



W.P.Nos.15649, 15652, 15653, 15655, 15657, 15658 and 15659 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on	24.10.2025
Pronounced on	.02.2026

CORAM :

THE HONOURABLE MR. JUSTICE C.SARAVANANW.P.Nos.15649, 15652, 15653, 15655, 15657, 15658 and 15659 of 2024andW.M.P.Nos.17044, 17045, 17047, 17050, 17048, 17049, 17052, 17053,17055, 17056, 17057, 17060, 17058, 17061 of 2024andW.M.P.Nos.25456, 25458, 25459, 25462, 25465, 25467 and 25468 of 2025

Hanon Automotive Systems India Private Limited,
 Represented by its Authorised Signatory
 Gokulananda Sahu

... Petitioner in all W.Ps

Vs.

Deputy Commissioner (CT) / Deputy Commissioner (ST)-II,
 Large Taxpayers Unit,
 Tamil Nadu,
 Integrated Commercial Taxes Building,
 Nandanam,
 Chennai – 35.

... Respondent in all W.Ps

Prayer in W.P.No.15649 of 2024: Writ Petition filed under Article 226 of the

Constitution of India, for issuance of a Writ of Certiorari, to call for the
 records in the file of the Respondent and quash



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(i) The Summary of the Order in Form GST DRC-07 dated 15.03.2024 passed under Section 74 of the TNGST / CGST Act passed by the Respondent for FY 2017-2018 and having Reference Number ZD330324092851F.

(ii) The order dated 15.03.2024 in GSTIN/33AAACM6890R1ZS/2017-2018 for FY 2017-2018 passed by the Respondent.

Prayer in W.P.No.15652 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in the file of the Respondent and quash

(i) The Summary of the Order in Form GST DRC-07 dated 15.03.2024 passed under Section 74 of the TNGST / CGST Act passed by the Respondent for FY 2018-2019 and having Reference Number ZD330324090420U as rectified by order dated 15.03.2024.

(ii) The order dated 15.03.2024 in GSTIN/33AAACM6890R1ZS/2018-2019 for FY 2018-2019 passed by the Respondent as rectified by order dated 15.03.2024.

Prayer in W.P.No.15653 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in the file of the Respondent and quash

(i) The Summary of the Order in Form GST DRC-07 dated 15.03.2024



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passed under Section 74 of the TNGST / CGST Act passed by the

Respondent for FY 2022-2023 and having Reference Number ZD330324091429B.

(ii) The order dated 15.03.2024 in GSTIN/33AAACM6890R1ZS/2022-2023 for FY 2022-2023 passed by the Respondent.

Prayer in W.P.No.15655 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in the file of the Respondent and quash

(i) The Summary of the Order in Form GST DRC-07 dated 15.03.2024 passed under Section 74 of the TNGST / CGST Act passed by the Respondent for FY 2019-2020 and having Reference Number ZD330324090762G.

(ii) The order dated 15.03.2024 in GSTIN/33AAACM6890R1ZS/2019-2020 for FY 2019-2020 passed by the Respondent.

Prayer in W.P.No.15657 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in the file of the Respondent and quash

(i) The Summary of the Order in Form GST DRC-07 dated 15.03.2024 passed under Section 74 of the TNGST / CGST Act passed by the Respondent for FY 2023-2024 and having Reference Number ZD330324091662H.

(ii) The order dated 15.03.2024 in GSTIN/33AAACM6890R1ZS/April-2023



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to October-2023 for FY 2023-2024 passed by the Respondent.

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Prayer in W.P.No.15658 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in the file of the Respondent and quash

(i) The Summary of the Order in Form GST DRC-07 dated 15.03.2024 passed under Section 74 of the TNGST / CGST Act passed by the Respondent for FY 2021-2022 and having Reference Number ZD330324091168F.

(ii) The order dated 15.03.2024 in GSTIN/33AAACM6890R1ZS/2021-2022 for FY 2021-2022 passed by the Respondent.

Prayer in W.P.No.15659 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in the file of the Respondent and quash

(i) The Summary of the Order in Form GST DRC-07 dated 15.03.2024 passed under Section 74 of the TNGST / CGST Act passed by the Respondent for FY 2020-2021 and having Reference Number ZD330324091920J.

(ii) The order dated 15.03.2024 in GSTIN/33AAACM6890R1ZS/2020-2021 for FY 2020-2021 passed by the Respondent.



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For Petitioner : Mr.R.Parthasarathy
(In all W.Ps) for Mr.N.V.Balaji

For Respondent : Mr.C.Harsharaj
(In all W.Ps) Special Government Pleader

COMMON ORDER

By this Common Order, all these Writ Petitions are being disposed of after hearing the learned counsel for the Petitioner and the learned Special Government Pleader for the Respondent.

2. In these Writ Petitions, the Petitioner has challenged the impugned Assessment Orders passed under Section 74 of the respective GST Enactments as detailed below:-

Sl. No.	Writ Petition No.	Tax Period	Date of Impugned order
1.	15649 of 2024	2017 - 2018	15.03.2024
2.	15652 of 2024	2018 - 2019	15.03.2024
3.	15653 of 2024	2022 - 2023	15.03.2024
4.	15655 of 2024	2019 - 2020	15.03.2024
5.	15657 of 2024	2023 - 2024	15.03.2024
6.	15658 of 2025	2021 - 2022	15.03.2024
7.	15659 of 2024	2020 - 2021	15.03.2024



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FACTS OF THE CASE:-

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3. The Petitioner is engaged in the business of manufacture and supply of various automotive parts including **‘Gas Compressors’** which are used as parts of Air Conditioners in Motor Vehicles which are classified under Chapter 87 of Section XVII of the Customs Tariff Act, 1975. The Petitioner adopted the following classification for the following goods manufactured by them for the purpose of payment of GST under Section 9 of the respective GST Enactments:-

Sl. No.	Product	Petitioner Classification	%	Dispute in Classification
1.	Parts and accessories of vehicles	8708	28%	No dispute
2.	AC machines used in motor vehicles	8415 20 90	28%	No dispute
3.	Gas compressors used in air-conditioning equipment	8414 80 11	18%	Department classifies under ‘8708’



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4. The present dispute is confined to the correct rate of tax on ‘**Gas Compressors**’ manufactured by the Petitioner for being used in Air-Conditioners in Motor Vehicles.

5. The classification under the GST regime for the purpose of determining the rate of tax is dependent on the classification in the Customs Tariff Act, 1975 as there is no standalone Enactment under the respective GST Regime for the purpose of classification, unlike Central Excise Tariff Act, 1985 and the Customs Tariff Act, 1975. Under **Notification No. 1/2017-Central Tax (Rate)** dated **28.06.2017** issued under Section 9 of the respective GST Enactments, reference is made to the classification in the First Schedule to the Customs Tariff Act, 1975.

6. As per Clause (iii) and (iv) to Explanation to **Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017**, “Tariff Item”, “Sub-Heading”, “Heading” and “Chapter” shall mean respectively a Tariff Item, Sub-Heading, Heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 and the Rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 including the Section and Chapter



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Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this Notification.

7. For the sake of clarity, Clauses (iii) and (iv) to Explanation to **Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017** are reproduced below:-

Clause (iii) of the Explanation to Notification No.1/2017-Central Tax (Rate) dated 28.06.2017	Clause (iv) of the Explanation to Notification No.1/2017-Central Tax (Rate) dated 28.06.2017
(iii) Tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).	(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

8. Thus, for determining the correct classification of goods for the purpose of payment of tax under the respective GST Enactments, the classification in the Customs Tariff Act, 1975, the General Rules for the



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Interpretation of the First Schedule to the Customs Tariff Act, 1975 including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule are relevant.

9. The Petitioner classified '**Gas Compressors**' manufactured by them under **Sub-Heading 8414 80 11** as "**Gas compressors: Of a kind used in air-conditioning equipment**" and paid tax at 28% under **Serial No. 118** to **Schedule IV** to **Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017** and later at 18% under **Serial No.317B** to **Schedule III** to **Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017** in view of the amendment vide **Notification No.41/2017** dated **15.11.2017** with effect from **15.11.2017**. For the purpose of tax, the above **Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017** is relevant.

10. The Respondent has on the other hand treated the '**Gas Compressors**' manufactured by the Petitioner as "**Parts and accessories of Motor vehicles**" under **Heading 8708** and has demanded tax at 28% under **Serial No.170** to **IV Schedule** to **Notification No. 1/2017 Central Tax (Rate)** dated **28.06.2017**.



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11. The Respondent has thus concluded that the Petitioner has suppressed facts by adopting a wrong classification under **Sub-Heading 8414 80 11** to pay lesser tax instead of tax at 28% under **Sub-Heading 8708** as “**Parts and accessories of Motor Vehicles**”.

12. As mentioned earlier, the Petitioner paid tax at 28% as per Serial No.118 to **Schedule IV to Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017**. The Petitioner adopted and classified ‘**Gas Compressors**’ as “**Gas Compressors: Of a kind used in air-conditioning equipment**” manufactured and supplied by it to various automobile manufacturers under the **Heading 8414** of the Customs Tariff Act, 1975 and paid tax at the rate of **28% (14% CGST + 14% SGST)** as per **Schedule IV to Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017**.

13. Later, **Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017** was amended vide **Notification No.41/2017** dated **15.11.2017** with effect from **15.11.2017**. Goods falling under the **Heading 8414** of Customs Tariff were moved from **Serial No.118 to Schedule IV to Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017** to **Serial No.317B to Schedule III to Notification No.1/2017-Central Tax (Rate)**



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dated **28.06.2017**. Thus, goods falling under **Heading 8414** of Customs Tariff was taxable at **18% GST** i.e., (9% CGST + 9% SGST).

