
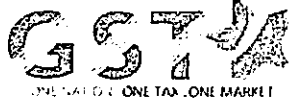


<p>आयुक्त का कार्यालय, केंद्रीय जी. एस. टी. एवं केंद्रीय उत्पाद शुल्क, अहमदाबाद - उत्तर, कस्टम हाँउस, प्रथम तल, नवरंगपुरा, अहमदाबाद- 380009</p>		 <p>OFFICE OF COMMISSIONER CENTRAL GST & CENTRAL EXCISE, AHMEDABAD- NORTH CUSTOM HOUSE, 1ST FLOOR, NAVRANGPURA, AHMEDABAD-380009</p>
<p>फ़ोन नंबर/ PHONE No.: 079-27544557</p>	<p>फैक्स/ FAX : 079-27544463</p>	<p>E-mail:- oaahmedabad2@gmail.com</p>

निबन्धित पावती डाक द्वारा/By R.P.A.D

DIN- 20230664WT000000B283

फा.सं./F.No. V.87/15-10/OA/2019

आदेश की तारीख/Date of Order :- 23.06.2023

जारी करने की तारीख/Date of Issue :- 23.06.2023

द्वारा पारित/Passed by:-

लोकेश डामोर /Lokesh Damor

संयुक्त आयुक्त /Joint Commissioner

मूल आदेश संख्या / Order-In-Original No. 06/JC/ LD /2023-24

जिस व्यक्ति (यों) को यह प्रति भेजी जाती है, उसके/उनके निजी प्रयोग के लिए मुफ्त प्रदान की जाती है।
This copy is granted free of charge for private use of the person(s) to whom it is sent.

इस आदेश से असन्तुष्ट कोई भी व्यक्ति इस आदेश के विरुद्ध अपील, इसकी प्राप्ति से 60 (साठ) दिन के अन्दर आयुक्त (अपील), केन्द्रीय वस्तु एवं सेवा कर एवं उत्पाद शुल्क, केन्द्रीय उत्पाद शुल्क भवन, अंबावाड़ी, अहमदाबाद 380015-को प्रारूप संख्या एस टी -४ (ST-4) में दाखिल कर सकता है। इस अपील पर रू. 5.00 (पांच रुपये) का न्यायालय शुल्क टिकट लगा होना चाहिए।

Any person deeming himself aggrieved by this order may appeal against this order in form EA-1 to the Commissioner(Appeals), Central GST & Central Excise, Central Excise Building, Ambawadi, Ahmedabad-380015 within sixty days from the date of its communication. The appeal should bear a court fee stamp of Rs. 5.00 only.

इस आदेश के विरुद्ध अपील करने के लिए आयुक्त (अपील) के समक्ष नियमानुसार पूर्व जमा के धनराशी का प्रमाण देना आवश्यक है।

An appeal against this order shall lie before the Commissioner (Appeal) on giving proof of payment of pre deposit as per rules.

उक्त अपील, अपीलकर्ता द्वारा प्रारूप संख्या एस टी -४ (ST-4) में दो प्रतियों में दाखिल की जानी चाहिए। उस पर केन्द्रीय उत्पाद शुल्क (अपील) नियमावली 2001 के नियम 3 के प्रावधानों के अनुसार हस्ताक्षर किए जाने चाहिए। उक्त अपील के साथ निम्नलिखित दस्तावेज संलग्न किए जाएं।

- (1) उक्त अपील की प्रति।
- (2) निर्णय की प्रतियाँ अथवा जिस आदेश के विरुद्ध अपील की गई है, उनमें से कम से कम एक प्रमाणित प्रति हो, या दूसरे आदेश की प्रति जिसपर रू .5 00. पांच रुपये (का न्यायालय शुल्क टिकट लगा होना चाहिए।

The appeal should be filed in form एस टी -४ (ST-4) in duplicate. It should be signed by the appellant in accordance with the provisions of Rule 3 of Central Excise (Appeals) Rules, 2001. It should be accompanied with the following:

- (1) Copy of accompanied Appeal.
- (2) Copies of the decision or, one of which at least shall be certified copy, the order Appealed against OR the other order which must bear a court fee stamp of Rs.5.00.

