आयुक्त सीमाशुल्क) आयात-I (का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT - I)
नवीन सीमाशुल्क भवन, वेलार्ड इस्टेट, मुंबई - ४०० ००१
New Customs House, Ballard Estate, Mumbai- 400 001
Email-adjn-adc-jc-imp1@gov.in

File No: CUS/APR/LC/118/2023-GR-5(AB) **Date of Order**: 20.04.2026
DIN: 20260477000000777D77 **Date of Issue**: 20.04.2026

Order No: 02/ADC/DKT/ADJ/2026-27
Order Passed by: Dr. Deepika Kartik Tangadkar
Additional Commissioner of Customs, Import-I,
New Custom House, Mumbai Customs Zone-I

Name of Party/Noticee: M/s. Tata Motors Limited

मुल आदेश
ORDER-IN-ORIGINAL

१. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग केलिए नि:शुल्क दी जाती है।

1. This copy is granted free of charge for the use of the person to whom it is issued.

२. इस आदेश के विरूद्ध अपील सीमाशुल्क अधिनियम ,१९६२ की धारा १२८ (१) के तहत आदेश की संसूचना की तारीख से साठ दिन के भीतर ऐसे मामले जहां शुल्क या शुल्क और जुर्माना विवादित हैं या जुर्माना जहां सिर्फ जुर्माना ही विवादित है, की ७.५ %राशि अदा करने पर सीमाशुल्क (आयुक्त) अपील का कार्यालय, नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई – ४०० ००१ के समक्ष की जा सकतीहै।

2. An appeal against this order shall lie before the Commissioner of Customs (Appeals), New Custom House, Ballard Estate, Mumbai - 400 001 under Section 128(1) of the Customs Act, 1962 within **Sixty days** from the date of communication of this order and 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.

३. अपील सीमाशुल्क अपील नियम १९८२ में प्रदर्शित फॉर्म सी.ए.-१ में दो प्रति में की जानी चाहिए। अपील रुपये ५.०० के न्यायालय फीस स्टांप तथा इस आदेश या आदेश की प्रति के साथ संलग्न होनी चाहिए। यदि आदेश की प्रति संलग्न की जाती है तो इसमें भी न्यायालय फीस अधिनियम १९७० की अनुसूची १ में प्रदर्शित रूपये ५.०० की न्यायालय फीस स्टांप भी होना चाहिए।

3. The appeal should be in duplicate and should be filed in Form CA – 1 appeared in Custom (Appeals) Rule, 1982. The appeal should bear a court fee stamp of Rs. 5.00 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a court fee stamp of Rs. 5.00 only as prescribed under Schedule 1, item 6 of the Court Fees Act, 1970.

४. जो व्यक्ति इस निर्णय या आदेश के विरूद्ध अपील कर रहा हैं वह अपील को अनीर्णित रखेगा,और सीमाशुल्क अधिनियम,१९६२ की धारा १२९ ई के उपबंधों के अंतर्गत पैरा२ के अनुसार धनराशि जमा कराएगा तथा अपील के समय उन भुगतान का प्रमाण प्रस्तुत करेगा, जिसके अनुपालनन किए जाने पर सीमाशुल्क अधिनियम १९६२ की धारा १२८ (१) के उपबंधों के अधीन अपील अस्वीकार कर दी जाएगी।

4. Any person appealing against this decision or order shall, pending the appeal, deposit the amount as per Para 2 above under Section 129E of the Customs Act, 1962 are produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for noncompliance with the provisions of Section 128(1) of the Customs Act, 1962.

BRIEF FACTS OF THE CASE

M/s. TATA MOTORS LIMITED (IEC No. 0388002808), having address at Pimpri, Pune-4110187 (hereinafter referred to as "Importer/Noticee") filed Bill of Entry No. 7057105 dated 12.01.2022 for import of goods declared as "CHASSI HINO FM8JN7A-R EURO-4 ENG NO-J08EWD12439 - VEHICLE". The declared assessable value for the BE was Rs. 65,61,991/- and the declared duty was Rs. 3,60,909.50/-.

2. During the Online Audit of Import-1, New Customs House (NCH), Mumbai, it was observed that 01 consignment of "CHASSI HINO FM8JN7A-R EURO-4 ENG NO-J08EWD12439 - VEHICLE" was imported by M/s Tata Motors under the CTH 8706 0042 on which BCD @5% and IGST@NIL were levied after availing exemption under Customs Notification no. 51/96.

2.1 The Customs Notification no. 51/96 dated 23.7.1996 exempts specified goods from the duty of customs leviable thereon as is in excess of the amount calculated at the rate of five percent ad valorem and from the whole of the additional duty leviable thereon when imported into India, by specified importers, subject to the condition specified in the said notification. These goods are as follows:

a) Scientific and technical instruments, apparatus, equipment (including computers);
b) accessories, parts, consumables and live animals (for experimental purposes);
c) Computer software, Compact Disc-Read Only Memory (CDROM), recorded magnetic tapes, microfilms, microfiches;
d) proto-types, the C.I.F. value of which does not exceed rupees fifty thousand in a financial year.

2.2 As per the Customs Tariff Act 1975, the "CHASSI FITTED WITH ENGINES, FOR THE MOTOR VEHICLE, OTHER THAN PETROL DRIVEN" are classified under CTH 87060042 and attracts BCD at the rate of 15% along with other applicable duties. Also, as per the S. No. 170 of Schedule-IV of the IGST Notification No. 01/2017 Integrated Tax (Rate) dated 28 June, 2017 CTH 8708 is defined as "Parts and accessories of the motor vehicles of headings 8701 to 8705 [other than specified parts of tractors]" attracting IGST @28%.

2.3 Audit further observed that, the benefit of exemption can be availed for the specified items only under the notification no. 51/96. Since the item imported is a "chassis vehicle (Chassis fitted with engine)" is not the specified item mentioned under the said notification, the benefit of above exemption cannot be given even though the importer is an institution registered with the Government of India in Department of Scientific and Industrial Research; and the importer produces a certificate to this effect from the Deputy Secretary in the concerned Department. The item should have been levied BCD@15% and IGST@28% along with other duties. As per audit observation, incorrect application of exemption notification on the said item resulted in short levy of duty of ₹28.62 lakhs.

2.4 The above said audit findings were issued by the Director General of Audit (Central) Mumbai vide Audit Observation Reference: #6 (OBS-779693).

3. In view of the above audit observations, on further scrutiny of the said B/E, invoice, packing list and other documents, it was noticed that one old & used electric vehicle having declared description as "CHASSI HINO FM8JN7A-R EURO-4 ENG NO-J08EWD12439 - VEHICLE" has been imported by M/s Tata Motors Limited under CTH 87060042 under invoice No. 181121/TMT-TATA dated 18.11.2021 and claimed duty exemption under Notification No. 51/1996 dated 23.07.1996 (hereinafter referred to as the said notification) i.e. BCD@5% and IGST@ NIL instead of merit BCD @15% and IGST@28% along with other duties. The importer submitted a certificate of registration issued vide F. No. TU/IV-RD/1531/2021 dated 27.07.2021 from the Ministry of Science and Technology, Department of Scientific and Industrial Research along with the letter/Certificate Ref. No. ERC/22-23/0048 dated 17.06.2022 from the Head of Engineering Research Centre, Tata Motors Ltd. in support of their claim as required vide the said Notification for research purpose. The relevant para/Sr. No. of Notification No. 51/1996 is reproduced below:

NotificationNo.51/96-Custom **Dated:23.07.1996**

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts goods falling within the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and specified in column (3) of the Table hereto annexed, from so much of that portion of the duty of customs leviable thereon which is specified in the said First Schedule as is in excess of the amount calculated at the rate of five percent ad valorem and from the whole of the additional duty leviable thereon under section 3 of the said Customs Tariff Act, when imported into India, by importers specified in column (2) of the said Table, subject to the conditions specified in the corresponding entry in column (4) of the said Table.

This notification shall come into force with effect from the 1st day of September, 1996.

Sl No.	*Name of the Importer*	*Description of goods*	*Conditions*
(1)	*(2)*	*(3)*	*(4)*
2.	*Non-commercial research institutions, other than a hospital*	*(a) Scientific and technical instruments, apparatus equipment (including computers);* *(b) accessories, parts consumables and live animals (for experimental purposes);* *(c) computer software, Compact Disc-Read Only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches;* *(d) prototypes, the C.I.F. value of which does not exceed rupees fifty thousand in a financial year*	*(1) The importer –* *(i) is registered with the Government of India in the Department of Scientific and Industrial Research;* *(ii) produces a certificate from the Head of the institution, in each case of import, certifying that the said goods are essential for research purposes and will be used for the stated purpose only;* *(iii) in the case of import of live animals for experimental purposes, produces, at the time of importation, a certificate from the Head of the institution that the live animals are required for research purposes and encloses a no objection certificate issued by the Committee for the Purpose of Control and Supervision of Experiments on Animals.* *(2) The goods falling under (1) above shall not be transferred or sold for a period of five years from the date of importation."*

3.1 In the said Certificate Ref No. ERC/22-23/0048 dated 17.06.2022, the importer has certified that the 'goods being imported against above referred Purchase Order are essential for research purposes and will be used for research purposes. On scrutinizing the said letter/ certificate dated 22.08.2023, it appears to be generic in nature. The said certificate only refers to the purchase order without describing the goods and their relevance to research, and the goods prima facie do not appear to be in the nature of scientific instrument, apparatus or equipment meant for research. The goods are found to be a "Chassis HINO ENG No-J08EWD12439" which is in the nature of commercial vehicle carrying goods. No reason has been given as to how the said goods carrying vehicle is essential for research purpose.

4. The Head, R&D Center of Tata Motors Limited, Pimpri, Pune has been delegated the power to issue exemption certificate by the Department of Scientific and Industrial Research (DSIR) of the Government of India. The head of the Tata R&D Center has to certify that the said imported goods fall under the category "Scientific and Technical Instrument, Apparatus, Equipment (including computers)" and are required for research purposes only. The said Certificate dated 22.08.2023 issued by Head - Engineering Research Center, Tata Motors Limited, Pimpri, Pune is silent on how the said vehicle is required for research purposes only and, therefore, appears to be not in order.

5. From above, it appears that the impugned goods are in the nature of 'goods carrying commercial vehicle' on which aggregated customs duty is very high (around 84.32%). Besides the lack of reason/grounds in the said certificate, the subject goods are also not in the nature of "Scientific and technical instruments, apparatus, equipment (including computers)". From the lack of reasons to justify use in research, it appears that Tata R&D Centre has imported this vehicle for general goods carrying use and not for research purpose.

6. The principle of ejusdem generis or noscitur a sociis are well settled principles of interpretation. They imply that a word of general and wider import used in an entry surrounded by other relevant terms has to draw its colour and meaning from such surrounding words and that cannot be lost sight of. In the present case the terms used to describe goods in the Notification No. 51/96-Customs dated 23.07.1996 are "scientific and technical instruments, apparatus, equipment (including computers)". The importer has argued that the "Chassis HINO ENG No-J08EWD12439" will fall under the term 'equipment' used in the notification. The term 'equipment' is preceded by the words 'instruments' and 'apparatus'. Also, all these 3 terms 'instruments', 'apparatus' and 'equipment' are preceded by adjectives scientific and technical. The imported motor vehicles are neither a scientific/technical instrument nor a scientific/technical apparatus. By the principle of noscitur a sociis, the word equipment will take colour from the preceding words instrument and apparatus; therefore, the imported motor vehicles will also not fall under the term equipment.