14. Serial No.317B to Schedule III to Notification No.1/2017-

Central Tax (Rate) dated **28.06.2017** reads as under:-

Sl.No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description of Goods
317B	8414	Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters; Gas-tight biological safety cabinets, whether or not fitted with fillers [other than bicycle pumps, other hand pumps and parts of air or vacuum pumps and compressors of bicycle pumps.

15. In view of the above amendment, the Petitioner started discharging tax at **18%** (9% CGST + 9% SGST) under **Heading 8414** with effect from 15.11.2017 by continuing to classify the ‘**Gas Compressors**’ as “**Gas Compressors: Of a kind used in air-conditioning equipment**”.



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WEB COPY 16. The facts on records reveal that the Petitioner had been issued with an intimation in GST ASMT 10 and GST DRC-01A of tax ascertained under Section 74(5) of the respective GST Enactments for the aforesaid tax periods in the light of the Judgment of the Hon'ble Supreme Court in **Westinghouse Saxby Farmer Ltd Vs. Deputy Commissioner (CT)/Deputy Commissioner (ST) - II., (2021) 5 SCC 586** rendered on 18.03.2021.

17. There, the Hon'ble Supreme Court upheld the classification of **“Relays” under Heading 8608 under ‘Railway or tramway track fixtures and fittings; mechanical (including electro mechanical) signalling, safety or traffic control equipment for railway, tramways, roads inland waterways, parking facilities, port installation or air-fields; parts of the foregoing’**. The Hon'ble Supreme Court upheld the classification of **“Relays” under Heading 8608** of the Central Excise Tariff Act, 1985 based on the following reasonings:-

1. Note 3 of Section XVII reads as follows:- “References in Chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that



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heading which corresponds to the principal use of that part or accessory.”

2. *The ‘predominant use’ or ‘sole/principal use’ test: Those parts which are suitable for use solely or principally with an article in Chapter 86 cannot be taken to a different Chapter as the same would negate the very object of group classification.*
3. *The goods were previously classified (before 1993) under Sub heading 8536.90, but a revised classification list, classifying them under sub heading 8608, was approved by the competent Authority on 27.08.1993. After such specific approval of the classification list, it is not proper on the part of the Authorities to invoke Note 2(f) of Section XVII.*

[Note 2 - Certain articles to which the expressions “parts” and “parts and accessories” mentioned in Chapter 86 do not apply]

18. Pursuant to the said Judgment, a view has been entertained by the Department that the **‘Gas Compressors’** manufactured by the Petitioner classified under **“Gas compressors: Of a kind used in air-conditioning equipment”** were to be treated as parts of automobile components classification under the **Heading 8708** as **“Parts and accessories of Motor Vehicles”** and therefore chargeable for tax at the rate of 28% (14% CGST + 14% SGST) and since the Petitioner had discharged the tax liability at the



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rate of 18% (9% CGST + 9% SGST) for the **‘Gas Compressors’** as per

Serial No.317B to Schedule III to Notification No. 1/2017 Central Tax (Rate) dated 28.06.2017, the Petitioner was guilty of suppression of facts and therefore liable to pay the difference of tax and penalty.

19. It is in this background the intimation was issued to the Petitioner proposing to initiate proceedings under Section 74 of the respective GST Enactments alleging that the Petitioner had knowingly suppressed the facts to pay tax at lower rate and was therefore liable to 100% penalty of the differential tax.

20. The Petitioner filed a common reply dated 15.12.2023 to the aforesaid intimation for the aforesaid tax periods in response to proposals for initiation of proceedings under Section 74 of the respective GST Enactments were objected. Therefore, Show Cause Notices dated 11.01.2024 in Form GST DRC - 01 for the tax periods 2017-2018 to 2023-2024 (excluding 2021-2022) were issued under Section 74 of the respective GST Enactments to the Petitioner. For the Tax Period 2021-2022, a separate Show Cause Notice dated 12.01.2024 was issued.



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21. The Petitioner filed a common reply to the Show Cause Notices dated 11.01.2024 in Form GST DRC-01 on 12.02.2024, 27.02.2024 and 05.03.2024 and also attended the personal hearing before the Respondent stating that the allegation of fraud or wilful statement or suppression of facts for invoking Section 74 of the respective GST Enactments cannot be sustained as it is only an error that occurred in the classification of goods.

SUBMISSIONS MADE ON BEHALF OF THE PETITIONER:-

22. The challenge to the impugned Order passed by the Respondent by the Petitioner is primarily on the ground that the Petitioner, a manufacturer of **“Gas Compressors”** had adopted the classification of **“Gas compressors: Of a kind used in air-conditioning equipment”** under **Heading 8414** of the Central Excise Tariff Act, 1985 since 1997 and later under Customs Tariff Act, 1975 as made applicable for determination of rate of tax under the provisions of the respective GST Enactments under **Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017**.

23. It is the contention of the Petitioner that all along the **‘Gas Compressors’** manufactured by the Petitioner, which were supplied to automobile companies like Hyundai Motor India Limited were classified



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under **Sub-Heading 8414 80 11** of the Central Excise Tariff Act, 1985. It is submitted that **Heading 8414 80 - other**, is a residuary heading and applies to goods other than those specified in **Heading 8414 10** (Vacuum Pumps), **Heading 8418 40** (Air Compressors mounted on a wheeled chassis for towing) of the Central Excise Tariff Act, 1985.

24. The learned counsel for the Petitioner would submit that the Petitioner also manufacture air conditioners for being fitted into Motor Vehicles and that the “**Gas Compressor**” manufactured by the Petitioner was captively consumed by the Petitioner in the manufacture of air conditioner, which are again supplied to Automobiles Companies which is classifiable under **Heading 8415**. Specifically, it is submitted that those Gas Compressors/Air Compressors are classifiable under **Sub-Heading 8415 20**.

25. It is further submitted by the learned counsel for the Petitioner that the Respondent has erroneously invoked Section 74 of the respective GST Enactments and had issued Show Cause Notices to the Petitioner only based on the decision of the Hon’ble Supreme Court in **Westinghouse Saxby Farmer Limited Vs. Commissioner of Central Excise, Calcutta**, referred to *supra*.



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26. It is submitted by the learned counsel for the Petitioner that the said decision in the said **Westinghouse Saxby Farmer Limited case**, referred to *supra* is inapplicable to the facts and circumstances of the present case. It is submitted that the decision of the Hon'ble Supreme Court in the said case would not justify reclassification of the goods which are already classified based on the test laid down in the said decision.

27. The learned counsel for the Petitioner would further submit that several decisions which were cited were overlooked by the Respondent while passing the impugned Orders. Specifically, the learned counsel for the Petitioner would draw the attention of this Court to the following decisions of the Tribunal rendered in the context of classification of '**Gas Compressors**' in the following cases:-

1. **Collector of Central Excise Vs. Sundaram Clayton Limited**, 1991 (9) TMI 186 - CEGAT, New Delhi.
2. **Collector of Central Excise Vs. Subros Limited**, 1989 (6) TMI 140-CEGAT, New Delhi.
3. **Venugopal Engineering Private Limited Vs. Commissioner of Customs (Import), Mumbai**, 2015 (2) TMI 126 - CESTAT Mumbai.



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4. Commissioner of Central Excise Vs. Sandan Vikas (I) Limited, 2015 (7) TMI 96.

28. The learned counsel for the Petitioner would submit that the reclassification adopted by treating the ‘**Gas Compressors**’ under residuary **Sub-Heading 8708 99 00** under **Heading 8708** is incorrect as **Heading 8708** only applies to “**Parts and Accessories of Motor Vehicles**” under **Heading 8701 to 8785** in Chapter 87 to Section XVII of the Customs Tariff Act, 1975.

29. The learned counsel for the Petitioner further submitted that even otherwise, **Heading 8708** cannot be applied to ‘**Gas Compressors**’ as the final product viz., ‘**Air Conditioners**’ used in Motor Vehicles manufactured out of ‘**Gas Compressors**’ is classifiable under **Heading 8415** in Chapter 84 to Section XVI viz., “***Air Conditioning Machines, comprising a motor driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated***”. Specifically, it is submitted **Sub-Heading 8415 20** applies to **Air Conditioning Machines** viz., “**of a kind used for persons in motor vehicles**”.



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30. On a specific query, as to what would be the correct classification of **‘Gas Compressors’**, if **Sub-Heading 8414 80 11** was absent in the Customs Tariff Act, 1975, the learned counsel for the Petitioner answered that if **Sub-Heading 8414 80 11 - “Gas compressors: Of a kind used in air-conditioning equipment”** absent, **‘Gas Compressors’** cannot be still considered as parts of air conditioning machines and therefore, it would be classifiable under **Sub-Heading 8415 9000 - Parts** to Chapter 84 to Section XVI of the Customs Tariff Act, 1975.

31. In this connection, the learned counsel for the Petitioner also drew the attention to Section Note 2 of Section XVII. It is submitted as per Section Note 2 to Section XVII, the expressions **“parts”** and **“parts and accessories”** do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:

- (a) Joints, washers or the like of any material (classified according to their constituent material or in Heading 8484) or other articles of vulcanised rubber other than hard rubber (Heading 4016)
- (b) Parts of general use, as defined in Note 2 to Section XV of base metal (Section XV) or similar goods of plastics;
- (c) Articles of Chapter 82 (tools);



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- (d) Articles of heading 8306;
- (e) Machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of Heading 8481 or 8482 or provided they constitute integral parts of engines and motors, articles of heading 8483;
- (f) Electrical machinery or equipment (Chapter 85);
- (g) Articles of Chapter 90;
- (h) Articles of Chapter 91;
- (ij) Arms (Chapter 93);
- (k) Luminaries and lighting fittings and parts thereof of heading 9405; or
- (l) Brushes of a kind used as parts of vehicles (Heading 9603).

32. It is therefore submitted by the learned counsel for the Petitioner that the decision of the Hon'ble Supreme Court in **Westinghouse Saxby Farmer Limited case**, referred to *supra*, is not applicable to the present facts of the case.

