

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

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REGIONAL BENCH – COURT NO. 1

**Excise Appeal No.1936 Of 2012**

[Arising out of OIO No.73/CE/CHD-II/2012 dated 28.05.2012 passed by the Commissioner of Central Excise, Chandigarh-II]

**M/s JCBL Limited, Unit-II**

Village Satarpur, Lalru, District Mohali,  
Punjab-140501

**: Appellant (s)**

Vs

**The Commissioner of Central Excise  
And Service Tax, Chandigarh-II**

Plot No. 19, Central Revenue Building,  
Sector-17C, Chandigarh-160017

**: Respondent (s)**

With

**Excise Appeal No.2330 Of 2012**

[Arising out of OIO No.73/CE/CHD-II/2012 dated 28.05.2012 passed by the Commissioner of Central Excise, Chandigarh-II]

**M/s Tata Motors Limited**

Chinhat Industrial Area,  
Lucknow, U.P

**: Appellant (s)**

Vs

**The Commissioner of Central Excise  
And Service Tax, Chandigarh-II**

Plot No. 19, Central Revenue Building,  
Sector-17C, Chandigarh-160017

**: Respondent (s)**

APPEARANCE:

Ms. Krati Singh and Mr. Aman Singh, Advocates for the Appellant  
Shri Siddharth Jaiswal, Shri Narinder Singh and Shri Shivam Syal,  
Authorised Representatives for the Respondent

**CORAM:**

**HON'BLE Mr. S. S. GARG, MEMBER (JUDICIAL)**

**HON'BLE Mr. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER Nos.60704-60705/2023**

Date of Hearing: 28.11.2023

Date of Decision: 11.12.2023

**Per: P. ANJANI KUMAR**

These appeals are directed against the impugned order No.73/CE/CHD-II/2012 dated 28.05.2012 vide which the Adjudicating Authority has classified the Special Purpose Bullet Proof Armoured Vehicles manufactured by the appellant No.1, M/s JCBL Ltd, Unit-II (Appeal No.E/1936/2012) under CETH 8710 0000 as against the claim of the appellant under CETH 8705 9000 and imposed penalty on the appellant as well as M/s Tata Motors that is appellant No.2 (Appeal No. E/2330/2012).

2. Ms. Krati Singh assisted by Shri Aman Singh, learned Counsel for both the appellants, submits that the issue stands settled in favour of the appellants; in their own case [2019 (367) ELT 283 (Tri. Chd.)], this Bench has decided the classification of the impugned vehicles, under CETH 8705 9000, for the previous period (April 2006 to 31.01.2011) and subsequent period (September 2011 to July 2013). She submits that the issue is no longer *res integra* and no appeal has been preferred by the Department as on date. She further submits Bullet Proof SPV is meant for use by Army and Paramilitary Forces and is appropriately classified under CETH 8705 9000; the classification is substantiated by the certificate issued by VRDE. She relies on the following cases:

- Mann Tourist Transport Service (P) Ltd. – 2015 (319) ELT 153 (Tri. Mum.
- Bajaj Auto Ltd. – 2006 (202) ELT 831 (Tri. Mumbai) – affirmed at 2015 (325) ELT 465 (SC).
- CCE Vs Metaltech Motor Bodies Pvt. Ltd. – 2023 (11) TMI 413- CESTAT CHANDIGARH.
- Bharij Fabricators – 2020 (1) TMI 942- CESTAT CHANDIGARH.

3. Learned Counsel also submits that a provision is required to be made for firing from inside the vehicle through eight holes on the sides and one big hole at the top of the roof to use light machine guns in case of exigency; therefore, in terms of the HSN Explanatory Notes to Chapter Heading 8705, the vehicles are correctly classifiable under CETH 8705. She submits that in terms of Rule 3(a) of the General Rules for Interpretation of the First Schedule to CETA, the most specific description shall be preferred to the Heading which provides general description; in the instant case, specific description of the vehicle is evident by VRDE certificate. She further submits that the expression "other armoured fighting vehicle" has been used in the company of the word "tanks"; on the basis of principle of *Ejusdem Generis* when specific words are followed by general words, the general words are to be given a restricted meaning. She relies on the following cases:

- Siddeshwari Cotton Mills (P) Ltd. – 1989 (39) ELT 498 (SC).
- Rohit Pulp & Paper Mills Ltd. – 1990 (47) ELT 491 (SC).
- Manganese Ore India Ltd. – 2016 (11) TMI 543 (SC).

4. Learned Counsel also submits that the impugned order is incorrect in applying Rule 10A of Valuation Rules as the activity undertaken by the appellant is not of job-work; the body of the vehicles have been manufactured by the appellant No.1 on the chases manufactured by M/s Tata Motors; the appellant No.1 has procured the raw material independently and fabricated the body; the cost of the body comes to about 60 to 70 per cent of the total cost; the

appellant No.1 being an independent job-worker cannot be held to be a job-worker of appellant No.2; therefore, Rule 10A is not applicable as the goods are not manufactured on behalf of the principal manufacturer as alleged i.e. the appellant No.2; she relies on Board Circular No. F.132/111/2007/CX.4 dated 18.08.2007. She submits that when the duty is not sustainable, interest and penalty also are not sustainable. She relies on *Sita Singh & Sons* – 2018 (362) ELT 778 (Tri. Chan.) and *Audi Automobiles* – 2010 (249) ELT 124 (Tri. Del.) and submits that penalty can also not be imposed on appellant No.2.

5. Shri Siddharth Jaiswal assisted by Shri Narinder Singh and Shri Shivam Syal, learned Authorized Representatives for the Department, reiterates the findings of the impugned order and submits that the said vehicle is classifiable under CETH 8710 0000; appellant No.2 supplies the chases to the appellant No.1 and appellant No.1 does not purchase the same; the appellant No.1 is a job-worker of appellant No.2 and hence, provisions of Rule 10A are applicable; the reliance on *M/s Audi Automobiles (supra)* by the appellants is incorrect as the same is not applicable to the facts of the case.

6. Heard both sides and perused the records of the case. We are of the considered opinion that the issue is no longer *res integra* having been decided by this Bench in their own case. We also find strength from the decision of this Bench in the case of *Metaltech Motor Bodies Pvt. Ltd. (supra)*. We find that in the above cases, the special purpose nature of the vehicles was considered and the fact that VRDE has certified the vehicles to be special purpose vehicles is also taken into

account. Therefore, we are of the considered opinion that the issue stands decided squarely in favour of the appellants. We hold that the impugned vehicles are classifiable under CETH 8705 0000 and thus, eligible for exemption. As the duty is not payable on the impugned goods, discussion on the valuation of the same is of no consequence. We also find that when duty is not demandable, the case for imposition of penalty does not arise.

7. In view of the above, the impugned order is set aside and both the appeals are allowed.

*(Pronounced on 11/12/2023)*

**(S. S. GARG)**  
MEMBER (JUDICIAL)

**(P. ANJANI KUMAR)**  
MEMBER (TECHNICAL)

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