7. The goods specified in clause (a) of sr. no. 2 of the said notification i.e. instruments, apparatus, equipment (including computers), are preceded by the adjective "Scientific and technical". The benefit of the notification is not given to any and every instruments, apparatus, equipment (including computers) but only to specific set, that is to scientific and technical instruments, apparatus, equipment (including computers). These adjectives, are clearly specified by the statute and cannot be ignored and also that the legislature had a very clear

intention to exempt goods of nature “Scientific and technical instruments, apparatus, equipment (including computers)”.

8. To elaborate it further, to avail benefit of said notification, particularly in the present case when benefit is claimed as an equipment, the entry should satisfy following requirements and conditions: -

i. The imported goods should be “Scientific and technical instruments, apparatus, equipment (including computers)”.
ii. The importer is registered with the Government of India in the Department of Scientific and Industrial Research.
iii. The importer produces a certificate from the Head of the institution, in each case of import, certifying that the said goods are essential for research purposes and will be used for the stated purpose only.

9. The importer in support of their claim as required vide the said Notification for research purpose has submitted a certificate Ref. No. ERC/22-23/0048 dated 17.06.2022 stating that they have Engineering Research Centre, i.e., in-house R&D Unit, which is registered with Department of Scientific & Industrial Research (DSIR) under Registration Certificate No. TU/IV-RD/1531/2021 dated 27.07.2021 from the Ministry of Science and Technology, Department of Scientific and Industrial Research in support of their claim as required vide the said Notification for research purpose. However, in the said certificate there is no mention about which goods are being imported and its purpose of import as per the condition no. 2(ii) of the said notification.

10. Therefore, as per the said CRA OBS and on perusal of the item description, the notification conditions and other literature/technical details as detailed above, it appears that the goods under import i.e. “Chassis HINO ENG No-J08EWD12439” are not eligible for the benefit of Sr. No. 2 of the Notification No. 51/1996-Customs dated 23.07.1996 and accordingly, it appears that the importer has intentionally claimed the same in order to evade the legitimate Customs duty amounting to Rs. 28,62,340/- (Rupees Twenty-Eight Lakh Sixty Two Thousand Three Hundred and Forty Only).

11. The relevant provisions of Law:

11.1 In terms of Section 46 (4) of the Customs Act, 1962, it is mandatory for the importer to make and subscribe to a declaration as to the truth of the contents of the bill of entry being presented.

11.2 In terms of Section 17 of the Customs Act, 1962, relating to Assessment of duty, it is mandatory for the importer, save as otherwise provided in Section 85 of the Act, to self-assess the duty, and in case it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under the Act, re-assess the duty leviable on such goods.

11.3 In terms of sub-section 2 of Section 2 of the Customs Act, 1962, "assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (51 of 1975) or under any other law for the time being in force, with reference to—

(a) the tariff classification of such goods as determined in accordance with

the provisions of the Customs Tariff Act;
(b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;
(c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;
(d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;
(e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods;]
(f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods, and includes provisional assessment, self- assessment, re-assessment and any assessment in which the duty assessed is nil;

11.4 Circular No.17/2011- Customs dated 8th April, 2011 issued by the Ministry of Finance, specifies that Section 17 of the Customs Act, 1962 provides for self-assessment of duty on import and export goods by the importer or exporter himself by filing a Bill of Entry or Shipping Bill, as the case may be. The importer or exporter at the time of self-assessment is required to ensure that he declared the correct classification, applicable rate of duty, value, and benefit of exemption notifications claimed, if any, in respect of the imported / export goods while presenting Bill of Entry or Shipping Bill. The Bill of Entry or Shipping Bill self- assessed by importer or exporter, as the case may be, can be subject to verification with regard to correctness of classification, value, rate of duty, exemption notification or any other relevant particular having bearing on correct assessment of duty on imported or export goods. For the purpose of verification, the proper officer may order for examination or testing of the imported or export goods, production of any relevant document or ask the importer or exporter to furnish any relevant information.

11.5 The relevant provisions of Section 28(4) of Customs Act, 1962 are reproduced below:
Section 28*. Recovery of duties not levied or not paid or short-levied or short- paid or erroneously refunded-*
(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".

11.6 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 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.]

11.7 Section 111 (m) & 111(o) of the Customs Act, 1962-

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 transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;

11.8 Section 125. Option to pay fine in lieu of confiscation.

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

[Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, no such fine shall be imposed.

Provided further that], without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

[(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges, payable in respect of such goods.]

[(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

Explanation. - For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.] [Inserted by Finance Act, 2018 (Act No. 13 of 2018), dated 29.3.2018.]

11.9 As per Section 112 of the Customs Act, 1962 – *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, to penalty*. As per the provisions of section 112, the penalty in the case of dutiable goods is proportional to the duty sought to be evaded.

12. As per the CRA OBS, the differential Customs duty liability of the importer M/s. TATA MOTORS LIMITED (IEC No. 0388002808) is Rs. 28,62,340/- (Rupees Twenty-Eight Lakh Sixty Two Thousand Three Hundred and Forty Only).

13. Under the self-assessment procedure, it was obligatory on the part of the importer to declare all the particulars relevant to the assessment of the goods. The impugned goods were self-assessed by the importer M/s TATA MOTORS LIMITED (IEC No. 0388002808). It was noticed that during the import of the goods vide Bill of Entry No. 7057105 dated 12.01.2022, they declared the goods as "CHASSI HINO FM8JN7A-R EURO-4 ENG NO-J08EWD12439 - VEHICLE" claiming the benefit of Notification No. 51/96 dated 23.07.1996. Thus, it appears that, they have claimed incorrect grant of exemption benefit of notification no. 51/96 for the above said item.

14. Thus, it appears that M/s. TATA MOTORS LIMITED (IEC No. 0388002808) have short paid the Customs duty, totally amounting to Rs. 28.62 lakhs. Hence, the duty, not paid by the importer, appear liable to be demanded from them in terms of Section 28 (4) of the Customs Act, 1962.

15. As it appears that the importer had taken incorrect benefit of aforesaid exemption notification on the subject imported item imported vide BE No. 7057105 dated 12.01.2022, at the time of import of goods, the said incorrect application of aforesaid exemption notification has led to non-payment of appropriate Customs duty by M/s. TATA MOTORS LIMITED (IEC No. 0388002808), it appears that the goods have become liable to confiscation under Section 111(m) & 111(o) of the Customs Act, 1962.

16. As the impugned goods imported by M/s. TATA MOTORS LIMITED (IEC No. 0388002808) appears to be liable for confiscation under Section 111(m) & 111(o) of the Customs Act, 1962, the importer also appears to have rendered themselves liable for penal action under Section 112(a) of the Customs Act, 1962.

17. Accordingly, in compliance of Pre-Notice Consultation Regulations, 2018 as amended vide Notification No. 29/2018(NT) dated 02.04.2018, Pre-Consultative Notices (PNC) letter dated 21.04.2024 was issued to importer for

short payment of duty amounting to Rs. 28.62 lakhs under Section 28(4) of Customs Act, 1962 along with applicable interest and Penalty.

18. Records of Pre-Notice Consultation

The importer vide letters dated 27.08.2025 has mainly submitted the following:

18.1. *That M/s Tata Motors Ltd. ("the Company") is a company incorporated under the laws of India, operating under the trade name 'Tata Motors', and is one of India's largest automobile companies and a leading global manufacturer of commercial vehicles, registered with the Directorate General of Foreign Trade under IEC No. 0388002808; that in the course of its business, the Company regularly imports automobile components, capital goods, machinery, equipment, and related spares and accessories, with classification undertaken based on technical characteristics and intended use in accordance with the Customs Tariff Act, 1975 and applicable notifications; and that the Company is a reputed and compliant entity, duly adhering to tax laws and discharging all applicable duties and taxes.*

Product in question imported by the Company.

18.2. *That the Company imported "CHASSI HINO FM8JN7A-R EURO-4 ENG NO-J08EWD12439 – VEHICLE" (hereinafter referred to as the "subject goods") under CTH 87060042 by availing the benefit of Sr. No. 2 of Notification No. 51/96-Customs dated 23.07.1996 vide Bill of Entry No. 7057105 dated 12.01.2022, on payment of appropriate duties, with an assessable value of Rs. 65,61,990.55; and that the said goods were cleared from the Customs port with the Bill of Entry finally assessed as declared by the Company, without any protest or dispute from the Customs authorities.*

Issuance of the Consultative letter

18.3. *That pursuant to a Post Clearance Online Audit conducted by Import–I, New Customs House (NCH), Mumbai, the Deputy Commissioner of Customs, Group-VB ("the Department") issued a Consultative Letter vide F.No. CUS/APR/LC/118/2023-GR-5(AB) dated 21.04.2024 ("impugned letter") based on audit observations, proposing that the subject goods "CHASSI HINO FM8JN7A-R EURO-4 ENG NO-J08EWD12439 – VEHICLE" are not eligible for exemption under Notification No. 51/96-Customs dated 23.07.1996 and that the benefit is inadmissible notwithstanding registration with the Department of Scientific and Industrial Research and production of the requisite certificate; and further proposing levy of BCD @ 15% and IGST @ 28%, alleging short-levy of duty amounting to Rs. 28.62 lakhs, and consequently proposing recovery of duty along with applicable interest and penalty under Section 28(4) of the Customs Act, 1962.*

A. The reopening of the assessment in the present proceedings post the clearance of the subject goods is bad in law.

18.4 *That the Company submits that the subject goods were duly assessed by the proper officer, appropriate Customs duty was paid, and the goods were cleared, thereby finalizing the import; that no objection was raised at the time of import and hence the concluded assessments cannot be reopened subsequently on the ground of alleged wrongful availment of exemption; that if the Department disagreed with the exemption as assessed, the proper course was to challenge the assessment by way of appeal, as the Bills of Entry were finally assessed and not provisional; that reliance is placed on the judgment of the Hon'ble Supreme Court in ITC Ltd. v. Commissioner of Central Excise, Kolkata-IV, wherein it was held that*

a Bill of Entry is an assessment order which must be modified before any consequential action; that in the present case, the Department cannot suo motu reopen or reassess concluded assessments without following due process and granting opportunity to the importer; and that, therefore, the present proceedings are bad in law and liable to be set aside, particularly as the Company had rightly availed exemption under Notification No. 51/96-Customs dated 23.07.1996 based on the end use of the goods, making the belated denial of such exemption legally unsustainable..

B. "Equipments" are not defined under Notification No. 51/1996-Customs dated 23.07.1996 and said imported commercial vehicles rightly covered as an "Equipments" which are used in Research & Development activity:

18.5. *That the Company imported one "CHASSI HINO FM8JN7A-R EURO-4 ENG NO- J08EWD12439 – VEHICLE" under CTH 87060042 for research purposes by availing benefit under Sr. No. 2 of Notification No. 51/1996-Customs dated 23.07.1996, which extends exemption to research institutions for scientific and technical instruments, apparatus, equipment and related items subject to prescribed conditions including DSIR registration and certification of research use; that being a leading automobile manufacturer engaged in exports, the import was undertaken for R&D activities such as teardown benchmarking, aggregate detailing, craftsmanship evaluation, dynamic testing, safety analysis and performance assessment to meet international standards; that the imported vehicle qualifies as "equipment" essential for such research, as the term is not defined in the notification and must be interpreted broadly in line with its objective of promoting research and exports; that as per DSIR guidelines for recognition of in-house R&D units, activities like design & engineering, product improvement, development of new technologies and advanced testing for innovation are valid R&D, and teardown benchmarking for technological study and product development squarely falls within this scope; and that judicial interpretations have also consistently given a wide meaning to terms like "scientific and technical instruments", "apparatus" and "equipment" to include goods used for genuine research purposes, thereby justifying the Company's claim of exemption.*

C. The Department erred in holding that benefit of exemption Notification is not available in case goods are not specified item mentioned under the said notification.