33. That apart, the learned counsel for the Petitioner would submit that as per the counter part of the Respondent viz., Additional Commissioner of Central Excise has accepted the conclusion of '**Gas Compressors**' under **Heading 8414 819** in **Doowan Automotive Systems India Private Limited**



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vide **Order in Original No.7/2022** dated **29.04.2022**.

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34. It is submitted by the learned counsel for the Petitioner that the Respondent has concluded that the order of the Additional Commissioner of Central Excise was not binding on the Respondent as a Quasi Judicial Authority. Thus, it is submitted that for the very same product viz., '**Gas Compressors**' two different classifications are being adopted by the Respondent Department making it onerous on the Petitioner.

35. It is submitted by the learned counsel for the Petitioner that the conclusion in the impugned Orders for invocation of Section 74 of the respective GST Enactments is erroneous and that the submissions of the Petitioner has not been considered by the Respondent while passing the impugned Orders.

36. The learned counsel for the Petitioner further submits that the Petitioner has been importing the very same '**Gas Compressors**' from South Korea from its Group concern viz., Hanon Systems and even as on date, the counter parts of the Respondent in the Custom Tariff Act, 1975 have accepted the classification under **Heading 8414 811** and therefore, on this count also there can be no divulgence in the classification of '**Gas**



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Compressors' under **Heading 8414**, which was adopted by the Petitioner since 1997.

37. The learned counsel for the Petitioner further submits that the reasoning given in Paragraph No.16 of the impugned Order by applying the determination test is only immaterial and inapplicable and ought to have been examined in the light of the decisions cited by the Petitioner.

38. The learned counsel for the Petitioner also submits that the reliance placed on the decision of the Defence Ruling Authority in **M/s.A Raymond Fasteners India Private Limited**, 2021 (1) TMI 895 also has no significance as the order passed therein is not applicable to all assesseees other than the parties to the proceedings in the order passed by the Appellate Authority for defense ruling.

39. On merits, the learned counsel for the Petitioner, also drew the attention to explanatory notes to **Heading 8414** in Chapter 84 to Section XVI in HSNR. Specifically, it was submitted that '**Gas Compressors**', air pumps, fans, blowers, etc., specially constructed for use with other machines remain classified in **Heading 8414** in Chapter 84 to Section XVI and not as '**Parts and accessories of such other machines**', it is submitted that this test has



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been ignored by the Respondent while passing the impugned Order.

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40. The learned counsel for the Petitioner submits that the Hon'ble Supreme Court in **Commissioner of Central Excise Vs. Wood Craft Products Limited**, 1995 ELT 23 (SC) has held that the classification and Heading notes in the HSNR to be referred by the Respondent while determining the correct classification of goods.

SUBMISSIONS MADE ON BEHALF OF THE RESPONDENT:-

41. On the other hand, the learned Special Government Pleader for the Respondent would submit that the impugned Orders are well-reasoned and does not warrant any interference under Article 236 of the Constitution of India. It is submitted that the Petitioner ought to have filed an appeal against the impugned Orders before the Appellate Authority under Section 107 of the respective GST Enactments.

42. It is submitted by the learned Special Government Pleader for the Respondent that the impugned Orders have been passed based on the decision of the Hon'ble Supreme Court in **Westinghouse Saxby Farmer Limited case**, referred to *supra* and therefore, it is not open for the Petitioner to argue



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the case on the ground that the Respondent has not considered the statement of the Petitioner while passing the impugned Orders.

43. Specifically, the learned Special Government Pleader for the Respondent would refer to the observations of the Hon'ble Supreme Court in **Westinghouse Saxby Farmer Limited case**, referred to *supra* in the context of Section XVII of the Central Excise Tariff Act, 1987 which is *pari materia* with the Customs Tariff Act, 1975, placing reliance on Paragraph Nos.35, 36, 37 and 38 which are reproduced below:-

“35. Note 3 of Section XVII reads as follows:-

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

36. What is recognised in Note 3 can be called the “suitably for use test” or “the user test”. While the exclusion under Note 2(f) may be of goods which are capable of being marketed independently as electrical machinery or equipment, for use otherwise than in or as Railway signalling equipment, those parts which are suitable for use solely or principally which an article in Chapter 86 cannot be taken to a different



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Chapter as the same would negate the very object of group classification. This is made clear by Note 3.

37. It is conceded by the Revenue that the relay manufactured by the appellant are used solely as part of the railway signalling/traffic control equipment. Therefore, the invocation of Note 2(f) in Section XVII, overlooking the “sole or principal user test” indicated in Note 3 is not justified.

38. On the question as to what test would be appropriate in a given case, this court pointed out in A Nagaraju Bros Vs. State of A.P.2 as follows:-

“5....there is no one single universal test in these matters. The several decided cases drive home this truth quite eloquently. It is for this reason probably that the common parlance test or commercial usage test, as it is called, is treated as the more appropriate test, though not the only one. There may be cases, particularly in the case of new products, where this test may not be appropriate. In such cases, other tests like the test of predominance, either by weight of value or on some other basis may have to be applied. It is indeed not possible nor desirable, to lay down any hard and rules of universal application”.

Therefore, the respondents ought not to have overlooked the ‘predominant use’ or ‘sole/principal use’ test acknowledged by the General Rules for the interpretation of the Schedule”



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44. The learned Special Government Pleader for the Respondent would further submit that at best this Court may come to the conclusion that the case falls within the purview of Section 75(2) in the light of the decision of the Hon'ble Division Bench in **BASF Catalysts India Private limited Vs. Deputy Commissioner (ST) - I** vide Order dated **28.03.2025** in **W.A.Nos.1258 of 2024 etc., batch** and it is for the Petitioner to work out the alternate remedy that is available under law.

45. The learned Special Government Pleader for the Respondent also relied on the recent decision of this Court in **M/s.Tata Play Limited and others Vs. Union of India, State of Tamil Nadu, Commercial Taxes Department, Commissioner of GST & Central Excise, Additional Commissioner, office of the Additional Commissioner of GST and Central Excise, Central Board of Indirect Taxes and Customs, New Delhi and Others., 2025 (7) TMI 772** and submits that the impugned Orders are not time barred and therefore on this count also the impugned Orders does not merit any interference from this Court.



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46. It is further submitted by the learned Special Government Pleader for the Respondent that the impugned Orders have been passed after considering the reply of the Petitioner to the Show Cause Notices in DRC - 01 and that therefore no useful purpose will be served by remitting the case back to the Respondent to re-do the exercise. It is therefore submitted that these writ petitions are liable to be dismissed.

DISCUSSION:-

47. I have considered the arguments advanced by the learned counsel for the Petitioner and the learned Special Government Pleader for the Respondent and have perused the materials on record.

48. In the context of change of classification, the Courts have given several decisions. They are still relevant and contemporary and form the basis for determination of the correct classification. A classification adopted by an assessee which has been accepted by the Department can be revised only under specified circumstances. There are well laid principles in this regard.

49. It has also been held that where, a classification adopted by an



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assessee has been accepted over the period of time, invocation of extended period of limitation by alleging suppression of facts or wilful misstatement cannot be countenanced. Therefore, before proceeding to answer further, I shall refer to some of the celebrated decisions rendered in this context which will still hold the field even under the GST regime. These tests are timeless and will serve as a useful guide for coming to a just conclusion.

50. In **N.A.Shah and Co. Vs. Commissioner of Income Tax**, 1956-(70) ITR 618, Hon'ble Mr.Justice M.C.Chagla, the then Chief Justice of the Bombay High Court, while dealing with the question as to whether the Income Tax Authority was entitled to go back upon a finding given in an earlier decision without any limitation since the principle of *res judicata* does not apply in taxing matters observed as under:-

“While taking the view that the principle of estoppel or res judicata does not strictly apply to the Income-tax Authorities, we wish to make it clear that we do not suggest that it is open to a Tribunal to come to a different conclusion to the one arrived at by the very Tribunal earlier without any limitation whatsoever.. If the first decision was not an arbitrary decision or a perverse decision, if the first decision was arrived after due inquiry and if no fresh facts were placed before the Tribunal giving the second decision, would it still be open to the second Tribunal to come to a contrary conclusion?... In our opinion it would not be open to a second Tribunal to disturb the



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*decision given by the first Tribunal.. The mere fact that the second Tribunal may look upon the decision of the Tribunal is erroneous in law would not justify it incoming to a contrary conclusion or reversing the finding of the first Tribunal, if the first Tribunal failed to take into consideration material facts, facts which had a considerable bearing upon the ultimate decision, and if the second Tribunal was satisfied that the decision was arrived at because of the failure to take into consideration these material facts and that if these material facts had been taken into consideration the decision as if fresh facts had been placed before it...**Even though the principle of res judicata may not apply, even though there may be no estoppel by record, it is very desirable that there should be finality and certainty in all litigations including litigations arising out of the Income -tax Act.** It is not a very satisfactory thing that an assessee should feel a grievance that one Tribunal came to one conclusion and another Tribunal came to a different conclusion and that the two conclusions are entirely inconsistent with one another. Therefore the second Tribunal must be satisfied that the circumstances are such as to justify it in departing from the ordinary principles which apply to all Tribunals to try and give as far as possible a finality and a conclusiveness to the decision given earlier by that very Tribunal. **The effect of revising this decision should not lead to injustice and the court must always be anxious to avoid injustice being done to the assessee.***

51. The Delhi High Court in **J.K.Synthetics Limited and another Vs. Union of India and others, 1981 (8) ELT 328 (Del)**, while dealing with a similar case relating to a change in classification under the Central Excise



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Act, 1944 referred to the above decision of the Bombay High Court in