विषय:- कारण बताओ सूचना/ Proceeding initiated against Show Cause Notice F.No. VII/1(b)/CTA/Tech-11/SCN/Cooper/2018-19 dated 28.02.2019 issued to M/s Cooper Standard Automative Pvt. Ltd.(Now known as M/s SFC Solution India (Fluid)Pvt. Ltd.), Plot AV 3, Bol Industrial, Estate, Sanand-II, Ahmedabad-382170.

1



BRIEF FACTS OF THE CASE

M/s Cooper Standard Automotive India Pvt. Ltd (Now known as M/s.SFC Solutions India (Fluid) Private Limited) , Plot AV 3, Bol Industrial Estate, Sanand-II, Ahmedabad (hereinafter referred to as the "the said assessee") is engaged in the manufacture of Motor Vehicle Parts falling under Chapter 87 of the Central Excise Tariff Act, 1985. The said assessee was holding Central Excise Registration No. AABCC3665PEM004 and Service Tax Registration No AABCC3665PSD004, respectively and was availing the facility of cenvat credit on Inputs, Input Services and Capital Goods under the provisions of Cenvat Credit Rules, 2004. The said assessee was earlier registered under the Jurisdiction of the Commissioner of Central Excise, Ahmedabad-II. Consequent to the issue of Notification No.12/2017-Central Excise (NT) to 14/2017-Central Excise (NT) all dated 09.06.2017, appointing the officers of various ranks as Central Excise officers & reallocating the jurisdiction of the Central Excise Officers and Trade Notice No. 001/2017 dated 16.06.2017 issued by the Chief Commissioner, Central Excise & Service Tax, Ahmedabad Zone, the said assessee is now registered under the Jurisdiction of the Commissioner, Central Goods and Service Tax, Ahmedabad North.

2. The audit of the said assessee was conducted for the period from April 2014 to March 2016 and as per the Final Audit Report No. 1202/2017-18 dated 28.03.2018 issued by the department, the following revenue paras remain unsettled:

3.1 Revenue Para No 07:- Non Payment of Central Excise Duty on amortized value of tools supplied by buyer, free of cost.

During audit it was observed that the said assessee was engaged in the manufacture of motor vehicles parts for M/s Ford India Pvt. Ltd. The tools required for manufacture of motor vehicle parts were provided, free of cost, by M/s. Ford India Pvt. Ltd. to the said assessee. On further scrutiny, it seemed that the said assessee had not included the cost of tools supplied by the buyer, i.e. M/s. FORD India Pvt. Ltd., while arriving at the assessable value on sale of motor vehicle parts to M/s Ford India Pvt Ltd, as per provisions of clause (ii) of Explanation 1 to Rule 6 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 (*Valuation Rules*).

3.2 Section 4 of the Central Excise Act, 1944 (*Act*) reads as under:

SECTION 4. Valuation of excisable goods for purposes of charging of duty of excise.

- (1) Where under this Act, the duty of excise is chargeable on any excisable goods with reference to their value, then, on each removal of the goods, such value shall-
 - (a) in a case where the goods are sold by the said assessee, for delivery at the time and place of the removal, the said assessee and the buyer of the goods are not related and the price is the sole consideration for the sale, be the transaction value;
 - (b) in any other case, including the case where the goods are not sold, be the value determined in such manner as may be prescribed".

[**Explanation.** — For the removal of doubts, it is hereby declared that the price-cum-duty of the excisable goods sold by the assessee shall be the price actually paid to him for the goods sold and the money value of the additional consideration, if any, flowing directly or indirectly from the buyer to the assessee in connection with the sale of such goods, and such price-cum-duty, excluding sales tax and other taxes, if any, actually paid, shall be deemed to include the duty payable on such goods.]

Rule 6 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 (hereinafter referred to as *Valuation Rules*) reads as under:

RULE 6. Where the excisable goods are sold in the circumstances specified in clause (a) of sub section (1) of section 4 of the Act except the circumstance where the price is not the sole consideration for sale, the value of such goods shall be deemed to be the aggregate of such transaction value and the amount of money value of any additional consideration flowing directly or indirectly from the buyer to the assessee.

[Provided that where price is not the sole consideration for sale of such excisable goods and they are sold by the assessee at a price less than manufacturing cost and profit, and no additional consideration is flowing directly or indirectly from the buyer to such assessee, the value of such goods shall be deemed to be the transaction value.]