18.6. *That the Department, in the impugned consultative letter, has taken a view that the imported goods are not covered under the specified items of Notification No. 51/1996-Customs dated 23.07.1996 and hence the exemption is not admissible notwithstanding DSIR registration and certification; that to avail the said exemption, the only requirements are that the importer is registered with the Department of Scientific and Industrial Research, produces a certificate from the Head of the institution certifying that the goods are essential for research purposes and will be used accordingly, and that the goods are not transferred or sold for a period of five years from import; that the Company has duly complied with all these conditions, which is also not disputed in the consultative letter; that the imported vehicle was used for teardown benchmarking and related R&D activities to meet international standards, and the essential requirement of use for research purposes stands satisfied; and that therefore, the Department's contention that the goods are not specifically designed or modified for research is untenable, rendering the impugned consultative letter liable to be set aside.*

D. Mere wrong availment of exemption notification does not tantamount to wilful misdeclaration / misstatement to attract provisions of Section 28(4) of the Customs Act.

18.7. *That, without prejudice to the foregoing submissions and without admitting the allegations in the consultative letter, mere incorrect availment of an exemption notification does not amount to wilful misstatement or suppression so as to invoke Section 28(4) of the Customs Act, 1962; that invocation of the extended period under Section 28(4) is contingent upon the existence of collusion, wilful misstatement, or suppression of facts, and in the absence of these essential ingredients, the same cannot be invoked as a matter of course; that as per Section 28(1), the normal limitation period for issuance of a Show Cause Notice is two years from the relevant date; and that unless it is specifically established that non-payment of duty was due to collusion, wilful misstatement, or suppression of facts, the extended period of limitation is not invocable in law.*

The Company always acted under bona-fide belief

18.8. *That the Company bona fide believed that the subject goods were correctly cleared by availing the applicable exemption notification, and the issue raised by the Department pertains merely to interpretation of the notification, the details of which were already within the knowledge of the Customs authorities at the time of import; that there was no mis-declaration in the Bills of Entry with respect to the description of goods, and in the absence of any mis-declaration, the allegation of suppression cannot be sustained; that it is a settled position in law that where an assessee acts in a bona fide manner, allegations of collusion, suppression, or misrepresentation are untenable; and that accordingly, no such elements can be attributed to the Company in the present case.*

E. Mere wrong availment of exemption notification does not amount to mis-declaration / mis-statement on part of the Company

18.9*. That the Company, without admitting any allegation of wrongful availment of exemption, submits that such charge is unsustainable as the nomenclature and description of the goods were consistently and accurately declared in the Bill of Entry, import invoice, and the goods as imported, and in the absence of any discrepancy therein, no intent to misclassify or evade duty can be alleged; that the dispute, if any, is purely interpretational in nature and pertains to a difference of legal opinion rather than any incorrect statement or mis-declaration by the Company, and hence the allegation of intentional misclassification is untenable; and that reliance is placed on the judgment of the Hon'ble Supreme Court in Easland Combines v. Collector of Central Excise, wherein it was held that the extended period of limitation cannot be invoked in the absence of any positive act of fraud, collusion, wilful misstatement, or suppression of facts.*

F. No malafide intent can be attributed on part of the Company to evade the payment of Customs duty

18.10. *That the Company is a law-abiding corporate entity, consistently discharging applicable Customs duties without any intent to evade, and is engaged in high-volume imports of automobile parts, capital goods, spares, accessories, and scientific and technical equipment; that in the course of such extensive operations, any inadvertent error in classification or availment of exemption, if at all, would be purely unintentional and cannot be construed as wilful suppression of facts; that the Company has not engaged in any act amounting to suppression with intent to evade duty; and that therefore, no mala fide intent can be attributed to the Company, rendering the invocation of the*

extended period under Section 28(4) of the Customs Act, 1962 unsustainable in the present case.

G. Demand if any should be restricted to the normal period of limitation under Section 28(1) of the Customs Act.

18.11. *That since Section 28(4) of the Customs Act, 1962 is not applicable, the normal limitation period under Section 28(1) applies, which mandates that in non-fraud cases, demand must be raised within two years from the relevant date, i.e., the date of clearance of goods; and that as the impugned demand pertains to imports made in January 2022, any demand raised beyond the said two-year period is time-barred and liable to be set aside on this ground alone.*

H. The demand of IGST cannot sustain on the ground of revenue neutrality.

18.12. *That the demand of IGST on the subject goods is unsustainable on the ground of revenue neutrality, as the Company is engaged in manufacture of dutiable output goods and is eligible to avail Input Tax Credit (ITC) of any IGST paid; that even assuming, without admitting, any short payment of IGST, the same would have been available as ITC, negating any intent to evade tax; that in such circumstances, allegations of fraud, suppression, or misstatement are unjustified and the impugned letter, being premised on such allegations, cannot be sustained; and that reliance is placed on Birla NGK Insulators Pvt. Ltd. vs. Commissioner of Customs, Ahmedabad, wherein it was held that where duty is revenue neutral, the demand is not sustainable.*

I. The customs authorities do not have the authority to demand IGST.

18.13. *That the Customs authorities lack jurisdiction to adjudicate and demand IGST on imported goods, as IGST is levied under the IGST Act, 2017 and, though collected at the time of import in terms of Section 3 of the Customs Tariff Act, 1975, the power to demand and recover the same vests with the "proper officer" under the GST laws as defined in the CGST Act, 2017; that Customs officers are not designated as proper officers under the GST framework and no legal basis has been established in the impugned letter to assume such authority; that Section 3(7) of the Customs Tariff Act merely facilitates collection of IGST and does not confer independent power to demand it under Section 28 of the Customs Act; and that reliance is placed on Ortho Clinical Diagnostics India Pvt Ltd. vs. Commissioner of Customs (Import), Mumbai and Interglobe Aviation Ltd. vs. Commissioner of Customs, wherein it has been held that IGST, being a levy under the IGST Act, cannot be demanded by Customs authorities, and therefore the impugned demand of IGST along with interest is without jurisdiction and liable to be set aside.*

J. Interest is not applicable

18.14. *That the Company bona fide submits that no case for differential duty arises in the present facts, as the impugned demand is unsupported by evidence for reclassification or denial of exemption, and since interest is merely accessory to duty, it cannot survive when the principal demand itself is unsustainable, as held in Pratibha Processors vs. Union of India; that further, the demand of interest on differential IGST is legally untenable in view of Mahindra and Mahindra v. Union of India, affirmed by the Hon'ble Supreme Court, wherein it was held that provisions relating to interest are substantive and must be strictly construed; and that accordingly, no interest is leviable on the alleged differential IGST demand in the present case.*

K. Investigation on exemption Notification 51/1996 has been already conducted by DRI, Bangaluru and SCN already issued

18.15. *That an investigation regarding alleged wrongful availment of exemption under Notification No. 51/1996-Customs dated 23.07.1996 has already been conducted by the Directorate of Revenue Intelligence, Bengaluru Zonal Unit, pursuant to which a Show Cause Notice bearing No. 142/2025-26/COMMR./NS-V/CAC/JNCH dated 14.05.2025 has been issued by the Commissioner of Customs, JNCH, Nhava Sheva under Sections 124 and 28(1) of the Customs Act, 1962; that initiation of parallel proceedings on the same issue by another authority is impermissible in law and amounts to duplication, being contrary to the statutory framework and CBIC Circular No. 239/33/2024-GST dated 04.12.2024 mandating centralized adjudication; and that accordingly, the present proceedings are liable to be dropped, with a request that no adverse action be taken without granting an opportunity of personal hearing.*

19. M/s. Tata Motors Ltd. imported "CHASSI HINO FM8JN7A-R EURO-4 ENG NO-J08EWD12439 – VEHICLE" classified under CTH 87060042 vide Bill of Entry No. 7057105 dated 12.01.2022, availing exemption under Sr. No. 2 of Notification No. 51/96-Customs dated 23.07.1996, claiming it as equipment for research purposes. The assessable value of the imported item is Rs. 65,61,990.55/-. Post-clearance audit revealed that the goods do not qualify as scientific and technical instruments, apparatus, or equipment under the notification, leading to short levy of BCD @15% and IGST @28%, amounting to Rs. 28.62 Lakhs, along with interest and penalty under Section 28(4) of the Customs Act, 1962.

20. A consultative letter dated 21.04.2024 was issued proposing the above recovery. In response, the importer submitted a reply dated 27.08.2025, contesting the findings on various grounds, including legality of reopening assessment, qualification of goods as equipment, non-applicability of extended limitation, and lack of authority to demand IGST. These submissions have been examined and found untenable for the reasons detailed below.

21. The importer's contention that reopening the assessment post-clearance is bad in law is misplaced. Section 28 of the Customs Act empowers recovery of short-levied duties based on post-clearance audit findings. The assessment, though final at clearance, remains subject to verification under self-assessment procedures as per the Customs Manual. Reliance on ITC Ltd. v. Commissioner of Central Excise Kolkata-IV [(2019) 17 SCC 46] is inapplicable, as it pertains to excise refunds, not customs recovery. The Hon'ble Supreme Court in Canon India Pvt. Ltd. v. Commissioner of Customs [(2021) 376 ELT. 3 (SC)] clarified the scope of proper officers, and here the proceedings are validly initiated by the jurisdictional officer.

22. The imported chassis does not appear to qualify as "scientific and technical equipment" under Notification No. 51/96-Customs, which exempts specialized items for research by DSIR-registered institutions. The term "equipment" implies tools for scientific experimentation, not commercial vehicle chassis under CTH 87060042. The importer's claim of use for teardown benchmarking, safety analysis, etc., does not transform a standard automotive part into scientific equipment. DSIR guidelines emphasize innovative R&D like new technologies and distinguish from routine activities or market research, which benchmarking resembles.

23. The wrong availment constitutes wilful misstatement, invoking Section 28(4) and extended limitation. Misclassifying a commercial chassis as research

equipment appears to be a positive act of suppression. The importer's bona fide belief is unsubstantiated, given the clear description in the Bill of Entry as a "VEHICLE." Reliance on Easland Combines v. Collector of Central Excise [(2003) 3 SCC 410] fails, as there is intentional misstatement here to evade duty.

24. Inadvertent errors do not excuse wilful suppression in this instance. The demand is not restricted to the normal period under Section 28(1), as extended limitation applies due to misstatement. The import in January 2022 falls within the invocable period.

25. The IGST demand sustains and is not hit by revenue neutrality, as wrongful exemption caused actual short levy, even if ITC-eligible. Reliance on Birla NGK Insulators Pvt. Ltd. v. Commissioner of Cus., Ahmedabad [2014 (309) E.L.T. 501 (Tri. – Ahmd.)] is misplaced for imports. Customs authorities have jurisdiction to demand IGST under Section 5 of IGST Act read with Section 3(7) of Customs Tariff Act and recover via Section 28, contrary to cited Tribunal decisions like Ortho Clinical Diagnostics India Pvt Ltd. v. Commissioner of Customs (Import), Mumbai [2022 (9) TMI 1109 - CESTAT MUMBAI].