N.A.Shah and Co. Vs. Commissioner of Income Tax, 1956-(70) ITR 618

and observed as under:-

“15.The question which we are now called upon to consider is as to the precise scope of this limitation. What will be its effect in a case where there are no changes in the circumstances, either factual or legal? Will it be open to the department, without any cogent reasons and merely at its own caprice, to refuse to follow the conclusion reached on the earlier occasion and to take up a totally different stand in a subsequent year? In answering this question, it has to be appreciated that, while what is sought to be done in this case is to ignore or brush aside the decision taken by one of the departmental authorities on the same issue for an earlier period, it should make no difference in principle even in a case where the decision for the earlier year had been confirmed by the High Court or Supreme Court in appropriate proceedings for, as pointed out by Lord Radcliffe, the rule operates not because of the nature of the proceedings in which the decision was taken earlier but because of the truly limited scope of the issue decided earlier. If that be so, the question for consideration would be whether, for a subsequent period, the department can content that the decision on an issue on an earlier occasion would have no importance or relevance whatever when the issue arises subsequently, even if it had been contested upto, and decided



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by, the High Court or Supreme Court for the earlier period. If the matter is looked at from this larger perspective, we think it will be clear that there can be only one answer to this question viz., that the department should not be permitted to take different stands unless there is any good or cogent reason for the change in view. For example if the facts are different or if further and fresh facts are brought on record or if the process of manufacture has changed or if the relevant entries in the tariff have undergone a modification or if, subsequent to the earlier decision there has been the pronouncement of a High Court or the Supreme Court which necessitates reconsideration of the issue, it can hardly be doubted that the department can take a different view and have the matter agitated right upto the Supreme Court, if necessary. But when there is no change at all and when the position is exactly the same, legally and factually, as it was on the earlier occasion then we think that the department should be restrained from capriciously changing its stand and inflicting unnecessary proceedings and hardship upon assesseees.”

52. Summarizing the law, the Delhi High Court in **J.K.Synthetics**

Limited case referred to *supra*, observed as under:-

“20.The above decisions bring out clearly that whatever may be the position of a court of law or if an Appellate Tribunal it is



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open to the Income Tax Authorities to change their view capriciously. An authority can depart from a finding arrived at in an earlier year only for cogent reasons. There should be either fresh facts or a change of law or at least a suggestion that while arriving at the conclusion of the earlier year certain material facts or provisions had not been considered and that if they had been considered a different view might have been taken. But for no reason at all there can be no departure from the view taken in an earlier year. This rule is based both on the principle that there should be finality to litigation even in income-tax matters as well on principles of natural justice.”

53. The aforesaid decision of the Hon’ble Supreme Court in **J.K.Synthetics Limited case**, referred to *supra* has been explained with felicity by Senior Counsel Mr.Aravind P Datar in his ‘**Guide to Central Excise Law and Practice**’ **Third Edition 1992-1993** while elaborating the circumstances under which change in classification can be justified:-

1. If facts are different;
2. If fresh facts are brought on record;
3. The process of manufacture has changed;
4. If the relevant Tariff entries have undergone a modification; and
5. If subsequent to the earlier decision, there has been a



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pronouncement of a High Court/Supreme Court which necessitates reconsideration of the issue.

54. The view of the Delhi High Court in **J.K.Synthetics Limited case** referred to supra as summarized in ‘**Guide to Central Excise Law and Practice**’ **Third Edition 1992-1993** was referred to by this Court in **Haji K.P.M.Abdul Kareem Vs. Assistant Commissioner, GST & Central Excise, Thanjavur., (2024) 25 Centax 204 (Mad.)**.

DISCUSSION ON THE GENERAL RULES OF INTERPRETATION:-

55. **Rule 2(a)** to the **General Rules for Interpretation** of the Schedule applies to an “**Article**”. As per Rule 2(a), any reference in a Heading to an “**Article**” shall be taken to include a reference to that “**Article**” whether incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.

56. **Rule 2(b)** to the **General Rules of Interpretation** applies to



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“Material” or “Substance”. Rule 2(b) to the General Rules of Interpretation is dissected as follows:-

- (i) Any reference in a heading to a “Material” or “Substance” shall be taken to include a reference to “Mixtures” or “Combinations” of that “Material” or “Substance” with other “Materials” or “Substances”.
- (ii) Any reference to goods of a given “Materials” or “Substances” shall be taken to include a reference to goods consisting wholly or partly of such “Materials” or “Substances”.
- (iii) The classification of goods consisting of more than one “Materials” or “Substances” shall be according to the principles of Rule 3.

57. **Rule 3** of the **General Rules of Interpretation** will get triggered only when by application of **Rule 2(b)** or for any other reasons, goods are *prima facie*, classifiable under two or more Headings. As per **Rule 3** of the **General Rules of Interpretation**, classification shall be effected as follows:-

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only



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of other materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to clause (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as the criterion is applicable.

(c) When goods cannot be classified by reference to clause (a) or clause (b), they shall be classified under the heading which occurs last in numerical order among those which equally merits consideration.”

Rule 3 of the General Rules of Interpretation strictly applies with reference to composition of “Materials” or “Substances”.

58. The clauses (a), (b) and (c) in Rule 3 of the **General Rules of Interpretation** are mutually exclusive. The specific heading or entry must



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prevail over the general heading or entry. Clause (b) would apply only if clause (a) is not applicable. Clause (c) would apply only if clause (a) and (b) are not applicable. Classification cannot be based on clause (c) without advertent first to the other two preceding clauses. That would be an error of law.

59. Thus, it is evident that Rule 2(a), 2(b) and 3 of the General Rules of Interpretation to Schedule I of the Customs Tariff Act, 1975 apply under different circumstances. For the sake of understanding, these Rules are simplified as follows:-

Rule	Application	Specification	
Rule 2(a)	“Article”	Incomplete or unfinished “Article” ;	Provided such “Article” when presented has the essential character of the complete or finished article;
		Complete or finished “Article” (or falling to be classified as complete or finished by virtue of this rule).	When such “Article” is presented either as unassembled or disassembled “Article”
Rule 2(b)	“Material” or “Substance”	Reference to • “Mixtures” or;	



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		• “Combinations of Material or Substance” • Including such “Combinations of such Material or Substance” being with other “Materials” or “Substance”
	Reference to “Goods” of a given “Materials” or “Substances”	Including reference to “Goods” consisting wholly or partly of such “Materials” or “Substances”
	Classification of “Goods” consisting of more than one “Material” or “Substance”	According to the principles of Rule 3
Rule 3	When by application of Rule 2(b) or for any other reason, goods are, <i>prima facie</i> , classifiable under two or more headings, classification shall be effected as follows :-	
Rule 3(a)	• “Material” or “Substance”;	To be classified under Heading which provides the most specific description than the Heading providing a more general description
	• “Goods” of a given “Materials” or “Substances”;	
	• “Goods” consisting of more	



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	than one “ Material ” or “ Substance ”	
		When two or more headings each refer to Part only of other “Material” or “Substance” contained in mixed or composite goods or; To be classified under those headings that are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods to part only of the items in a set put up for retail sale
Rule 3(b)	• “Mixtures” ; • Composite Goods consisting of different materials or made up of different Component s and; • Goods put up in sets for retail	Classified as if they consisted of the material component which gives them their essential character, insofar as the criterion is applicable



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	sale, which cannot be classified by reference to clause (a)		
Rule 3(c)	when “Goods” consisting of more than one “Material” or “Substance”, cannot be classified by reference to clause (a) or clause (b)		They are to be classified under the heading which occurs last in numerical order among those Heading which equally merits classification

60. Rules 4, 5 and 6 of the General Rules of Interpretation are self explanatory. They read as under:-

“4. Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.

5. In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein : (a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This Rule



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does not, however, apply to containers which give the whole its essential character; (b) Subject to the provisions of Rule 5 (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.

6. For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, mutatis mutandis, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.”

DISCUSSION ON THE DECISION OF THE HON’BLE SUPREME COURT IN WESTINGHOUSE SAXBY FARMER CASE:-

61. In **Westinghouse Saxby Farmer** case referred to *supra*, the Appellant(s)/Assessee(s) had originally adopted **Sub Heading 8536 90** of the Central Excise Tariff Act, 1985 for classification of “**Relays**” between **01.03.1986 to February 1993**. The Hon’ble Supreme Court gave its decision on 08.03.2021.

62. **Sub Heading 8536 90** of the Central Excise Tariff Act, 1985 is a residuary Sub Heading under **Heading 8536**. This classification was also



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approved by the Central Excise Authorities from **01.03.1986**.

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63. Westinghouse Saxby Farmer Limited however reclassified the product viz., “**Relays**” under **Heading 8608** as “**Parts of Railways**” from **Heading 8536** after the rate of Central Excise duty was later reduced for goods under **Heading 8608** in Chapter 86 to Section XVII.

64. Thus, the said Company classified the signalling “**Relays**” under **Heading 8608** and submitted a fresh classification list for approval under Rule 173B of the Central Excise Rules, 1944 with the Assistant Collector of Central Excise on **27.08.1993**.

65. The classification list filed by the said Company was also approved by the Competent Authority, namely the Assistant Collector of Central Excise as has been stated in Paragraph No.8 of the order. However, on 23.04.1996, Central Board of Excise and Customs issued a Circular, whereby it was clarified that “**plug-in type relays**” were to be classified under **Heading 8536**, by which time **Notification No.11/95-Central Excise (NT)** dated **01.05.1995**, Rule 173B of the Central Excise Rules, 1944 was amended. Thus, the question of approval of the classification list was dispensed with. Instead, a declaration was required to be filed.