[Explanation 1] - For removal of doubts, it is hereby clarified that the value, apportioned as appropriate, of the following goods and services, whether supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale of such goods, to the extent that such value has not been included in the price actually paid or payable, shall be treated to be the amount of money value of additional consideration flowing directly or indirectly from the buyer to the assessee in relation to sale of the goods being valued and aggregated accordingly, namely : -

.....

(ii) value of tools, dies, moulds, drawings, blue prints, technical maps and charts and similar items used in the production of such goods”

3.3 When the above provisions are read conjointly, it is clear that in circumstances where price is not the sole consideration for sale, the value of such goods shall be deemed to the aggregate of the transaction value and the amount of money value of any additional consideration flowing directly or indirectly from the buyer to the assessee. In the present instance, the value of the tools supplied by the buyer, *i.e.*, M/s FORD India Pvt. Ltd., free of charge, in connection with the production and sale of motor vehicle parts, shall be treated as an additional consideration, flowing indirectly from M/s. FORD India Pvt. Ltd to the said assessee. Hence, it appeared that the amount of money value of additional consideration, *i. e.*, value of tools supplied by M/s. Ford India Pvt. Ltd. to the said assessee, free of charge, apportioned as appropriate, is required to be loaded in the assessable value of the motor vehicle parts, sold to M/s. FORD India Pvt. Ltd., by the said assessee, in terms of clause (ii) of Explanation 1 to Rule 6 of the Valuation Rules.

3.4. It, therefore, appeared that the said assessee has contravened the provisions of-

- (a) Section 4(1)(b) of the Central Excise Act, 1944 read with Clause (ii) of Explanation 1 to Rule 6 of the Valuation Rules as they have failed to include the cost of tools on the sale of motor vehicle parts to M/s. FORD India Pvt. Ltd;
- (b) Rules 4(1) read with 8(1) of the Central Excise Rules, 2002 as they failed to pay the appropriate duty on the actual assessable on sale of motor vehicle parts to M/s. FORD India Pvt. Ltd within the prescribed time frame;
- (c) Rule 5 of the Central Excise Rules, 2002 as they have failed to pay central excise duty at the appropriate rate and value in force on the date when such goods are removed from a factory;
- (d) Rule 6 of the Central Excise Rules, 2002 inasmuch as they have failed to correctly self-assess their central excise duty liability on sale of motor vehicle parts;
- (e) Rule 12 of the Central Excise Rules, 2002 inasmuch as they failed to submit a correct monthly return incorporating the details of removal of the goods and other relevant particulars within ten days after the close of the month to which the return relates.

3.5 In response to the audit objection raised by the officers of the Central Tax Audit, Ahmedabad, the said assessee arrived at the total amortized value of tools at Rs 6,46,93,520/- for the motor vehicle parts sold by them for the financial year 2014-15 to 2016-17. The duty required to be paid on the amortized value of Rs 6,46,93,520/- was worked out to Rs 80,86,690/-. The said assessee has paid the duty of Rs 80,86,690/- under challan No 50125 dated 8.9.2017, but has refused to pay the interest on late payment of central excise duty.

3.6. It appeared that interest is to be charged and recovered from the said assessee under the provisions of Section 11AA of the Central Excise Act, 1944 on the duty paid by them. As per sub-section (1) of Section 11AA of the Act *ibid* the person who is liable to pay duty, shall, in addition to the duty, be liable to pay interest at the rate specified in sub-section (2) of Section 11AA of the Central Excise Act, 1944, whether such payment is made voluntarily or after determination of the amount of duty under Section 11A. Such interest shall be calculated from the date on which such duty becomes due upto the date of actual payment of the amount due. In view of the above provisions, it appeared that the said assessee is liable to pay interest on the duty of Rs 80,86,690/- paid vide challan No 50125 on 8.9.2017.

3.7 Thus the said assessee has not disclosed the fact that they had received the tools, free of cost, from M/s. FORD India Pvt. Ltd., for use in the production of motor vehicle parts and that they had failed to include the amortized value of such tools in the final cost of goods removed to M/s. FORD India Pvt. Ltd. The said assessee has, therefore, suppressed the material facts from the department and it came to the notice of the department only during audit. It further appeared that they had suppressed the material facts with an intent to evade the payment of duty on the amortized value of tools received from M/s. FORD India Pvt. Ltd, during 2014-15 to 2016-17 as per provisions of

clause (ii) of Explanation 1 to Rule 6 of the *Valuation Rules*. By suppressing the fact of receipt of tools from M/s. FORD India Pvt Ltd from the department; by not including the amortized value of tools received free of charge from the buyer in the price of the motor vehicle parts cleared to M/s. FORD India Pvt Ltd. and by not paying the appropriate duty of excise on the actual assessable value of motor parts, the said assessee has also rendered themselves liable for penal action, under Section 11AC(1)(c) of the Act, *ibid*.