26. Interest is applicable under Section 28AA as an accessory to duty, per Pratibha Processors v. Union of India [1996 (88) E.L.T. 12 (S.C.)]. For IGST, it is leviable despite the importer's reliance on Mahindra and Mahindra v. Union of India [2022 (10) TMI 212 - Bombay High Court]. The DRI investigation and SCN No. 142/2025-26/COMMR./NS-V/CAC/JNCH dated 14.05.2025 do not bar these proceedings, as this is a separate jurisdictional audit-based matter, per CBIC Circular No. 239/33/2024-GST.

27. In view of the above, it appears that the importer has availed inadmissible benefit of Sr. No. 2 of the Notification No. 51/1996-Customs forthe subject imported item declared as “Chassis HINO ENG No-J08EWD12439” vide BE No. 7057105 dated 12.01.2022, at the time of import of goods, and the said incorrect application of aforesaid exemption notification has led to non-payment of appropriate Customs duty by M/s. TATA MOTORS LIMITED (IEC No. 0388002808).

28. Further, the CRA in the OBS-779693 dated 18.07.2023 has observed that, as per the S. No. 166 of Schedule-IV of the IGST Notification No. 01/2017 Integrated Tax (Rate) dated 28 June, 2017 CTH 8704 Motor vehicles for the transport of goods {other than Refrigerated motor vehicles” attracts IGST @ 28% and has accordingly, observed that the total differential duty as follow:

Item Description	**CTH**	**Assessable Value**	**Duty paid**	**BCD@ 15%**	**SWS@ 10%**	**IGST@ 28%**	**Total Duty**	**Total diff. DUTY**
291321007001 CHASSI HINO FM8JN7A-R EURO-4 ENG NO J08EWD12439	8706 0042	6561991	360909.50	984298.60	98429.86	2140521	3223250	**2862340**

29. Therefore, the differential duty which appears to be short-paid by the importer works out to be Rs. 28,62,340/-(Rupees Twenty Eight Lakhs Sixty Two Thousand Three Hundred and Forty Only).

30. Show Cause Notice

Accordingly, Show Cause Notice No. 56/JC/Gr-VB/IMPORT-I/NCH/2025-26 dated 12.12.2025 [hereinafter referred to as SCN] was issued to M/s. Tata Motors Limited calling upon to show cause as to why

i. the benefit of serial number 2 of the Notification No. 51/1996- Customs, dated 23.07.1996 as amended, to the imported goods, availed at the time of filing of the Bill of Entry No. 7057105 dated 12.01.2022 should not be denied.

ii. The total differential Customs duty of 28,62,340/-(Rupees Twenty Eight Lakhs Sixty Two Thousand Three Hundred and Forty Only) along with applicable interest thereon should not be demanded and recovered from them in terms of Section 28 (4) read with Section 28AA of the Customs Act, 1962.

iii. The impugned goods declared as 'Chassis HINO ENG No-J08EWD12439' imported vide BE No. 7057105 dated 12.01.2022, by availing exemption benefit of notification which had led to non-payment of appropriate Customs duty should not be liable to confiscation under Section 111(m) & 111(o) of the Customs Act, 1962.

iv. Penalty should not be imposed upon him under Section 112(a) and/or 114A of the Customs Act, 1962.

31. Reply to Show Cause Notice

The importer, M/s. Tata Motors Limited submitted written reply dated 23.02.2026 to the SCN, key points of which are as below:

1) The Noticee submits that they carry extensive research and development (R&D) activities as required in the manufacturing of vehicles and their parts/components. The said R&D activities are carried out by "Engineering & Research Center (ERC). The ERC Unit carries out various activities relating to development of newer vehicles, variants of existing vehicles or their parts and components.

2) The ERC has in its credit, a lot of patents and copy-rights with respect to vehicles, its parts and components, not only in India but in abroad also. The Intellectual Property rights are registered in the name of the Appellant. The ERC has about 1974 number of skilled personnel as on 31/03/2025 from various engineering and technical qualifications, who undertake R&D for improving existing parts, accessories and technology used in the existing models of vehicle as well as for development of new vehicles/ variants and their parts.

3) The ERC is responsible for conceptualizing new products (vehicles, parts, components), design and development of clay models, developing styling properties, physical prototyping, testing and validation, innovation of new technology, energy solutions etc.

4) Development of new model or an improvised version of existing model happens in three stages:

   1. Mule Prototype: A mule prototype is an early-stage of R&D wherein the data relating to existing issues or the proposed technologies that would be introduced in future is collected. In this stage, the R&D Team would finalize the problem statement or the outcome that needs to be achieved

   2. Alpha Prototype: Alpha prototype is the second stage in prototyping process wherein various parts are tested for freezing or finalizing the engineering design. Based on the test results, the designs are amended so as to achieve the desired results

3. Beta Prototype: After the finalization of the drawings and the designs as per State 1 and Stage 2, the Alpha Prototypes developed in stage 2 are used to build vehicles. Such vehicles are based on such finalized engineering designs and are tested for validations. Once Beta prototype validations are completed and the design is finalized, the commercial production commences at a large scale. In case any of the part tested in Beta prototyping is not compatible with other items then the necessary modifications are undertaken. The process of modification and testing continues till the time the desired results are achieved.

5) Basis the above, it is clear that the final product developed, tested and approved after Beta prototype is considered as final "prototype".

6) The Company has imported "CHASSI HINO FM8JN7A-R EURO-4 ENG NO-J08EWD12439 - VEHICLE" under CTH 87060042 (hereinafter referred to as "subject goods") by availing Sr. No. 2 to exemption Notification No. 51/96-Customs dated 23.07.1996 vide Bills of Entry No 7057105 dated 12.01.2022 by paying appropriate duties. The assessable value of the subject goods is Rs. 65,61,990.55/-.

A. The reopening of the assessment in the present proceedings post the clearance of the subject goods is bad in law.

7) The Company submits that the subject goods were duly assessed by the Customs officer at the time of import, the applicable duty was paid, and the goods were cleared for home consumption upon issuance of the "Out of Charge" order under Sections 17 and 47 of the Customs Act, 1962. Such clearance indicates that the proper officer was satisfied with the assessment and classification adopted at the time of import.

8) It is further contended that once the goods were finally assessed and cleared, the Department cannot reopen the assessment at a later stage on the ground of misclassification. If the Post Clearance Audit disagreed with the classification adopted, the appropriate course would have been to challenge the assessment by filing an appeal, particularly since the Bills of Entry were not provisionally assessed.

9) This position has been affirmed in the case of CCE, Kanpur Vs. Flock (India) - 2000 (120) ELT 285 (SC) and was relied upon in the case of Priya Blue Industries Vs. CC (*Preventive) – 2004 (172) ELT 145 (SC).

10) Reliance is placed on the judgment of the Hon'ble Supreme Court in ITC Ltd. v. Commissioner of Central Excise, Kolkata-IV [(2019) 17 SCC 46; 2019 (368) E.L.T. 216 (S.C.)], wherein the Court held that even after the introduction of self-assessment, assessment remains an integral part of the clearance process and the Bill of Entry constitutes an assessment order passed by the proper officer after evaluation of the goods.

11) Also, in the case of Vittesse Export Import Vs. CC (EP), Mumbai – 2008 (224) ELT 241 (Tri. -Mumbai), it was held that once the shipping bills have been assessed, they attain finality and cannot be re-assessed on the grounds of mis-declaration.

12) Furthermore, in order to substantiate that an out of charge order passed under Section 47 of the Customs Act amounts to quasi-judicial order, the case of CC, Cochin Vs. Arvind Export - 2001 (130) ELT 54 (Tri. -LB) decided by a Larger Bench (of 5 Members), may be taken into consideration.

13) Reliance is also placed on Neelkanth Polymers v. Commissioner of Customs, Kandla [2009 (90) RLT 188 (Tri.-Ahmd.)], wherein the Hon'ble

CESTAT held that a demand under Section 28 of the Customs Act for recovery of additional duty not levied is not sustainable when the assessed Bill of Entry itself has not been challenged. The Tribunal observed that without first setting aside or modifying the assessment, a demand for differential duty cannot be raised.

14) The Noticee submits that the ratio of the cited judgments squarely applies to the present case. The Department has proposed a demand without challenging the assessed Bills of Entry or the resultant "Out of Charge" orders. In the absence of any appeal against these orders, the assessment has attained finality and cannot be questioned subsequently, particularly when there is no allegation of mis-declaration or misrepresentation. The Department cannot unilaterally modify or reopen finalized assessments without first setting aside the original assessment and providing the importer an opportunity to contest the issue before the competent forum.

<u>B. Equipments" are not defined under Notification No. 51/1996-Customs dated 23.07.1996 and said imported commercial vehicles rightly covered as an "Equipments" which are used in Research & Development activity:</u>

15) The Noticee submits that it is a leading automobile manufacturer exporting vehicles to international markets. In order to meet global standards, the company needs to set some benchmarking by teardown of foreign make vehicles and detailed study of imported models to understand design, performance, and safety parameters.

16) It is stated that the imported vehicle is used as equipment for research and development activities, including aggregate detailing, craftsmanship evaluation, dynamic testing, safety analysis, and static performance assessment. Without these instruments, the research objectives cannot be effectively achieved.

17) The Noticee further submits that the imported truck falls under Chapter 87 of the Customs Tariff, which forms part of Section XVII covering Vehicles, Airgraft, Vessels and Associated Transport Equipment. Since the term "equipment" is not defined in Notification No. 51/96-Cus., reliance is placed on its Collins dictionary meaning as below, from which it can be concluded that vehicles are included within the broader meaning of the term "Equipment",

> <u>Transport</u>: any vehicle that you can travel in or carry goods in;
> <u>Equipment</u>: consists of the things which are used for a particular purpose;

18) Accordingly, the Noticee contends that vehicles used for R&D purposes qualify as "equipment" in common parlance. It is also submitted that Notification No. 51/96-Cus. was introduced by the Government to promote exports and enhance foreign exchange earnings, and therefore the benefit of the notification should be extended in the present case.

19) Further, according to the DSIR guidelines for recognition of in-house R&D units - recognized R&D activities include design & engineering, product improvements, and development of new technologies, activities like testing and analysis for innovative development, efficiency improvements, and new methods of analysis are considered valid R&D. On the other hand, routine testing, quality control, and maintenance are not considered R&D. Hence, Teardown benchmarking, when done for the purpose of studying innovative technologies, informing new product development and enhancing design and engineering capabilities would qualify as legitimate

R&D under DSIR guidelines as per para 2 of the above guidelines. The intended benchmark activity i.e., aggregate detailing, craftsmanship, dynamic testing, safety analysis and static performance evaluation, which are for an existing product already in use or for new product development related to the line of business of the firm can be broadly covered within the scope of "Scientific and technical instruments, apparatus, equipment" specified under Notification No. 51/1996-Customs dated 23.07.1996.

20) The Noticee rely on the decision of Hon ble CESTAT, Chennai in the case of Jackson Generators Pvt. Ltd. V CCE Pondicherry, 2014 (311) E.L.T. 815 (Tri. - Chennai), the hon'ble Tribunal while considering the grant of exemption to Diesel Generators which were for use in supplying power to the Research Institution.

21) The Noticee also rely on the decision hon'ble CESTAT, Bangalore in the case of Tractors and Farm Equipments Ltd. V. CCE., Bangalore 2011 (269) E.L.T. 534 (Tri. - Bang.), wherein a tractor supplied to a research institute, which was used for carrying scientist instruments was held entitled to the benefit of exemption.