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66. Text of Rule 173B of the Central Excise Rules, 1944 as it stood on the date of classification list filed on 27.08.1993 and on the date of **Notification No.11/95-Central Excise (NT)** dated **16.03.1995** with effect from **01.05.1995** issued by the Central Board of Excise and Customs is extracted below:-

Rule 173B of the Central Excise Rules, 1944 as in force with effect from 25.01.1978	Rule 173B of the Central Excise Rules, 1944 as in force with effect from 01.05.1995
Rule 173-B. Assessee to file list of goods for approval of the proper officer.-- (1) Every assessee shall file with the proper officer for approval a list in such form as the Collector may direct, in quintuplicate showing— 1. the full description of (i) all excisable goods produced or manufactured by him, (ii) all excisable goods produced or manufactured by him and intended to be removed from his factory, and (iii) all the excisable goods already deposited or likely to be deposited from time to time without payment of duty in his warehouse; 2. the Chapter, Heading No. and Sub-Heading No., if any, of the Schedule to the	Rule 173-B.-Assessee to file declaration of goods produced or manufactured in the factory.- (1) Every assessee, shall file with the Superintendent of Central Excise, having jurisdiction over the factory, a declaration (in quadruplicate) showing,- 1. the full description of- (i) all excisable goods produced or manufactured by him, (ii) all other goods produced or manufactured by him and intended to be removed from his factory, and (iii) all the excisable goods already deposited or likely to be deposited from time to time without payment of duty in his warehouse; 2. the Chapter, heading No. and sub-heading No., if any, of the Schedule to the



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Central Excise Tariff Act, 1985 (5 of 1986) under which the goods fall;

3. the rate of duty leviable on each such goods; and
4. Such other particulars as the Collector may direct.

(2) the proper officer shall, after such inquiry as he deems fit, approve a copy of the approved list to the assessee who shall, unless otherwise directed by the proper officer, determine the duty payable on the goods intended to be removed in accordance with such list.

(2-A) All clearances shall, subject to the provisions of rule 173CC, be made only after the approval of the list by the proper officer. If the proper officer is of the opinion that an account of any inquiry to be made in the matter or for any other reason to be recorded in writing there is likely to be delay in according the approval, he shall, either on a written request made by the assessee or on his own accord, allow such assessee to avail himself of the procedure prescribed under rule 9B for provisional assessment of the goods.

(3) Where the assessee disputes the rate of duty approved by the proper officer in respect of any goods, he may, after giving any intimation to that effect to such

Central Excise Tariff Act, 1985 (5 of 1986) under which each goods fall;

3. the rate of duty leviable on each such goods;
4. the exemption notification availed or proposed to be availed, if any; and
5. such other particulars as the Commissioner may direct, and obtain a dated acknowledgement of the said declaration:

Provided that such declaration shall be filed on or before the 15th May, 1995 or such extended period as the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise may permit:

Provided further that an assessee producing or manufacturing excisable goods for the first time shall be required to submit the said declaration within thirty days of commencing the production of such excisable goods.

(2) If in the declaration so filed under sub-rule (1), any alteration becomes necessary in respect of any goods because of-

1. the assessee commencing production, manufacture or warehousing of goods not mentioned in that declaration, or
2. the assessee intending to remove from his factory



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officer, pay duty under protest at the rate approved by such Officer.

(4) if in the list approved by the proper officer under sub-rule (2), any alteration becomes necessary because of—

1. The assessee commencing production, manufacture or warehousing of goods not mentioned in that list, or
2. The assessee intending to remove from the factory any non-excisable goods not mentioned in that list, or
3. A change in the rate or rates of duty in respect of the goods mentioned in that list or, by reason of any amendment to the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), a change in the Chapter, Heading No. and Sub-heading No.

the assessee shall likewise file a fresh list or an amendment of the list already filed for the approval of such officer in the same manner as is provided in sub-rule (1)

(5) when the dispute about the rate of duty has been finalised or for any other reasons affecting rate or rates of duty, a modification of the rate or rates of duty is necessitated, the

any non-excisable goods not mentioned in that declaration, or

3. a change in the rate or rates of duty in respect of the goods mentioned in that declaration or, by reason of any amendment to the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), a change in the Chapter, heading No. or sub-heading No. the assessee shall likewise file a fresh declaration or an amendment of the declaration already filed within thirty days of any alteration mentioned above, in the same manner as is provided in sub-rule (1).

(3) The proper officer, duly empowered by the Central Government under section 14 of the Act, may, where he considers it necessary during the course of any enquiry in connection with the declaration filed under sub-rule (1) by an assessee,-

1. require any person to produce or deliver any document or thing relevant to the enquiry; and
2. examine any person acquainted with the facts and circumstances of the particulars given in the declaration or other



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proper officer shall make such modification and inform the assessee accordingly.

(6) The Collector may exempt by a general order any class of assessee, who manufacture wholly goods which for the time being, are exempt from paying duty, from filing the list under sub-rule (1):

Provided that as and when duty exemption is withdrawn or modified or no longer applicable, the assessee shall comply with the provisions of sub-rule (4) as if he had filed a list earlier and the list had been approved with 'nil' rate of duty.

records, in the manner provided in section 14 of the Act.

(4) The proper officer may after such further enquiry as he may consider necessary, reassess the correct amount of duty payable following the provisions of section 11A of the Act and the assessee shall pay the deficiency, if any.

67. This aspect was not considered by the Hon'ble Supreme Court in **Westinghouse Saxby Farmer** case referred to *supra*.

68. There 9 different Show Cause Notices had been as stated in Paragraph No.11 of the decision of the Hon'ble Supreme Court were issued to the said Company for the period starting from **01.02.1995** to **28.02.1999**. Thus, a part of the demand proposed was under the old regime and thereafter under the new regime. By separate orders, the demands were confirmed. Thus, the said Company filed appeals before the Appellate Authority.



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69. The said Company lost the case all the way up to the Appellate Tribunal as the classification proposed and confirmed by the Lower Authority was upheld not only by the First Appellate Authority but also by the Appellate Tribunal.

70. The Hon'ble Supreme Court examined the rival Tariff Entry for the goods in question namely "**Relays**". The Hon'ble Supreme Court held that the reasoning of the Lower Authority which was upheld by the Lower Appellate Authority and the Appellate Tribunal based on Rule 3(a) of the General Rules for Interpretation to the I Schedule to the Central Excise Tariff Act, 1985 were incorrect.

71. Although, the Hon'ble Supreme Court in **Westinghouse Saxby Farmer case** referred to *supra* has discussed Chapter Note, Section Note and General Rules of Interpretation, ultimately the conclusion for upholding the classification adopted by the Appellants/Assessee was based on the earlier approval granted by the Competent Authority viz., Assistant Collector of Central Excise in response to the classification list filed under Rule 173B of the Central Excise Rules, 1944 on 27.08.2003 and thus answered the issue against the Department.



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72. There the “**Relays**” manufactured by the Appellants/Assessee were solely used as part of railway/signalling equipment. This was observed by the Hon’ble Supreme Court in Paragraph No.37 of the Judgment in **Westinghouse Saxby Farmer case** referred to *supra*. Therefore, applying Section Note 2 and 3 to Section XVII, it was concluded “**Relays**” would be classified and would fall under ‘parts of railway signalling/traffic control equipment’ and not otherwise.

73. In **Westinghouse Saxby Farmer case**, referred to *supra*, several reasons have been given by the Hon’ble Supreme Court to accept the classification adopted by the Appellant/Assessee under **Heading 8608**. They are extracted below:-

“32. Coming to Section XVII, which precedes Chapter 86, the same contains a few notes, one of which is Note 2, which lists out certain articles to which the expressions “parts” and “parts and accessories” mentioned in Chapter 86 do not apply. Note 2(f) reads as follows :-

“(1) xxxx

(2) xxx

(a) xxxx

(b) xxxx

(c) xxxx

(d) xxxx

(e) xxxx

(f) electrical machinery or equipment (Chapter 85)”.



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33. *Note 2(f) is relied upon by the Revenue, in view of the fact that Chapter Heading 8608 uses the words “parts of the foregoing” after the words “Railway or tramway track fixtures and fittings” etc. Chapter Heading 8608 does not specifically mention “electrical relays”. The assessee’s contention is that “it is part of the railway signalling safety or traffic control equipment” and that, therefore, Relays manufactured by them would fall under Chapter Heading 8608 due to the usage of the word “parts”. It is this contention that is sought to be repelled by the Authorities by relying upon Note 2(f) of Section XVII.*

34. *Though at first blush, Note 2(f) seems to apply to the case on hand, it may not, upon a deeper scrutiny.*

35. *Note 3 of Section XVII reads as follows :*

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

36. *What is recognized in Note 3 can be called the “suitability for use test” or ‘the user test’. While the exclusion under Note 2(f) may be of goods which are capable of being marketed independently as electrical machinery or equipment, for use otherwise than in or as Railway signalling equipment, those parts which are suitable for use solely or principally with an article in Chapter 86 cannot be taken to a different Chapter as the same would negate the very object of group classification. This is made clear by Note 3.*

37. *It is conceded by the Revenue that the relays manufactured by the appellant are used solely as part of the railway signalling/traffic control equipment. Therefore, the invocation of Note 2(f) in Section XVII, overlooking the “sole or principal user*



test” indicated in Note 3, is not justified.

38. On the question as to what test would be appropriate in a given case, this court pointed out in *A. Nagaraju Bros. v. State of A.P.* [1994 Supp (3) SCC 122 = [1994 \(72\) E.L.T. 801](#) (S.C.)], as follows :

“.....there is no one single universal test in these matters. The several decided cases drive home this truth quite eloquently. It is for this reason probably that the common parlance test or commercial usage test, as it is called, is treated as the more appropriate test, though not the only one. There may be cases, particularly in the case of new products, where this test may not be appropriate. In such cases, other tests like the test of predominance, either by weight of value or on some other basis may have to be applied. It is indeed not possible, nor desirable, to lay down any hard and fast rules of universal application.”

Therefore, the respondents ought not to have overlooked the ‘predominant use’ or ‘sole/principal use’ test acknowledged by the General Rules for the Interpretation of the Schedule.

