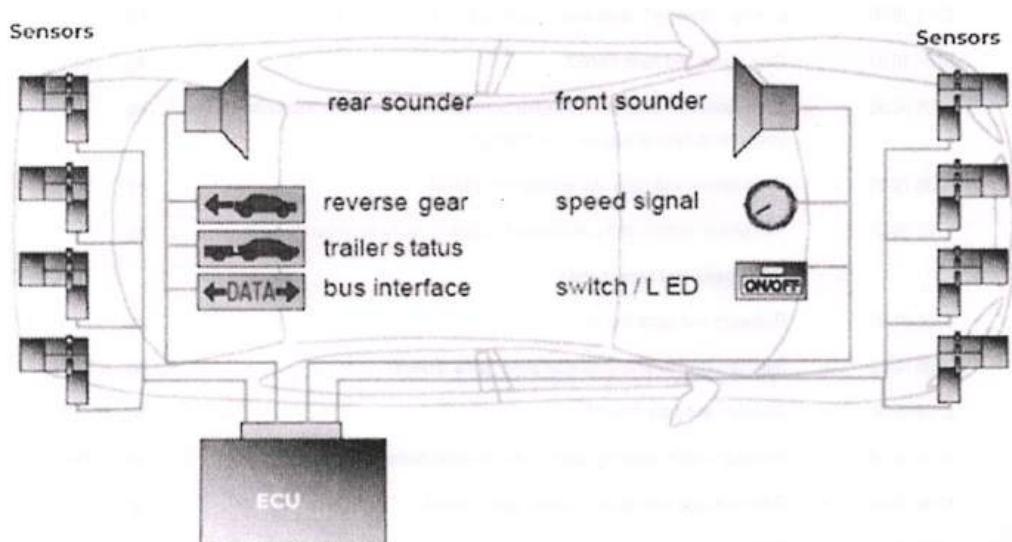
- **Ultrasonic Sensor** : It is an instrument that measures the distance to an object using ultrasonic sound waves. It is composed of a transducer which acts as a microphone to receive and send the ultrasonic sound. It emits sound/pulses which travels through the air, and if there is an obstacle or object, it will bounce back to the sensor.

Parking Sensor



It basically determines the distance to a target by measuring time lapses between the sending and receiving of the ultrasonic pulse. Such information of time-lapses is forwarded to ECU in a form of data.

- **ECU (Electronic Control Unit)** : The data given by the sensor is evaluated by ECU and output of the same is then forwarded to Buzzer/Display panel
- **Buzzer/Display Panel** : On the basis of input given by ECU, the buzzer emits sound and an Icon is also displayed on Display Panel of vehicle.



15. Now coming to ECU, which is classified by the importer-noticee under TI 8512 9000, the very first issue to be noted is that RPAS, wherein the impugned imported ECU is used as a component, is without doubt an electrical sound signalling

equipment of Heading 8512. I will reproduce below the relevant extract from HSN Explanatory Notes which explains the scope of Heading 8512 and states that it covers electrical apparatus which emits audio signals to alert the driver, typically through a buzzer or beeper; that the electrical apparatus typically has [1] ultrasonic sensors [2] an electronic control unit or ECU and [3] a buzzer/beeper.

(13) **Electrical apparatus which emit audio signals** to warn the driver of the proximity of vehicles or other objects behind the vehicle when reversing. These apparatus usually comprise ultrasonic sensors, an electronic control unit, a buzzer or beeper and associated wiring.

It is clear that RPAS is the same electrical apparatus which has been described in above HSN Note and is therefore covered by sub-heading 8512 30. Further, since a RPAS cannot function without an ECU, it qualifies as a "part" of RPAS and covered by TI 8512 9000.

15.1 The SCN at para 4.8 has made an assertion that "*Sound signalling equipment means equipment which are dependent on sound signals in order to become functional*". The inference is that RPAS which uses ultrasound waves and sensors + ECU to detect proximity to objects is functioning without help of sound signals and therefore not covered by sub-heading 8512 30. This assertion is however incorrect. "Horns" which produce sounds are classified as sound-signalling equipment under sub-heading 8512 30. Accordingly, *sound signalling* here refers to the use of sound as a medium to communicate a message, and *sound signalling equipment* means equipment that employs sound to convey such information. HSN Explanatory Notes to CTH 8512 also clarify that it is the emitted audio signal of the electrical apparatus which alerts the driver. RPAS is thus squarely covered by the expression "sound signalling equipment" of sub-heading 8512 30 and consequently, its part, namely the ECU, is classifiable under TI 8512 9000.

16. The SCN alleges that ECU is intended to be used solely and principally with motor vehicles falling under headings 8701 to 8705 of the Customs Tariff and therefore it must be classified under Heading 8708 as parts of motor vehicle. SCN further states that as per Explanatory Notes to Section XVII, parts and accessories of the vehicles must be classified under headings of Section XVII, if they comply with the following conditions, which are surely fulfilled by the impugned goods [ECUs]:-

- a) They must not be excluded by the terms of Note 2 to Section XVII;
- b) They must be suitable for use solely or principally with the articles of Chapter 86 to 88; and
- c) They must not be more specifically included elsewhere in the nomenclature.