22) In the case of Auto Aircon (India) Ltd. vs. Commissioner of Central Excise, Pune-III [2016 (336) E.L.T. 558 (Tri. - Mumbai)] the appellant had claimed exemption under Notification No. 10/97-CE for air-conditioning and refrigerator.

23) It is further submitted that the scope of scientific and technical instruments varies across industries. For an Original Equipment Manufacturer, technological advancement is of paramount importance, and achieving such advancement requires continuous research and development along with rigorous testing.

24) Attention is also invited to Chapter 87 of ITC(HS), wherein the Import Policy covers the import policy with respect to "Vehicles other than Railway or Tramway rolling — Stock, and Parts and Accessories Thereof". Policy Condition No. 2(I) covers import of new vehicles and Condition No. 2(II)(f) specially covers import of Vehicles for R&D purposes. The relevant condition is extracted below for reference:

"*f- The above mentioned provisions will also not apply to the import of new vehicles for R & D purpose by vehicle manufacturers and auto component manufacturers. However, the vehicles imported by both these categories for R&D will not be registered under the CMVR Rules in the country and will not ply on Indian roads. The customs will make necessary endorsement at the time of clearance of these vehicles.*"

25) Vide the Import Policy, the import of Vehicles for R&D purposes is contemplated. It is also submitted that vide Policy Circular No. 06(RE-06)/2004-2009 dated 18.05.2006 it has been clarified that vehicles imported for R&D purposes can be registered under Motor Vehicle regulations for limited purpose of carrying out endurance test, evaluation test and for other testing purposes.

26) From the said clarification it can be inferred that testing is considered as part of R&D, and the vehicles have been considered as the goods for R&D and testing. In view of the above, the finding that vehicles cannot be used for R&D purposes is incorrect.

27) Reliance is also placed on the case of Spectrum Infotech P. Ltd. v. CESTAT Bangalore-I [2016 (343) E.L.T. 961 (Tri-Bang) wherein aircraft parts supplied to various institutes for conducting research has been granted the benefit of exemption. Thus, BTP/ BTS parts of vehicles used for

conducting research are also eligible for availment of benefit under Notification No. 51/96.

28) It is submitted that the objective of Notification No. 51/96 is to promote research and development in India. Therefore, while exemption notifications are generally interpreted strictly, those intended to encourage or promote specific activities should be construed liberally. Reliance in this regard is placed on the decision of Hon'ble Supreme Court in the case of in Government of Kerala & Anr. v. Mother Superior Adoration Convent [2021 (376) E.L.T. 242 (S.C.)].

29) The Noticee submits that Notification No. 51/96 should be interpreted liberally, as it aims to promote research and development. Even if certain minor conditions are not strictly met, the broader objective of the notification should be considered, particularly since the Noticee is undisputedly engaged in R&D activities. It is further contended that judicial decisions have consistently interpreted the terms "scientific and technical instrument, apparatus, equipment" broadly to extend benefits to research institutions. Accordingly, the commercial vehicles imported for research purposes qualify as "equipment," making the Noticee eligible for the exemption and rendering the Show Cause Notice unsustainable.

30) It is submitted that, under Rule 126 of the Central Motor Vehicles Rules, 1989, every manufacturer or importer of motor vehicles is required to submit a prototype of the vehicle for testing by designated agencies before large-scale manufacturing. The Motor Vehicle law thus treats a prototype as a fully functional vehicle developed for future production and regulatory testing. Accordingly, a "prototype" refers to a product ready for commercial production and not to intermediate or experimental vehicles that are still under trial.

31) The Noticee submits that they referred case laws of Hon ble Tribunal wherein the exemption benefit allowed under the category of "Scientific & Technical Instrument", "Equipments" & "Apparatus" by taking broader view in absence of specific definition in the said Notification.

Case Law	Category	Appellants submission
Godrej Appliances Ltd. v. CCE [2009 (236) ELT 729 Tri-Ahm]	*Scientific & Technical Instrument*	Air-Conditioners have been regarded as "scientific and technical instruments"
Andrew Yule & Co. Ltd. v. C.C.E., Chennai - 2004 (172) E.L.T. 212 (Tri-Chennai)	*Scientific & Technical Instrument*	Held that the transformers are scientific and technical instrument
Danke Products v. C.C.E., Vadodara-II - 2005 (186) E.L.T. 215 (Tri-Mumbai)		
Voltamp Transformers Pvt. Ltd. v. C.C.E., Vadodara-II - 2007 (218) E.L.T. 217 (Tri.-Ahmd.)		
Featherlite Products Pvt. Ltd. v. C.C.E., Bangalore-III - 2007 (208) E.L.T. 143 (Tri.- Bang.)		
Jackson Generators Pvt. Ltd. V CCE Pondicherry, [2014 (311) E.L.T. 815 (Tri. - Chennai)]	Equipment	Exemption benefit is allowed to Diesel Generators which were for use in supplying power to the Research Institution
Tractors and Farm Equipments Ltd. V. CCE., Bangalore 2011 (269) E.L.T. 534 (Tri. - Bang.)	Equipment	Tractor supplied to a research institute, which was used for carrying scientist instruments was

		held entitled to the benefit of exemption
P.L. Haulwel Trailers v. Commissioner — 2002 (142) E.L.T. 204 (Tribunal)	Apparatus	Held that Trailer supplied for carrying Scientific Instruments is entitled to exemption

32) There are plethora of judgments where the exemption of the subject Notification has been granted upon fulfillment of the conditions listed in Column (4) of the said Notification. Reliance has been placed upon the following judgments:

- CC. Vs. Jai Research Foundation-2007 (209) ELT197 (Tri - Mumbai)
- Devi Ahilya Vishwavidyalaya Vs. CC-2002 (146) ELT407 [Tri -Chennai]:

C. The Department erred in holding that benefit of exemption Notification is not available in case goods are not specified item mentioned under the said notification.

33) The Noticee submits that to avail the benefit of Notification No. 51/1996-Cus., the importer must fulfil certain conditions, namely: registration with DSIR, production of a certificate from the Head of the institution certifying that the goods are essential for research purposes and will be used only for that purpose, and an undertaking that the goods will not be transferred or sold for five years from the date of import. It is contended that the Noticee has complied with all the conditions. The Show Cause Notice does not allege any violation of these conditions, and the compliance of the same has in fact been acknowledged.

34) The Noticee further submits that the imported foreign vehicles were intended for teardown and benchmarking studies to meet international market standards, which are integral to research activities. Therefore, the Department's finding that the goods are not specifically designed or modified for research purposes is untenable and the proceedings deserve to be set aside.

D. The SCN IS VAGUE, CRYPTIC AND ISSUED WITHOUT ANY BASIS/EVIDENCE.

35) The Noticee strongly refutes all the allegations made in the Show Cause Notice and submits that the proposals therein are legally and factually untenable. It is further submitted that the SCN is vague and cryptic, as it fails to properly examine the nature and characteristics of the imported goods. According to the Noticee, the demand of duty and proposal for penalty have been made merely on assumptions and presumptions rather than on any concrete evidence.

36) The Noticee also submits that the SCN ignores the detailed submissions earlier made in response to the consultative letter dated 27.08.2025, wherein it was clearly explained why Notification No. 51/1996-Cus. is applicable to the present case. Such disregard, according to the Noticee, reflects complete non-application of mind and on this ground alone the SCN deserves to be dropped.

37) Reliance is placed on the decision in Electronik Lab v. CC [2005 (187) ELT 362 (CESTAT Mumbai)] and Govind Laskar v. CCE [1991 (52) ELT 529], wherein it was held that duty demand and penalty cannot be sustained on mere presumptions or disbelief in the absence of supporting evidence. Accordingly, the Noticee submits that the proceedings proposed in the SCN are unsustainable.

E. The entire demand raised in the impugned Show Cause Notice being time barred is liable to be set aside.

38) The Noticee submits that mere wrong classification does not amount to wilful misdeclaration or misstatement so as to attract the extended period under Section 28(4) of the Customs Act, 1962. Therefore, the demand proposed in the Show Cause Notice is barred by limitation.

39) It is contended that invocation of the extended period under Section 28(4) requires the presence of specific elements such as fraud, collusion, wilful misstatement, or suppression of facts. In the absence of these ingredients, the Department cannot invoke the extended limitation period, and the normal limitation of two years under Section 28(1) would apply.

40) The Noticee submits that at the time of filing the Bills of Entry, all relevant details were fully and correctly disclosed, including the description of goods, the applicable notification number, and the relevant serial number under Notification No. 51/1996-Cus. Necessary documents such as the DSIR registration certificate and the certificate from the Head of the Engineering Research Centre were also submitted to substantiate the claim of exemption.

41) It is further argued that there was complete transparency in the declarations made by the Noticee, and there was no suppression of facts, collusion, or wilful misstatement with intent to evade duty. The description of the goods in the Bills of Entry, invoices, and the actual imported goods were consistent, leaving no scope to allege misclassification with intent to evade duty.

42) Accordingly, the Noticee submits that the dispute, if any, arises only from a difference in legal interpretation regarding the applicability of the exemption notification and not from any misdeclaration or incorrect statement made by the importer.

43) Reliance is also placed on the judgment of the Hon'ble Supreme Court in Easland Combines v. Collector of Central Excise [(2003) 3 SCC 410], wherein it was held that the extended period of limitation cannot be invoked in the absence of a positive act such as fraud, collusion, wilful misstatement, or suppression of facts.

F. No malafide intent can be attributed on part of the Company to evade the payment of Customs duty

44) The Company is a law-abiding corporate entity and has been diligently paying the applicable Customs duties to the Government exchequer without any intent to evade payment of Customs duty. In fact, the Company is importing parts of automobiles on a high-volume basis. In the course of such business operations, there may be miniscule cases where the Company has inadvertently classified the goods under incorrect tariff entry. However, such wrong classification if any, cannot amount to wilful suppression.

45) Therefore, the Company humbly submits that there is no wilful suppression or malafide intent on part of the Company to evade payment of Customs duty. Hence, the extended period of limitation under Section 28(4) is not invokable in the present case.

G. Only the normal period of limitation is applicable.

46) The Noticee submits that since the ingredients required for invoking Section 28(4) of the Customs Act are absent in the present case, the extended period of limitation is not applicable. Consequently, only the normal limitation period under Section 28(1) of the Customs Act would apply, which provides for demand of duty to be raised within two years from the relevant date, i.e., the date of clearance of the goods. Therefore, any demand beyond this statutory period is barred by limitation.

47) The Noticee further submits that all relevant documents and details were duly disclosed at the time of filing the Bills of Entry, and the transactions were fully within the knowledge of the Department. In the absence of any suppression or misdeclaration, only normal limitation period is applicable.

48) It is also pointed out that the Directorate of Revenue Intelligence (DRI), Mangaluru Regional Unit, had conducted a search at the premises of the Noticee on 31.10.2023 and carried out an investigation concerning Notification No. 51/1996-Cus. Subsequently, a Show Cause Notice dated 14.05.2025 was issued in relation to the same matter. This not only demonstrates that the Department was already aware of the relevant facts, leaving no scope to allege suppression, but also that only the normal limitation period is applicable, as DRI itself issued the said Show Cause Notice for the normal period of limitation.

H. The demand of IGST cannot sustain on the ground of revenue neutrality.

49)The Noticee submits that the demand of IGST is unsustainable on the ground of revenue neutrality, as the Company is engaged in the manufacture of finished goods liable to GST and is eligible to avail Input Tax Credit (ITC) of any IGST paid on the imported goods. It is contended that even if, without admitting, there was any short payment of IGST due to classification, the same would have been available as ITC to the Company. Therefore, there was no incentive to misclassify the goods to evade payment of IGST, and allegations of fraud or suppression cannot arise.