39. As pointed out by the Commissioner (Appeals), the goods were previously classified (before 1993) under sub-heading 8536.90, but a revised classification list, classifying them under sub-heading 8608, submitted by the appellant, was approved by the competent Authority on 27-8-1993. After such specific approval of the classification list, it is not proper on the part of the Authorities to invoke Note 2(f) of Section XVII. Hence question No. 1 is answered in favour of the appellant and against the Revenue.

Question No. 2

40. The second question that arises for consideration is as to whether the show cause-cum-demand notices issued by the Department on various dates during the period 1995-1998 were not barred by time under Section 11A of the Central Excise Act, 1944, in the absence of any fraud, collusion, wilful misstatement



or suppression of facts, especially since the classification list submitted by the appellant have been approved on 27-8-1993.

41. At the outset we should point out that this is not a case where the extended period of limitation would apply, especially in the light of the admitted position that the assessee who had his product classified under sub-heading 8536.90 till the year 1993, specifically filed a classification list on 27-8-1993, reclassifying them under sub-heading 8608 and the same was also approved by the competent authority. Therefore, there is no question of any fraud or collusion or any wilful misstatement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty. It is not even the case of the Department that the appellant was guilty of any of these things, warranting the invocation of the extended period of limitation. Therefore, the conclusion is inescapable that the Revenue had only the normal period of limitation available to them to invoke the power under Section 11A.

42. As a matter of fact the first Appellate Authority held in the penultimate paragraph of its Order as follows :

“I find that the subject goods were previously classified under sub-heading No. 8536.90 and then the appellant asked for reclassification of the goods under sub-heading No. 8608.00. The new classification was approved by the proper authority and the appellant paid duty according to the approved classification. Hence there is no violation of any provisions of law on the part of the appellant and therefore penalty is not imposable under rule 173Q.

43. The Appellate Authority also held without any discussion, that the show cause notices were issued within the time limit envisaged in Section 11A and that “any discussion on the jurisdiction of invocation of extended period is not at all required”. Therefore, it is obvious that none of the Authorities



chose to invoke the extended period of limitation, but proceeded on the footing that all show cause notices were issued within the normal period of limitation. If only any of the Authorities had taken care to look at the dates of the show cause notices, the period covered by those notices and the normal period of limitation that prevailed at that time, they could have easily found that the show cause notices were at least partly time-barred.

44. The normal period of limitation for invoking Section 11A was six months until 11-5-2000 and the same was modified as one year by Act 10 of 2000 with effect from 12-5-2000. This period of one year was modified as two years by Act 28 of 2016 with effect from 14-5-2016. Keeping this in mind let us now have a look at the dates of issue of show cause notices and the period covered by the show cause notices. They are as follows :

Sl.No.	Date of Show Cause Notice	Period covered by the Show Cause Notice
1	30-8-1995	1-2-1995 to 31-7-1995
2	9-2-1996	1-8-1995 to 31-1-1996
3	5-2-1997	1-8-1996 to 31-1-1997
4	7-8-1997	1-2-1997 to 31-7-1997
5	6-8-1996	1-2-1996 to 31-7-1996
6	6-2-1998	1-8-1996 to 31-1-1997
7	4-9-1998	February, 1998
8	5-9-1998	1-3-1998 to 31-8-1998
9	5-3-1999	1-9-1998 to 28-2-1999

45. It could be seen from the above table (i) that all show cause notices

were of a date prior to 12-5-2000 and hence the normal period of limitation was only six months; and (ii) that at least a couple of show cause notices were issued in respect of a period partly or fully beyond the period of limitation. Unfortunately neither



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the Appellate Authority nor CESTAT took care to analyze the show cause notices individually with reference to the period covered by them.

46. In any case all the show cause notices were issued only on and after 30-8-1995, raising a classification dispute, after having approved the classification list submitted on 27-8-1993. The dispute in the case on hand was one of classification alone, applicable to the product manufactured during the entire period after 27-8-1993. The dispute was not invoice-centric. Therefore, what was sought to be done by the Original Authority was actually to review the approval of the classification list submitted on 27-8-1993 by cleverly issuing separate notices covering certain specific periods. What is to be seen here is that the attempt to undo the effect of the approval of the classification done on 27-8-1993, was actually time- barred. Therefore, despite the fact that some of the individual notices were issued within the period of limitation either in respect of the part of the period or in respect of the whole of the period covered by them, the very invocation of Section 11A, in the facts and circumstances of the case, cannot be said to be within time.

47. Therefore, both questions of law are answered in favour of the appellant and the appeal is allowed. The Orders-in-Original, the Order of the Appellate Authority and the Order of the CESTAT are set aside. Consequently, the show cause-cum-demand notices are also set aside. There will be no order as to costs.

74. The reasoning of the Hon'ble Supreme Court in **Westinghouse Saxby Farmer** case referred to *supra* is captured in Paragraph No.31 of the Judgment which is reproduced below:-



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“31. But in invoking General Rule 3(a), the authorities have omitted to take note of 2 things. They are: (i) that as laid down by this Court in CCE v. Simplex Mills Co. Ltd. the General Rules of Interpretation will come into play, as mandated in Rule 1 itself, only when no clear picture emerges from the terms of the headings and the relevant section or chapter notes; and (ii) that in any case, Rule 3 of the General Rules can be invoked only when a particular good is classifiable under two or more headings, either by application of Rule 2(b) or for any other reason. Once the authorities have concluded that by virtue of Note 2(f) of Section XVII, “relays” manufactured by the appellant are not even classifiable under Chapter Heading 86.08, we do not know how the authorities could fall back upon Rule 3(a) of the General Rules. There is a fundamental fallacy in the reasoning of the authorities, that Rule 3(a) of the General Rules will apply, especially after they had found that “relays” are not classifiable under Chapter Heading 86.08, on account of Note 2(f) of Section XVII.”

75. Heading 8536 and Heading 8608 of the Central Excise Tariff Act, 1985 as it stood then which fell for consideration in **Westinghouse Saxby Farmer** case referred to *supra* is reproduced below:-

	Heading 8536	Heading 8608
	Electrical apparatus for switching or protecting electrical units, or for making connections to or in electrical circuits (for example, switches, <u>relays</u> ,	‘Railway or Tramway Track fixtures and Fittings; Mechanical (including, Electro-mechanical) Signalling, Safety or Traffic Control



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	fuses, surge suppressors, plugs, sockets, lamp holders, junction boxes), for a voltage not exceeding 1000 volts	<i>Equipment for Railway, Tramways, Roads, Inland Waterways, Parking Facilities, Port Installation or Air-Fields; Parts of the Foregoing'</i>
8536 10	– Overload protection or thermal relays, starting relay controls, for refrigerating and air conditioning appliances and machinery	
8536 90	– Other	

76. Thus, “**Relays**” used for railway signalling equipment could not have been classified under **Heading 8536** of the Central Excise Tariff Act, 1985 as it stood then. Presently, “**Relays**” under **Sub-Heading 8536** of the Customs Tariff Act, 1975 reads as under:-

Sub-heading 8536	– Relays
8536 4100	-- For a voltage not exceeding 60 V
8536 4900	-- Other



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77. **Chapter 86** deals with ‘**Railway or Tramway Locomotives, Rolling-Stock and parts thereof; Railway or Tramway Tracks Fixtures and Fittings and Parts thereof; Mechanical (including Electro-mechanical) Traffic signalling Equipment of all kinds**’.

78. **Heading 8608** which was adopted by the said Company deals with ‘*Railway or Tramway Track fixtures and Fittings; Mechanical (including, Electro-mechanical) Signalling, Safety or Traffic Control Equipment for Railway, Tramways, Roads, Inland Waterways, Parking Facilities, Port Installation or Air-Fields; Parts of the Foregoing*’.

79. Thus, it is clear that **Heading 8536** and **Heading 8608** of the Central Excise Tariff Act, 1985 as it stood then which fell for consideration in **Westinghouse Saxby Farmer case** referred to *supra* could not have been adopted for railway signalling equipment by **Westinghouse Saxby Farmer Limited** as it was confined to electrical apparatus for switching or protecting electrical units, or for making connections to or in electrical circuits for a voltage not exceeding 1000 volts.

80. Since, **Heading 8608 00** includes “**parts of signalling, safety or traffic control equipment for railways**”, classification adopted by the said



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Company was correct. Thus, “**Relays**” which is part of the signalling, safety or traffic control equipment for railway was classifiable under **Heading 8608 00** as upheld by the Hon’ble Supreme Court in **Westinghouse Saxby Farmer case** referred to *supra*.

81. Thus, “**Relays**” were to be held to be parts of *Traffic Control Equipment for Railway* and therefore were to be classified under **Heading 8608**. Therefore, for a determination of the correct classification, invocation of Rules of Interpretation or a detailed analysis of Chapter Note or Section Notes in view of the express language in **Heading 8608** may not have been necessary. It was plain and clear.

DISCUSSION ON THE CLASSIFICATION OF ‘GAS COMPRESSORS’ MANUFACTURED BY THE PETITIONERS:-

82. The Petitioner classified ‘**Gas Compressors**’ under **Chapter 84** of the Customs Tariff Act, 1975. Chapter 84 falls under **Section XVI** of the Customs Tariff Act, 1975. **Heading 8414** of the Customs Tariff Act, 1975 specifically deals with ‘**Air or other Gas Compressors and fans**’. However, ‘**Gas Compressors**’ supplied by the Petitioner to automobile manufacturers for fitting into the Air Conditioning units in such automobiles will not merit classification under **Heading 8414** of the Customs Tariff Act, 1975 under



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Section XVI of the Customs Tariff Act, 1975 for the reasons to be stated in this part of the discussion.

83. **Section XVI** of the Customs Tariff Act, 1975 under which **Heading 8414** deals with '*Machinery and Mechanical Appliances; Electrical Equipment; Parts thereof; Sound recorders and reproducers, Television image and sound recorders and reproducers, and parts and accessories of such articles*'.