16.1 I shall examine the above arguments from the SCN.

16.2 While it is agreed that the ECU is used in RPAS which is further deployed in motor vehicles of Chapter 87, the fact remains that it has been specifically designed to function as a component of RPAS, which in itself is an article of Chapter 85 and not Chapter 86-88. Accordingly, ECU does not satisfy condition no.(b) of suitable for use solely/principally with articles of Chapter 86 to 88.

16.3 Moving to condition no. (a), the relevant extract of Note 2 to Section XVII is below:

SECTION XVII
VEHICLES, AIRCRAFT, VESSELS AND ASSOCIATED
TRANSPORT EQUIPMENT

NOTES :

1. This Section does not cover articles of heading 9503 or 9508 or bobsleighs, toboggans and the like of heading 9506.
2. The expressions "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:
 - (a) joints, washers or the like of any material (classified according to their constituent material or in heading 8484) or other articles of vulcanised rubber other than hard rubber (heading 4016);
 - (b) parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);
 - (c) articles of Chapter 82 (tools);
 - (d) articles of heading 8306;
 - (e) machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines and motors, articles of heading 8483;
 - (f) electrical machinery or equipment (Chapter 85);
 - (g) articles of Chapter 90;
 - (h) articles of Chapter 91;
 - (ij) arms (Chapter 93);
 - (k) *luminaires and lighting fittings and parts thereof of heading 9405; or
 - (l) brushes of a kind used as parts of vehicles (heading 9603).



16.3 The above Note 2 to Section note XVII mandates that the expression "parts" will not apply to certain articles. Section 2(f) lists electrical machinery or equipment of Chapter 85 as the articles which have been excluded from classifying as parts anywhere under Section XVII [covers Chapter 87]. Since ECU is covered by CTS 8512 30, it is excluded from being classified as "part" under Chapter 87. Accordingly, condition no. (a) is not satisfied.

16.4 Further proceeding to condition no. (c), it states that for the goods to be classified as part of a vehicle under Chapter 87, it must not be more specifically included elsewhere in the nomenclature. However, ECU is more specifically included as part of sound signalling equipment under CTI 8512 9000 and thus condition no. (c) is also not met.

17. In view of above, I hold that the ECU imported by Noticee, being part of sound signalling equipment, is correctly classifiable under CTI 8512 9000. Therefore, the goods imported vide BEs mentioned in Annexure-A to the SCN, having assessable value of **Rs. 51,98,51,184/-**, are not liable for confiscation under section 111(m) of the Customs Act, 1962. Consequently, the demand for differential duty amounting to **Rs. 6,98,65,187/-** under Section 28(4) of the Customs Act, 1962, along with interest under Section 28AA, is not sustainable. Further, no penalty is warranted on notice under Section 112 or Section 114A of the Customs Act, 1962.

18. In view of above discussions and findings supra, I pass the following order:

Order

- i. The classification of impugned goods imported vide Bills of Entry mentioned in Annexure-A under TI Code 8512 9000 is held to be correct;
- ii. The goods imported vide BEs mentioned in Annexure-A having assessable value of **Rs. 51,98,51,184/-** (Rupees Fifty-One Crore Ninety-Eight Lakh Fifty-One

Thousand One Hundred and Eighty-Four Only) are held not liable for confiscation under section 111(m) of the Customs Act, 1962;

- iii. The demand of differential duty of **Rs. 6,98,65,187/-** (Rupees Six Crores Ninety-Eight Lakhs Sixty-Five Thousand One Hundred and Eighty-Seven only) under section 28(4) of the Customs Act, 1962 is held not sustainable and set aside;
- iv. The demand for interest under Section 28AA of the Customs Act, 1962 is dropped;
- v. The notice is not liable to penalty under Section 112 and Section 114A of the Customs Act, 1962.

19. The O-i-O is issued without prejudice to any other action that may be taken against the claimant under the provisions of the Customs Act, 1962 or rules made there under or any other law for the time being in force.



(Nitin Saini)
Commissioner of Customs,
Custom House, Mundra

F.No. GEN/ADJ/COMM/387/2024-Adjn-O/o Pr. Commr- Cus-Mundra

To,

M/s Valeo India Pvt Ltd (IEC: 0508058899)
CeeDeeYes IT Parks, 63, Rajiv Gandhi Salai, (OMR),
Navalur, Chennai – 600130.

Copy to:-

1. The Additional Commissioner (SIIB), C.H. Mundra.
2. The Additional Commissioner (Adjudication), C.H. Mundra.
3. The Deputy/ Assistant Commissioner of Customs, EDI section, Custom House, Mundra.
4. Notice Board.
5. Guard File.