50) Accordingly, the foundation of the impugned proceedings based on fraud or suppression is untenable. Reliance is placed on Birla NGK Insulators Pvt. Ltd. v. Commissioner of Customs, Ahmedabad [2014 (309) E.L.T. 501 (Tri.-Ahmd.)], wherein it was held that when the duty demanded is available as credit or refund, the demand is not sustainable due to revenue neutrality.

I. The Customs Authorities do not have the authority to demand IGST.

51) The Noticee submits that the Customs authorities lack jurisdiction to adjudicate and demand IGST on imported goods. It is contended that IGST is levied under the provisions of the Integrated Goods and Services Tax Act, 2017, and therefore any demand relating to such tax must be governed by the provisions of the GST law.

52) Reference is made to the proviso to Section 5 of the IGST Act, which states that IGST on imported goods shall be levied and collected in accordance with Section 3 of the Customs Tariff Act, 1975 at the time when customs duties are levied. The Noticee contends that Section 3(7) of the Customs Tariff Act merely provides the mechanism for collection of IGST at the time of import and does not constitute an independent charging provision. The levy of IGST arises under the IGST Act itself, and the Customs Tariff Act only facilitates its collection during customs assessment.

53) The Noticee further submits that recovery proceedings under GST law are governed by Sections 73 and 74 of the CGST Act, which authorize only the "proper officer" to initiate such proceedings. As per Section 2(91) of the CGST Act, the proper officer refers to the Commissioner or officers of Central Tax assigned such functions under GST law.

54) It is therefore argued that Customs officers are not appointed as "proper officers" under the CGST or IGST Acts for the purpose of initiating recovery proceedings for IGST. Consequently, the Customs Department lacks the statutory authority to issue a demand for IGST under Section 28 of the Customs Act.

55) Reliance is placed on judicial precedents including Ortho Clinical Diagnostics India Pvt. Ltd. v. Commissioner of Customs (Import), Mumbai [2022 (9) TMI 1109 – CESTAT Mumbai] and Interglobe Aviation Ltd. v. Commissioner of Customs [2021 (1) TMI 726 – CESTAT New Delhi], wherein it was held that IGST is a levy under the IGST Act and Customs authorities do not have the power to demand it.

56) In light of the above legal provisions and case laws, the Noticee submits that the Customs Department has no jurisdiction to demand IGST on the imported goods. Accordingly, the proposed demand of differential IGST along with interest is unsustainable in law and liable to be set aside.

J. NO INTEREST UNDER SECTION 28AA OF THE CUSTOMS ACT, 1962 WHEN DEMAND ITSELF IS NOT SUSTAINABLE

57) The Noticee submits that it held a bona fide belief that no differential duty is payable in the present case. Since the Department has failed to substantiate the proposed reclassification of goods under CTH 8708 with evidence, the demand of differential duty itself is unsustainable. It is further submitted that interest is merely accessory to the duty component. Therefore, when the principal demand of duty fails, the corresponding demand of interest also cannot survive.

58) Reliance is placed on the judgment of the Hon'ble Supreme Court in Pratibha Processors v. Union of India (1996 (88) E.L.T. 12), wherein it was held that when the duty demand is not sustainable, interest cannot be levied. The said principle was also affirmed by the Hon'ble Supreme Court in CC v. Jayathi Krishna (2000 (119) ELT 4), reiterating that interest liability cannot arise when the underlying duty demand itself is not maintainable.

59) The Noticee further submits that Section 3(12) of the Customs Tariff Act, 1975 does not borrow the provisions relating to interest and penalty from the Customs Act. In the absence of such borrowing, interest cannot be demanded for IGST levied under the Customs Tariff Act.

60) It is contended that while IGST is levied under Section 3(7) of the Customs Tariff Act, the borrowing provision under Section 3(12) extends only to provisions relating to levy, collection, refund and exemption, and not to penalty or interest.

61) Reliance is placed on the judgment of the Hon'ble Bombay High Court in Mahindra and Mahindra v. Union of India (2022 (10) TMI 212), affirmed by the Hon'ble Supreme Court, wherein it was held that provisions relating to interest and penalty are substantive in nature and must be strictly interpreted.

62) The Noticee also relies on the decisions of the Hon'ble Supreme Court in India Carbon Ltd. v. State of Assam and J.K. Synthetics v. CTO, wherein

it was held that interest can be levied only when the statute specifically provides for it through a substantive provision. This position of law was approved and reiterated by the constitution bench in the case of V.V.S. Sugars Vs. Govt. of A.P. & Ors., (1999) 4 SCC 192.

63) In Pioneer Silk Mills vs. Union of India – 1995 (80) ELT 507 (Del.), the Hon'ble High Court of Delhi examined whether penalty provisions under the Central Excise Rules, 1944 could be invoked for non-payment of additional duty under the Additional Duties of Excise (Goods of Special Importance) Act, 1957. The Court held that Section 3(3) of the Act merely borrowed provisions of the Central Excise law relating to "levy and collection" of duty. Interpreting this expression narrowly, the Court held that it covered procedural aspects such as assessment, recovery, refunds and exemptions, but did not extend to penalty or confiscation provisions in the absence of a specific statutory mandate. This judgment was subsequently approved by the Hon'ble Supreme Court.

64) A similar view was taken in Bajaj Health & Nutrition vs. Commissioner of Customs – 2004 (166) ELT 189, where the Tribunal held that provisions of the Customs Act were borrowed under Section 9A(8) of the Customs Tariff Act only for the limited purpose of levy and collection of anti-dumping duty. Since the statute did not expressly incorporate provisions relating to confiscation, interest or penalty, the Tribunal held that such liabilities could not be imposed.

65) Further, in Tonira Pharma Ltd. vs. Commissioner of Customs – 2009 (237) ELT 65 (Tri.), the Tribunal set aside penalties and interest relating to anti-dumping duty, CVD and SAD, holding that penal provisions cannot be applied unless they are specifically borrowed by the statute. This view was subsequently followed in Siddeshwar Textile Mills vs. Commissioner – 2009 (248) ELT 290 (Tri.), reaffirming that penalty and interest cannot be imposed where the charging provision only borrows provisions relating to levy and collection of duty.In view of the above legal position and judicial precedents, the Noticee submits that interest cannot be demanded on the alleged differential IGST, and therefore the proposed demand of interest is legally unsustainable and liable to be set aside.

K. IMPORTED GOODS ARE NOT LIABLE FOR CONFISCATION UNDER SECTION 111(m) OF THE CUSTOMS ACT, 1962

66) At the outset, it is submitted that there has been no mis-declaration of the description of the goods. The importer is only required to correctly describe the goods and disclose the primary facts. In the present case, the true nature and description of the goods were clearly declared in the import documents and were also made available to the Department at the time of assessment.

67) The Noticee submits that confiscation provisions under Sections 111 of the Customs Act, 1962 can be pressed into service only in cases where the assessee has acted with a mala fide intention, and it is proved beyond doubt that there was mens rea on part of the assessee. Support for the above proposition is found in the following: Allseas Marine Contractors S.A. Vs. CC – 2011 (272) ELT 619 (Tri.-Del.); Sutures India Vs. CC – 2009 (245) ELT 596 (Tri.-Bang), affirmed by Hon'ble Supreme Court in 2010 (255) ELT A85 (SC).

68) Reliance is placed on Kirti Sales Corpn. vs. CC – 2008 (232) ELT 151 (Tri.-Del.), wherein the Tribunal held that misdeclaration under Section

111(m) of the Customs Act must be intentional. A mere wrong declaration made bona fide, particularly when based on documents provided by the foreign supplier, cannot be treated as misdeclaration so as to attract confiscation under Section 111(m).

69) In Ace Kargoways Vs. CC – 2003(158) ELT 505 at para 9, it was held by the Tribunal that claiming benefit of notification by itself is not an offence calling for confiscation of the goods and imposing fine and penalty and that the assessee-importer had no intent to circumvent the law.

70) Furthermore, in the case of CC Vs. Maruti Udyog – 2002 (141) ELT 392, the tribunal had observed that where the assessee-importer had given all the details of the goods, he cannot be held guilty of mis-declaration and consequently, the tribunal set aside the confiscation and penalty imposed on the assessee.

71) Similarly, in the case of J K Industries Vs. CC – 1996 (88) ELT 41, the Tribunal held that the claim for exemption is not a declaration for the purposes of Section 111(m) of the Customs Act, 1962 and hence the tribunal invalidated the confiscation of goods and imposition of penalty. Reliance is also placed on the cases, namely, Hindustan Lever Vs. CC – 1996 (83) ELT 520 and Metro Tyres Vs. CCE – 1994 (74) ELT 964.

72) The Hon'ble Bombay High Court in CC Vs. Gaurav Enterprises – 2006 (193) ELT 532 (Bom.) went a step ahead and clearly held that declaration with regard to untenable claim for exemption of duty is not a mis-declaration and that as long as there is no wilful suppression/mis-declaration by the assessee, it can't be said that it is a case of mis-declaration.

73) It is therefore submitted that from the discussion of various case-laws cited above, that mere claim to a particular exemption does not amount to mis-declaration so long as the description given in the Bill of entry is correct. In the instant case, the Noticee had given the correct description along with various supporting documents like commercial invoice, packing list, etc. No attempt has been made to mis-declare the goods and evade customs duty. Hence, the imported goods are not liable for confiscation under Section 111(m).

74) It is submitted that Section 111 of the Customs Act, 1962 permits confiscation only of "imported goods." Under Section 2(25), imported goods exclude those cleared for home consumption. Reliance is placed on Bussa Overseas & Properties vs. C.L. Mahar – 2004 (163) ELT 304 (Bom.), wherein the Hon'ble Bombay High Court held that once goods are cleared for home consumption, they lose the character of imported goods and therefore cannot be confiscated under Section 111, unless the order of clearance is first revised or set aside.

L. PENALTY IS NOT IMPOSABLE IN THE PRESENT CASE UNDER SECTION 114A OF THE CUSTOMS ACT, 1962

75) The Noticee submits that the customs department was always aware of the classification declared and exemption availed by the Noticee. Consequently, at most, the present dispute can be one of legal interpretation of the Customs Tariff.

76) However, penalty under section 114A can be imposed in cases when the duty has not been paid or short-paid/part-paid by the reason of collusion or any wilful mis-statement or suppression of facts.

77) The Noticee submits that, the duty demand is not sustainable in the present case and that there has been no suppression or mis-statement of facts by the Noticee. The only allegation is of mis-classification and wrong availment of exemption for the imported products, which is a matter of bona fide belief.

78) The Noticee submits that penalty under Section 114A of the Customs Act, 1962 is attracted only where duty has not been levied or paid due to collusion, wilful mis-statement, or suppression of facts with intent to evade duty. In the present case, the demand itself is within the normal limitation period, and there is no allegation of wilful suppression or mis-statement. The SCN has invoked Section 28(4) only for the purpose of imposing penalty, which is unsustainable, particularly when the dispute merely relates to availment of an allegedly incorrect exemption.

79) The Hon'ble Supreme Court in Anand Nishikawa Vs. CCE – (2005) 7 SCC 749 has held that mere failure to declare, without any positive act from the side of the assessee, would not amount to wilful suppression of facts.

80) Reliance is placed on Pushpam Pharmaceuticals Co. vs. CCE – 1995 (78) ELT 401 (SC), wherein the Hon'ble Supreme Court held that "suppression of facts" must be deliberate and with intent to evade duty. Mere omission or failure to disclose information does not amount to suppression, particularly where the relevant facts were already known to the Department.