84. **Heading 8414** in **Chapter 84** to **Section XVI** of the Customs Tariff Act, 1975 and the ITC (HS) classification of the Foreign Trade Policy are in slight variance with each other. **Heading 8414** of the Customs Tariff Act, 1975 and the ITC (HS) classification of the Foreign Trade Policy are extracted below for the sake of clarity:-

Heading	Customs Tariff Act, 1975	ITC (HS)
8414	Air or vacuum pumps, Air or other gas compressors and fans ; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters; gas-tight biological safety cabinets, whether or not fitted with filters	Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters
8414 80	– Other:	Other:



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	- - - Gas compressors	Gas compressors
8414 80 11	- - - - Of a kind used in air-conditioning equipment	Of a kind used in air-conditioning equipment
8414 80 19	- - - - Other	Other

However, those minor variations do not in any manner affect the determination of the correct classification.

85. Thus, under the residuary **Heading 8414 80**, there are two broad categories of ‘**Gas compressors**’ namely:-

Heading 8414 80	
- Other:	
- - - Gas compressors	
Heading 8414 80 11	Heading 8414 80 19
- - - - Of a kind used in air-conditioning equipment	- - - - Other

86. Thus, **Sub-Heading 8414 80** of the Customs Tariff Act, 1975, no doubt applies to ‘**Gas compressors**’ and **Sub-Heading 8414 80 11** of the Customs Tariff Act, 1975 specifically applies to ‘**Gas compressors: Of a kind used in air-conditioning equipment**’ while **Sub-Heading 8414 80 19** applies to other kinds of ‘**Gas compressors**’ not used in air-conditioning equipments. However, it has to be borne in mind that **Sub-Heading 8414 80**



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of the Customs Tariff Act, 1975 is itself under a residuary Heading under
Heading “-Others”.

87. A reading of **Heading 8414, Sub-Heading 8414 80** and **Sub-Heading 8414 80 11** indicates that the ‘**Gas Compressors**’ used in general Air Conditioning equipment alone will merit classification under **Sub-Heading 8414 80 11. Heading 8414 80 19** which is a residuary entry under residuary **Heading 8414 80** of the Customs Tariff Act. 1975 has four hyphens. Therefore, **Sub-Heading 8414 80 19** will not apply to ‘**Gas Compressors**’ meant for Air Conditioners in Motor Vehicles of **Chapter 87**.

88. Therefore, it has to be inferred that only “**Gas compressors**” of a kind used in Air-Conditioning Equipment alone will merit classification under **Sub-Heading 8414 80 11. Sub-Heading 8414 80 19** applies to only other kinds of ‘**Gas compressors**’ which are not used in Air-Conditioning equipments as ‘**Gas Compressors**’ have varied use and are desired for different products. Therefore, **Sub-Heading 8414 80 19** will apply to ‘**Gas Compressors**’ used in other equipment other than air conditioners used in motor vehicles.



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89. Only ‘**Air Conditioners of a kind used for persons in motor vehicles**’ merits classification under **Sub-Heading 8415 20** since **Heading 8415** in Chapter 84 to Section XVI specifically applies to ‘**Air conditioning machines**, comprising a motor driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated’. However, parts of such ‘**Air conditioning machines viz., ‘Air Conditioners of a kind used for persons in motor vehicles**’ under **Sub-Heading 8415 20** in Chapter 84 to Section XVI will not come within the purview of **Heading 8414** of the Customs Tariff Act, 1975.

90. **Heading 8415** and **Sub-Heading 8415 20 10** and **Sub-Heading 8415 20 90** of **Chapter 84** to **Section XVI** of the Customs Tariff Act, 1975 are extracted hereunder:-

Heading	Tariff item
8415	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated
8415 20	- Of a kind used for persons in motor vehicles:
8415 20 10	- - - For buses
8415 20 90	- - - Other



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91. If **Gas compressors of a kind used in air-conditioning of Motor Vehicle** was to be classified under **Heading 8414**, a separate **Sub Heading** would have provided for the same under Residuary **Heading 8414**.

92. Residuary Sub-Heading **8414 80 19** within Residuary **Sub-Heading 8414 80** cannot apply to '**Gas compressors**' manufactured by the Petitioner which are meant to be fitted in Air conditioning units of Automobile Vehicles, though '**Air Conditioning Machines of a kind used for persons in Motor Vehicles**' are themselves required to be classified under **Sub-Heading 8415 20** of the Customs Tariff Act, 1975.

93. Therefore, only '**Gas compressors - Of a kind used in general air-conditioning equipment**' alone will merit classification under **Heading 8414 80**, as **Heading 8414 80** itself is a residuary Heading. Within the said residuary Heading only '**Gas compressors - Of a kind used in air-conditioning equipment**' will merit classification under the **Sub-Heading 8414 80 11**.

94. Although, **Rule 3** of the **General Rules of Interpretation** is not strictly applicable to classification of "**Gas Compressors**", as it is neither a "**Substance**" nor a "**Material**" used in the context of the said Rule



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nevertheless, the principle contained therein can serve as a useful guide in the matter of the classification of specific goods.

95. The reasoning in **Paragraph No.31** in **Westinghouse Saxby Farmer case** referred to *supra* is also that Rule 3 of the General Rules can be invoked only when a particular good is classifiable under two or more Headings, either by application of Rule 2(b) or for any other reason.

96. Further, if due emphasis is given to **Section Note 2(e)** and **Section Note 3** to **Section XVII**, in the context of **Heading 8708 00**, it is evident that the Heading that provides the most specific description has to be preferred to the Heading providing a more general description.

97. As per **Section Note 2** to **Section XVII** of the Customs Tariff Act, 1975, the expression “**parts**” and “**parts and accessories**” do not apply to specified articles therein, whether or not they are identifiable or not they are identifiable as “**parts**” and “**parts and accessories**” of the goods specified in that Section viz., **Section XVII** namely, Chapters 86 to 89.

98. As per Section Note 2(e) to Section XVII of the Customs Tariff Act, 1975, “Machines and Apparatus” of Headings 8401 to 8479, or parts thereof, other than the radiators for the articles of Section XVII, articles of



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Heading 8481 or 8482 will not apply to **“parts”** and **“parts and accessories”**, provided they do not constitute integral parts of engines and motors, articles of Heading 8483.

99. Section Note 2 to Section XVII and Section Note 2(e) to Section XVII of the Customs Tariff Act, 1975 are reproduced below:-

Section Note 2 to Section XVII of the Customs Tariff Act, 1975	Section Note 2(e) to Section XVII of the Customs Tariff Act, 1975
The expressions "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this Section: (a).. ...	Machines and apparatus of headings 8401 to 8479, or parts thereof, other than the radiators for the articles of this Section, articles of heading 8481 or 8482 or, provided they constitute integral parts of engines and motors, articles of heading 8483

100. The expression **“parts”** and **“parts and accessories”** in Section XVII of the Customs Tariff Act, 1975 do not apply to **“parts”** and **“parts and accessories”** are identifiable as for the goods of Section XVII of the Customs Tariff Act, 1975. Thus, the expressions **“parts”** and **“parts and accessories”** do not apply to:-



1. Machines and Apparatus of Headings 8401 to 8479, or parts thereof, provided they constitute as an integral parts of engines and motors, other than the radiators for the articles of this Section.
2. Articles of heading 8481 or 8482 provided they constitute integral parts of engines and motors or;
3. Articles of heading 8483.

101. The expressions “**parts**” and “**parts and accessories**” whether or not they are identifiable as for the goods of **Section XVII** of the Customs Tariff Act, 1975 will include radiators.

102. At the same time, as per **Section Note 3** to Section XVII, reference in Chapter 86 to 88 to “**parts**” or “**accessories**” do not apply to “**parts**” or “**accessories**” which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the Headings of those Chapters is to be classified under that Heading which corresponds to the principal use of that part of accessory.



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103. **Section Note 2 and 3 to Section XVII** of the Customs Tariff Act,

1975 are reproduced below:-

Section Note 2	Section Note 3
<i>The expressions "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:</i> <i>(a) Joints, washers or the like of any material (classified according to their constituent material or in heading 84.84) or other articles of vulcanised rubber other than hard rubber (heading 40.16);</i> <i>(b) Parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);</i> <i>(c) Articles of Chapter 82 (tools);</i> <i>(d) Articles of heading 83.06;</i> <i>(e) Machines or apparatus of headings 84.01 to 84.79, or parts thereof, other than the radiators for the articles of this Section; articles of heading 84.81 or 84.82 or, provided they constitute integral parts of engines or</i>	<i>References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.</i>



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<i>motors, articles of heading 84.83;</i> <i>(f) Electrical machinery or equipment (Chapter 85);</i> <i>(g) Articles of Chapter 90;</i> <i>(h) Articles of Chapter 91;</i> <i>(ij) Arms (Chapter 93);</i> <i>(k) Luminaires and lighting fittings and parts thereof</i> <i>(l) Brushes of a kind used as parts of vehicles (heading 96.03)</i>	
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104. **Section Note 3 to Section XVII** states that a part or accessory which answers to a description in two or more of the Headings of those Chapters is to be classified under that Heading which corresponds to the principal use of that part or accessory.

105. **Section Note 3 to Section XVII** clearly states that reference to “parts” or “accessories” in Chapters 86 to 88 do not apply to “parts or accessories” which are not suitable for use solely or principally with the articles of those Chapters.



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106. Thus, Machines and apparatus of Headings 8401 to 8479 and parts thereof, articles of Headings 8481 or 8482, 8483 will not come within the purview of Section XVII of the Custom Tariff Act, 1975 as **“parts”** and **“parts and accessories”** unless they constitute integral parts of engines and motors. Only exceptions to **“parts”** and **“parts and accessories”** other than radiators for the article of Section XVII.

107. **“Parts”** and **“parts and accessories”** which are **“parts and accessories of radiators”** used for the articles of Section XVII will merit classification under any of the Headings in Chapter 86-89 to Section XVII of the Customs Tariff Act, 1975.