81) The Hon'ble Supreme Court in the case of Aban Lloyd Offshore Vs. CC – 2006 (200) ELT 370 (SC) has held that the word 'wilful' implies that there has to be an intention to evade duty on part of the assessee.

82) Based upon the above referred judgments, it can be said that to invoke penalty provisions under Section 114A of the Act, the intention or deliberate attempt, on the part of importer, to evade duty has to be proved beyond reasonable doubt to justify invocation of Section 114A of the Act. In the present case, the Noticee correctly declared the goods in the Bills of Entry based on the import documents, and there was no wilful mis-statement or suppression of facts. Accordingly, penalty under Section 114A is not sustainable. Reliance is placed on Tamil Nadu Housing Board vs. CCE – 1994 (74) ELT 9 (SC), CCE vs. Chemphar Drugs & Liniments – 1989 (40) ELT 276 (SC), and Hindustan Steel Ltd. vs. State of Orissa – AIR 1970 SC 253.

83) The Noticee relies on the following decisions wherein it was held that penal action is not permissible in absence of mens rea - CC Vs. Kamal Kapoor – 2007 (216) ELT 21 (P & H), CC Vs. Surbhit Impex Pvt. Ltd. – 2012 (286) ELT 500 (Bom.), and Ghanshyam Metal Udyog Vs. CC – 2008 (229) ELT 631 (Tri. -Ahmd.).

84) As has been demonstrated by the Noticee in their submissions above, since no wilful mis-statement or suppression of facts is established, the extended period of limitation is not invocable. Consequently, the penalty proposed under Section 114A of the Customs Act, 1962 is unsustainable and liable to be dropped.

85) In view of the above submissions, the Noticee Company respectfully prays that the present proceedings initiated against it be dropped in entirety. The Company further requests that no adverse action be taken without affording it an opportunity of personal hearing.

32. Record of Personal Hearing

A personal hearing in the matter was granted on 24.03.2026, which was attended by Shri Supriya Sett, Authorised Representative of the noticee. During the hearing, he contested on behalf of the noticee, claiming that the vehicle is purely used for R&D purposes, and nowehere intended or used for commercial purposes. He relied on several case laws for the argument of deeming the vehicle as 'equipment' as per the Notification No. 51/96-Cus. He also refuted applicability of Section 28(4) to argue that the SCN is time-barred. He reiterated the written submissions and requested that the proceedings be dropped in entirety.

33. Discussion and Findings

I have gone through the facts of the case, material evidence on record, the Show Cause Notice dated 12.12.2025, oral & written submissions of the noticee.

33.1 Before proceeding with the discussion, I take up the preliminary objection of the noticee that the present proceedings seeking to reopen the assessment of the imported goods are legally untenable, as the subject goods were duly assessed by the proper officer under Sections 17 and 47 of the Customs Act, the applicable duty was paid, and the goods were cleared for home consumption upon issuance of the Out-of-Charge order. The noticee has relied upon judicial precedents to contend that if the Department was aggrieved by the classification accepted at the time of assessment, the appropriate course would have been to challenge the assessed Bill of Entry by way of appeal.

33.2 I find myself in disagreement with the noticee's contention that the assessment of the Bill of Entry cannot be reopened after clearance of the goods, as Section 28 of the Customs Act, 1962 specifically provides for recovery of duties which have not been levied or have been short-levied for any reason. The mere fact that the goods were earlier assessed and cleared does not bar the Department from initiating proceedings for recovery of duty where it is later found that the exemption was wrongly claimed. I find that the case laws relied upon by the noticee deal with challenges to adjudication orders, refunds claims and finality of assessed values in export matters, and do not directly cover the facts of the present case. I find that the emphasis on quasi-judicial nature of assessment or Out-of-Charge orders in the cited case laws does not take away the express statutory power to issue SCN for short levy of duty after clearance under Section 28 of the Customs Act, 1962.

33.3 Therefore, I find that the proceedings in the impugned Show Cause Notice are legal and proper. I now proceed to discuss the issues involved in the case.

34. Admissibility of imported goods for benefit of Notification No. 51/1996-Customs dated 23.07.1996.

34.1 It is alleged in the Show Cause Notice that the goods, i.e. "CHASSI HINO FM8JN7A-R EURO-4 ENG NO-J08EWD12439 - VEHICLE" imported under Bill of Entry No. 7057105 dated 12.01.2022 are not scientific and technical equipment and do not fall within the scope of items specified for benefit exemption under Serial No. 2 of Notification No. 51/1996-Customs dated 23.07.1996, as the said notification grants concessional duty to scientific and technical instruments, apparatus, equipment, imported by eligible research institutions for research and development activities.

34.2 I find that the core dispute pertains to the scope of Notification No. 51/1996-Customs dated 23.07.1996, wherein the noticee claims that the imported goods fall under 'equipment' under the said notification, while the Show Cause Notice proposes to restrict it to scientific and technical equipment only. The noticee has contended that the imported vehicle, being used for teardown benchmarking and research activities such as design study, testing, safety analysis and performance evaluation, constitutes "equipment" essential for product development, and therefore qualifies for exemption in light of DSIR guidelines, and the broad interpretation adopted in the cited judicial precedents.

34.3 I find that the expression "scientific and technical equipment" used in Notification No. 51/1996-Cus. dated 23.07.1996 must be interpreted as a composite phrase and not by reading the word "equipment" in isolation. Applying the principles of ejusdem generis and noscitur a sociis, the term "equipment" derives its colour and meaning from the qualifying words "scientific and technical" preceding it, and therefore covers only such equipment which is inherently scientific in character or specifically designed for technical research and development activities. Therefore, I find that since the scope of Notification No. 51/1996-Cus. dated 23.07.1996 is confined to scientific and technical equipment only, the goods, i.e. "CHASSI HINO FM8JN7A-R EURO-4 ENG NO-J08EWD12439 – VEHICLE", are not covered by it.

34.4 The noticee further contends that denial of exemption under Notification No. 51/1996-Cus is unsustainable, submitting that all prescribed conditions, namely DSIR registration, certification by the Head of the institution regarding research end-use, and the undertaking against transfer or sale for five years, were duly fulfilled at the time of import, as also acknowledged in the SCN. It is therefore argued that, having satisfied all explicit conditions of the notification, the exemption cannot be denied.

34.5 I find that Notification No. 51/1996-Custom dated 23.07.1996 reads as below:

"*In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts goods falling within the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and specified in column (3) of the Table hereto annexed, from so much of that portion of the duty of customs leviable thereon which is specified in the said First Schedule as is in excess of the amount calculated at the rate of five percent ad valorem and from the whole of the additional duty leviable thereon under section 3 of the said Customs Tariff Act, when imported into India, by importers specified in column (2) of the said Table, subject to the conditions specified in the corresponding entry in column (4) of the said Table….*"

From plain reading of the notification, it is clear that the primary eligibility criteria for exemption is the description of the goods and the category of importer, which are thereafter supplemented by the prescribed conditions. Accordingly, compliance with the conditions, though necessary, is not by itself sufficient to claim the exemption. Consequently, where the goods are found not to fall within the intended scope of the notification, as discussed above, fulfilment of the conditions is not relevant for the purpose of extending the benefit.

34.6 Accordingly, I hold that the benefit of Serial No. 2 of Notification No. 51/1996-Customs dated 23.07.1996 is not admissible to the imported goods and the exemption claimed by the noticee is liable to be denied.

35. Invocation of extended period under Section 28(4) of the Customs Act, 1962 for demand and recovery of differential duty, along with applicable interest under Section 28AA of the said Act.

35.1 It is alleged in the Show Cause Notice that the noticee has wrongly availed the benefit of Notification No. 51/1996-Cus in respect of goods that were not eligible for such exemption, resulting in short payment of Customs duty. It is further alleged that the noticee misstated the eligibility of the imported goods under the said notification with intent to evade payment of duty. On this basis, invocation of the extended period under Section 28(4) of the Customs Act, 1962 has been proposed.

35.2 The noticee submits that all relevant details including description of the goods, classification and claim of exemption were clearly declared at the time of import. It is contended that there was complete transparency in the declarations made before the Customs authorities and that the dispute, if any, arises only due to a difference in interpretation regarding the applicability of the exemption notification. The noticee submits that there was no suppression of facts, fraud, collusion or wilful misstatement on their part. Accordingly, the noticee argues that the ingredients required for invoking the extended period under Section 28(4) are absent. The noticee further refers to SCN No. 142/2025-26/COMMR./NS-V/CAC/JNCH dated 14.05.2025 issued pursuant to investigation by DRI, Mangaluru Regional Unit in relation to impugned Notification No. 51/1996-Customs, dated 23.07.1996, wherein only the normal period of limitation is applied. The noticee therefore contends that the demand is time-barred.

35.3 I find that the issue in the present case is not merely interpretational as the noticee has availed notification exemption for the goods "CHASSI HINO FM8JN7A-R EURO-4 ENG NO-J08EWD12439 - VEHICLE" on the strength of a certificate that the goods were intended for use in Research and Development (R&D) activity, which is not borne out from the facts on record. The benefit under the said notification is applicable only for scientific and technical equipment. Therefore, the conduct of the noticee amounts to making a deliberate mis-statement to obtain the benefit of exemption. Such declaration effectively portrayed the goods as eligible for the exemption and led to short payment of duty at the time of import. Further, the reliance on another SCN issued pursuant to DRI investigation is misplaced, as limitation under Section 28 must be determined independently on the facts of each case and cannot be governed by the approach adopted in another proceeding. I therefore find that the noticee consciously claimed and supported the exemption through requisite documents and declarations despite the goods being ineligible, amounting to wilful misstatement of their eligibility with intent to avail inadmissible benefit. Accordingly, the extended period under Section 28(4) of the Customs Act, 1962 is held to be rightly invocable in the present case. Consequently, the duty demand is sustainable and interest thereon also becomes payable.

35.4 The noticee has further contended that the demand of IGST is unsustainable on the ground of revenue neutrality, submitting that, being

engaged in the manufacture of dutiable finished goods, it would be entitled to avail Input Tax Credit of any IGST paid on the imported goods. It is also argued that IGST, being a levy under the IGST Act, 2017, can be recovered only by the proper officer under the GST law in terms of Sections 73 and 74 of the CGST Act. Section 3(7) of the Customs Tariff Act, 1975 merely provides for collection of IGST at the time of import without empowering Customs authorities to demand the same under Section 28 of the Customs Act, 1962. In support, noticee places reliance on decisions in Ortho Clinical Diagnostics India Pvt. Ltd. vs. Commissioner of Customs (Import), Mumbai [2022 (9) TMI 1109 – CESTAT Mumbai] and Interglobe Aviation Ltd. vs. Commissioner of Customs [2021 (1) TMI 726 – CESTAT New Delhi].

35.5 I find that the liability to pay IGST on import flows from Section 3(7) of the Customs Tariff Act, 1975 and is independent of claim of any subsequent credit entitlement under the GST regime. The availability of ITC is a separate, conditional benefit governed by the CGST Act 2017 and the IGST Act 2017, and cannot extinguish the liability determined under Customs law. Accordingly, the mere possibility of availing ITC does not render the demand unsustainable. The cited decisions only recognise IGST as a levy under the GST framework, which is collected at the time of import under the Customs Tariff Act, 1975 but do not support the contention that Customs authorities lack jurisdiction to demand IGST.

35.6 The noticee has also contended that no interest under Section 28AA of the Customs Act, 1962 is payable as the demand of duty itself is unsustainable. The noticee further submits that IGST is levied under Section 3(7) of the Customs Tariff Act, 1975, and Section 3(12) of the CTA only borrows certain provisions of the Customs Act relating to levy and collection, but does not borrow the substantive provisions relating to interest and penalty, and therefore interest on differential IGST cannot be demanded. In support, reliance is placed on Mahindra and Mahindra v. Union of India [2022 (10) TMI 212 – Bombay High Court] affirmed in [2023 (386) E.L.T. 11 (S.C.)], India Carbon vs. State of Assam (1997) 6 SCC 479, J.K. Synthetics vs. CTO (1994) 4 SCC 276, V.V.S. Sugars vs. Govt. of A.P. (1999) 4 SCC 192, Pioneer Silk Mills vs. UOI – 1995 (80) E.L.T. 507 (Delhi) affirmed in 2002 (145) E.L.T. A74 (S.C.), Bajaj Health & Nutrition vs. CC – 2004 (166) E.L.T. 189, Tonira Pharma Ltd. vs. CC – 2009 (237) E.L.T. 65 (Tri.), and Siddeshwar Textile Mills vs. Commissioner – 2009 (248) E.L.T. 290 (Tri.), to contend that interest or penalty cannot be imposed where the statute levying the duty does not expressly provide for such recovery.

35.7 With regard to the applicability of interest, it is observed that the judgments relied upon by the noticee were rendered in the context of statutes where the charging provisions did not contain corresponding mechanisms for recovery of interest or penalty. In the present case, however, Section 3(12) of the Customs Tariff Act, 1975 expressly provides that the provisions of the Customs Act, 1962 apply to duties or taxes leviable under Section 3 in the same manner as to customs duties. IGST has been collected as duty under the Customs framework in terms of Section 5 of the IGST Act, 2017 read with Section 3(7) of the Customs Tariff Act, 1975. Accordingly, once the differential duty/IGST is determined under Section 28, it consequentially leads to interest under Section 28AA of the Customs Act, 1962.

35.8 Accordingly, I hold that the extended period under Section 28(4) of the Customs Act, 1962 is rightly invocable in the present case and the differential Customs duty amounting to ₹28,62,340/- is liable to be demanded and recovered from the noticee along with applicable interest under Section 28AA of the Customs Act, 1962.

36. Liability of imported goods for confiscation under Section 111(m) & 111(o) of the Customs Act, 1962

36.1 The Show Cause Notice proposes confiscation of the imported goods under Sections 111(m) and 111(o) of the Customs Act, 1962 on the ground that the noticee misdeclared the eligibility of the goods for exemption under Notification No. 51/1996-Customs dated 23.07.1996, resulting in short payment of duty.

36.2 The noticee contends that there has been no mis-declaration of the goods, as the description and all primary facts were correctly disclosed in the import documents and supporting records. It is submitted that confiscation under Section 111(m) of the Customs Act, 1962 can arise only where there is intentional mis-declaration or mala fide conduct, which is absent in the present case. Relying on Allseas Marine Contractors S.A. vs. CC – 2011 (272) ELT 619 (Tri.-Del.), Sutures India vs. CC – 2009 (245) ELT 596 (Tri.-Bang), affirmed in 2010 (255) ELT A85 (SC), Kirti Sales Corpn. vs. CC – 2008 (232) ELT 151 (Tri.-Del.), Ace Kargoways vs. CC – 2003 (158) ELT 505, CC vs. Maruti Udyog – 2002 (141) ELT 392, J.K. Industries vs. CC – 1996 (88) ELT 41, Hindustan Lever vs. CC – 1996 (83) ELT 520, Metro Tyres vs. CCE – 1994 (74) ELT 964, and CC vs. Gaurav Enterprises – 2006 (193) ELT 532 (Bom.), the noticee argues that a mere claim of exemption does not amount to misdeclaration when the description of goods is correctly declared. It is further submitted that once goods are cleared for home consumption, they cease to be "imported goods" under Section 2(25) and therefore cannot be confiscated under Section 111, as held in Bussa Overseas & Properties vs. C.L. Mahar – 2004 (163) ELT 304 (Bom.). Accordingly, the noticee submits that the goods are not liable to confiscation.

36.3 I find that the cited judicial decisions holding that mere claim of exemption does not amount to misdeclaration when the description of goods is correctly declared, are distinguishable from the present matter. In the present case, the importer has wrongly declared the goods as eligible for exemption under Notification No. 51/1996-Cus. by providing a certificate from the Head of institution that the goods were intended for use in Research and Development (R&D) activities. Therefore, the exemption in the present case is claimed on the basis of an affirmative declaration, directly impacting duty liability and resulting in short levy of duty. Such a positive misdeclaration of a material particular, made to avail inadmissible benefit, reflects intent and renders the goods liable for confiscation under Section 111(m) of the Customs Act, 1962.

36.4 The SCN also proposes confiscation under Section 111(o) of the Customs Act, 1962, which reads as below:

"*(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;"*

I find that the above provision applies only where goods imported under an exemption notification, are in breach of conditions stipulated therein. In the present case, I find that the conditions in the notification required at the time of import under Notification No. 51/1996-Cus. have been complied with, but the goods themselves do not meet the substantive eligibility criteria of the notification. The issue, therefore, pertains to ineligibility of the goods for exemption rather than violation of any condition of clearance. Accordingly, confiscation under Section 111(o) is not attracted and the proposal in the Show Cause Notice is not sustainable.

36.5 Insofar as the noticee's contention regarding the physical non-availability of the goods is concerned, I place reliance on the judgment of the Hon'ble Madras High Court in M/s Visteon Automotive Systems India Limited [2018 (9) G.S.T.L. 142 (Mad.)], as reaffirmed by the Hon'ble Gujarat High Court in M/s Synergy Fertichem Pvt. Ltd. v. Union of India [2020 (33) G.S.T.L. 513 (Guj.)], wherein the Hon'ble Court observed as under:

> "*The penalty directed against the Importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the Improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorized by this Act brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act.*"

36.6 In view of the discussion above, I hold that the impugned goods are liable to confiscation under Section 111(m) of the Customs Act, 1962, and the case merits imposition of redemption fine under Section 125(1) of the Customs Act, 1962, notwithstanding the fact that the goods are not physically available.

37. Liability of noticee for penalty.

37.1 The Show Cause Notice proposes imposition of penalty on the ground that the noticee wrongly availed exemption and thereby short paid Customs duty. According to the SCN, such availment of exemption led to non-levy/short-levy of duty, attracting the provisions of Section 28(4) of the Customs Act, 1962. Since the duty is alleged to have been short-paid by reason of wilful misstatement or suppression of facts with intent to evade payment of duty, the noticee is stated to be liable for penalty under Section 112(a) and/or 114A of the Customs Act, 1962.

37.2 The noticee contends that penalty under Section 114A of the Customs Act, 1962 is not imposable in the present case as the essential ingredients of collusion, wilful misstatement, or suppression of facts with intent to evade duty are absent. It is submitted that the exemption claimed were duly disclosed in the Bill of Entry and supporting import documents, and the dispute, if any, is merely one of interpretation regarding eligibility of exemption, which cannot attract penal provisions. The noticee further submits that the demand itself is unsustainable and no intention to evade duty is demonstrated. In support, the noticee places reliance on Anand Nishikawa Co. Ltd. vs. CCE – (2005) 7 SCC 749, Pushpam Pharmaceuticals Co. vs. CCE – 1995 (78) ELT 401 (SC), Aban Lloyd Offshore Ltd. vs. CC – 2006 (200) ELT 370 (SC), Tamil Nadu Housing Board vs. CCE – 1994 (74) ELT 9 (SC), CCE vs. Chemphar Drugs & Liniments – 1989 (40) ELT 276 (SC), Hindustan Steel Ltd. vs. State of Orissa – AIR 1970 SC 253, CC vs. Kamal Kapoor – 2007 (216) ELT 21 (P&H), CC vs. Surbhit Impex Pvt. Ltd. – 2012 (286) ELT 500 (Bom.), and Ghanshyam Metal Udyog vs. CC – 2008 (229) ELT 631 (Tri.-Ahmd.), to contend that in the absence of deliberate suppression or mens rea, penalty under Section 114A cannot be sustained.

37.3 I find that the noticee claimed exemption under Notification No. 51/1996-Cus. dated 23.07.1996 for goods which do not fall within the scope of the said notification. Such incorrect declaration regarding eligibility for exemption resulted in short payment of Customs duty. The incorrect claim of exemption is further coupled with a positive act of furnishing a certificate declaring that the goods were to be used for Research and Development (R&D) purposes, whereas the facts on record indicate otherwise. Thus, the issue is not merely an interpretational dispute regarding the nature of the goods, but involves an affirmative and incorrect declaration regarding the intended use of the goods, which directly impacted the duty liability. Accordingly, and as discussed in the foregoing paras, the differential duty has rightly been held to be demanded under Section 28(4) of the Customs Act, 1962, on account of such wilful misstatement of material facts. Consequently, the ingredients required for invocation of Section 114A stand satisfied. Further, in view of the proviso to Section 114A, separate penalty under Section 112(a) of the Customs Act, 1962 on the importer is not warranted.

37.4 Accordingly, I hold that the noticee is liable for penalty under Section 114A of the Customs Act, 1962.

ORDER

38. In view of the findings and observations as made above, I pass the following order:

i. I reject the benefit of Notification No. 51/1996-Cus dated 23.07.1996 availed by the noticee for the goods imported under Bill of Entry No. 7057105 dated 12.01.2022.

ii. I confirm the differential duty amounting to **₹28,62,340/- (Rupees Twenty Eight Lakh Sixty Two Thousand Three Hundred and Forty Only),** under Section 28(8) of the Customs Act, 1962, to be recovered from M/s. Tata Motors Limited, along with applicable interest under Section 28AA of the Customs Act, 1962.

iii. I hold the goods imported under the Bill of Entry No. 7057105 dated 12.01.2022, having assessable value of ₹65,61,991/-, liable to confiscation under Section 111(m) of the Customs Act, 1962. However, as the goods are not physically available for confiscation, I impose redemption fine of **₹4,00,000/- (Rupees Four Lakhs only)** on M/s. Tata Motors Limited, in lieu of confiscation, under Section 125(1) of the Customs Act, 1962.

iv. I impose a penalty equal to the differential duty **₹28,62,340/- (Rupees Twenty Eight Lakh Sixty Two Thousand Three Hundred and Forty Only)** and applicable interest thereupon under Section 28AA, on M/s. Tata Motors Limited under Section 114A of the Customs Act, 1962.

39. This order is passed without prejudice to any other action which may be taken or purported to be taken against the noticee or any other concerned person under the Customs Act, 1962, or any other act for the time being in force in the Union of India.

Deepika.

(Dr. Deepika Tangadkar))
Additional Commissioner of Customs
Import-I, New Custom House

To,
M/s TATA MOTORS LIMITED,
Pimpri, Pune-411018

Copy to:
1. The Commissioner of Customs (Import – I), NCH, Mumbai.
2. The Asstt./Dy. Commissioner of Customs, ACU Section, NCH, Mumbai.
3. The Asstt./Dy. Commissioner of Customs, Review Cell, Import-I, NCH, Mumbai
4. The Asstt./Dy. Commissioner of Customs, Gr. VB, NCH, Mumbai.
5. EDI Section for upload in Mumbai Customs Zone – I website.
6. Office Copy.
7. Notice Board.