108. Therefore, it is evident that on a conjoint reading of Section Note 2, Section Note 2(e) and Section Note 3 to Section XVII, **‘Gas Compressors’** manufactured by the Petitioner cannot merit classification under Chapter 84 to Section XVI of the Customs Tariff Act, 1975. Rather they merit classification under Chapter 87 to Section XVII of the Customs Tariff Act, 1975.



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109. Therefore, **‘Gas Compressors’** manufactured by the Petitioner for the sole purpose to be used in air conditioners in Motor Vehicles would not fall under the description of **Heading 8414 80 - “Other: Gas compressors”** and **Sub-Heading 8414 8011 - “Gas compressors : Of a kind used in air-conditioning equipment”**.

110. Further, as per Rule 3(c) of General Rules of Interpretation of the I Schedule of the Customs Tariff Act, 1975, when goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the Heading which occurs last in numerical order among those which equally merit consideration.

111. Applying the test mentioned above, **‘Gas Compressors’** which are to be used as **“Parts”** of an air conditioning unit in a Motor Vehicle under Heading 8701 to 8705 has to be classified under **Heading 8708 99** which is a residuary Tariff Entry under the aforesaid Chapter to Section XVII.



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112. In the present case, **‘Gas Compressors’** are meant specifically for Air Conditioning Units in Automotive Vehicles of Chapter 87 of the Customs Tariff Act, 1975. They have no other use other than use in Automotive Vehicles of Chapter 87 of the Customs Tariff Act, 1975.

113. Therefore, **‘Gas Compressors’** manufactured by the Petitioner to be incorporated as **‘parts’** of air conditioning equipment used in Motor Vehicles will have to go outside **Chapter 84** to Section XVI and can fit into only under **Heading 8708** of Chapter 87 to Section XVII of the Customs Tariff Act, 1975.

114. In other words, **“parts”** or **“accessories”** that are solely used with the goods identifiable under those Chapters, then such **“parts”** or **“accessories”** would be **“parts”** or **“accessories”** of goods specified in **Section XVII** of the Customs Tariff Act, 1975. Therefore, if an item is used solely for a vehicle and is designed for use with a vehicle, it must be classified as parts of such a vehicle.



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115. The Petitioner had thus wrongly adopted classification under the **Heading 8414** and paid tax at the rate of 24% initially and thereafter 18% as mentioned above in accordance with the Rate Notification mentioned above.

116. Applying the relevant General Rules of Interpretation, Section Note and Chapter Notes as referred to *supra*, it is evident that the '**Gas Compressors**' manufactured by the Petitioner for being used as part of the air conditioner in Motor Vehicles does not merit classification under **Heading 8414** of the Customs Tariff Act, 1975. It would merit classification only under the rival **Heading 8708** of the Customs Tariff Act, 1975 as has been upheld by the Respondent.

117. If '**Gas Compressors**' for being used as parts of Air Conditioners in Motor Vehicles were to be classified under **Heading 8414 80 19**, a separate Sub-Heading for such '**Gas Compressors**' would have been mentioned under the **Heading 8415**. Thus, there is no scope for classifying '**Gas Compressors**' manufactured by the Petitioner which was ostensibly cleared for being used as parts of Air Conditioners in Motor Vehicles under



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Heading 8414 of the Customs Tariff Act, 1975.

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118. On the other hand, **Heading 8708** to Chapter 87 which falls under Section XVII which is a rival classification which has been imposed on the Petitioner by the impugned Orders specifically deals with **‘Parts and Accessories of Motor Vehicles’** from **Heading 8701** to **8705**. **‘Gas Compressors’** manufactured by the Petitioner merits classification under **Heading 8708** as has been held in the impugned Orders.

CONCLUSION:-

119. However, it is noticed that the classification adopted by the Petitioner for the subject good **‘Gas Compressors’** has been in use both before the GST era and thereafter. The Petitioner has taken a *bona fide* stand that the **‘Gas Compressors’** manufactured by the Petitioner merits classification under **Heading 8414** both under the pre-GST era and post-GST era. This was also accepted by the Respondent. There is no indication that the Petitioner had been earlier served with a Show Cause Notices under Section



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11A of the Central Excise Act, 1944 to reclassify the goods.

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120. Therefore, the Respondent by having accepted the classification determined by the Petitioner under **Heading 8414** for the subject item cannot invoke the extended period of limitation under Section 74 of the respective GST Enactments by issuance of Show Cause Notices under the aforesaid Section of the Act, as there are no indications of suppression of facts by the Petitioner with an intention to evade tax.

121. The Hon'ble Supreme Court in **Densons Pultretaknik Vs. Commissioner of Central Excise.**, (2003) 11 SCC 390 while dealing with a situation of invocation of Section 11A of the Central Excise Act, 1944 for wrongful classification by the Assessee, the Court observed as under:-

“7. The next question is – whether the Tribunal was justified in invoking the first proviso to sub-section of Section 11-A, Prima facie, it is apparent that there was no justifiable reason for invoking a larger period of limitation. There is no suppression on the part of the appellant firm in mentioning the goods manufactured by it. The appellant claimed it on the ground that the goods manufactured by it were other articles of plastic. For



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the insulating fittings manufactured by it, the tariff entry was correctly stated. The officers concerned of the Department, as noted above, after verification approved the said classification list. This Court has repeatedly held that for invoking an extended period of limitation under the said provision duty should not have been paid, short - levied or short-paid by a suppression of facts or in contravention of any provision or rules but there should be wilful suppression. (Re: Easland Combines v. CCE). By merely claiming it under Sub-Heading 3926.90 it cannot be said that there was any wilful misstatement or suppression of fact. Hence, there was no justifiable ground for the Tribunal for invoking the first proviso to sub-section (1) of Section 11-A of the Act”

122. Earlier, the Hon’ble Supreme Court in **Cosmic Dye Chemical Vs.**

Collector of Central Excise, (1995) 6 SCC 117, held as under:-

“6. Now so far as fraud and collusion are concerned, it is evident that the requisite intent, i.e., intent to evade duty is built into these very words. So far as misstatement or suppression of facts are concerned, they are clearly qualified by the word ‘wilful’ preceding the words “misstatement or suppression of facts” which means with intent to evade duty. The next set of words “contravention of any of the provisions of this Act or rules” are again qualified by the immediately following words “with intent to evade payment of duty”. It is, therefore, not correct to say that there can be a suppression or misstatement of fact, which is not wilful and yet constitutes a permissible ground for the purpose of



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the proviso to Section 11-A. Misstatement or suppression of fact must be wilful.”

123. The Hon'ble Supreme Court in **Collector of Central Excise, Baroda Vs. L.M.P Precision Engg Co Ltd.,** (2004) 9 SCC 703, held as under:-

“18....Where the assessee had proceeded on a misinterpretation of a legal provision, this Court appears to have held that the bona fides could not be called into question. Those decisions are distinguishable since in this case there was no question of the assessee failing to comply with the requirement of the rule by reason of any alleged misinterpretation of the rule. Had the assessee given a full description of the excisable goods but claimed classification under a wrong tariff heading, the principle enunciated by this Court and as relied upon by the respondent may have been applied but that has not happened here.

19. Apart from this we cannot ignore the fact that the respondent had, consequent upon the issuance of the exemption notification of 1-3-1988, itself classified the goods under Tariff Heading 87.05 and given a full description of the goods for the first time while claiming the exemption. It is true that subsequent to the amendment notification dated 14-2-1988, the respondent had reapplied for reclassification under Tariff Heading 84.30. But this will not detract from the initial claim of



the respondent that its goods were properly classifiable under Heading 87.05 nor does it explain why the respondent did not describe the goods fully in its application for approval of its classification list for the relevant period.”

124. Since the Petitioner entertained a *bona fide* view both under the previous regime and the new regime in determining the classification for the subject item, the penalty under Section 74 of the respective GST Enactments is also not justifiable. The only change that arose in the classification of the subject item under the **Heading 8414** was on account of change in the taxable rate of classification, when the **Heading 8414** moved from **Schedule IV** to **Schedule III** to **Notification No.1/2017-Central Tax (Rate)** dated **28.06.2017** in the light of amendment vide **Notification No.41/2017-Central Tax (Rate)** dated **14.11.2017**.

125. Therefore, while upholding the classification determined under **Heading 8708** of the Customs Tariff Act, 1975 vide impugned order, I hold there is no case for invoking the extended period of limitation under Section 74 of the respective GST Enactments.



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126. Therefore, these Writ petitions are disposed of by way of remand for quantifying the differential tax to be paid by the Petitioner based on the classification upheld in this order and for determination of tax and penalty under Section 73(10) of the respective GST Enactments in lieu of Section 75 of the respective GST Enactments.

127. Accordingly, these Writ Petitions are **disposed of** with the following observations:-

1. The classification under **Heading 8708** under Section XVII determined by the Respondent **is upheld.**
2. The **impugned Orders** passed by invoking the extended period of limitation under Section 74 of the Respondent GST Enactments are **set aside and the cases are remitted back to requantify the tax and penalty under Section 73** of the respective GST Enactments.
3. The above exercise shall be completed within a period of six months from the date of receipt of a copy of this order.



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4. Needless to state, the petitioner shall be heard before passing such order in far as quantification of tax and penalty alone.

5. No costs. Connected Writ Miscellaneous Petitions are closed.

09.02.2026

Neutral Citation: Yes / No

raja / arb

To

Deputy Commissioner (CT) / Deputy Commissioner (ST)-II,
Large Taxpayers Unit,
Tamil Nadu,
Integrated Commercial Taxes Building,
Nandanam,
Chennai – 35.



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C.SARAVANAN, J.

raja / arb

Pre-delivery Common Order in W.P.Nos.W.P.Nos.15649, 15652, 15653,
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09.02.2026