3.8 Therefore, Central Excise duty of Rs 80,86,690/- on the value of the tools of Rs 6,46,93,520/- for the period from 2014-15 to 2016-17 was liable to be demanded and recovered from the assessee under sub-section (4) of Section 11(A) of Central Excise Act, 1944 along with applicable interest under Section 11AA of the Act, *ibid* and consequential penalty under Section 11AC of the Act *ibid*. As the duty of Rs 80,86,690/- has already been paid by the said assessee vide challan No 50125 on 8.9.2017, the said amount is required to be appropriated against the demand of duty.

4.1 Revenue Para No.09:- Non-payment of Central Excise Duty on sale of tools.

During the course of audit, it was also noticed that the said assessee has procured Tools/Moulds on behalf of M/s. Ford India Pvt. Ltd and availed cenvat credit under the provisions of Cenvat Credit Rules, 2004. The said assessee has put the Tools/Moulds into use and subsequently sold the same to M/s. Ford India Pvt. Ltd. by issuing Commercial invoices on payment of VAT but without payment of Central Excise duty, in the F.Y. 2015-16 and 2016-17, respectively. The details are as given in the Table below:-

Sr. No.	Commercial Invoice Value	Central Excise duty(Payable)
F.Y. 2015-16	Rs. 5,15,41,748/-	Rs. 57,28,434/-
F.Y. 2016-17	Rs. 2,60,77,145/-	Rs. 39,73,928/-
Total	Rs. 7,76,18,893/-	Rs. 97,02,362/-

4.2 On verification of the invoices for the F.Y. 2015-16, it was noticed that Central Excise Duty has been levied and recovered from M/s. Ford India Pvt. Ltd. of Rs. 57,28,434/- but the same has not been deposited with the Government ex-chequer. This fact of non-payment of central excise duty was verified from the ER-1 Return filed by the said assessee. Further, the said assessee has also issued commercial invoices for F.Y. 2016-17 for the sale of Tools/ Moulds valued at Rs. 2,60,77,145/- to M/s. Ford India Pvt. Ltd. However, they have not paid the Central Excise Duty on the same amounting to Rs. 39,73,928 as is evident from the invoices issued in F.Y. 2016-17.

4.3 On enquiry, the said assessee submitted that they had not paid central excise duty on sale of Tools as the said Tools were not removed from the factory and the same are still used in the factory for production of excisable goods; that they have not paid Central Excise duty as per Notification No.67/95-CE dated 16.03.1995.

4.4 Notification No.67/1995-CE dated 16.03.1995 exempts capital goods as defined in the CENVAT Credit Rules, 2004, manufactured in a factory and used within the factory of production from the whole of the duty of excise leviable thereon which is specified in the Schedule to the Central Excise Tariff Act, 1985. Thus, to qualify for the exemption provided to capital goods in the Notification *ibid*, the following conditions need to be satisfied-(1) They must

satisfy the definition under CENVAT Credit Rules, 2004;(2) They must be manufactured in the factory; and (3)They must be used within the factory of production.

4.5 In the present case, the impugned goods ,viz., Tools/Moulds, etc., are defined as capital goods under Rule 2 of the CENVAT Credit Rules, 2004. Hence, Tools/Moulds satisfy the pre-condition of the Notification *ibid* that they should be defined as capital goods under the CENVAT Credit Rules, 2004. Another essential pre-condition for availing exemption under the Notification No.67/95-CE dated 16.03.1995 is that the goods should be manufactured in a factory and used within the factory of production, *i.e.*, they should be captively consumed. In the present case, the Tools/Moulds have been procured by the said assessee from other manufacturers and have, therefore, not been manufactured in the factory premises of the said assessee. Further, the said assessee has availed cenvat credit of tax paid on such procurement. The said Tools/Moulds are then removed by the said assessee to M/s. FORD India Pvt. Ltd under commercial invoices without charging excise duty and levying only eligible VAT under respective state VAT law, by claiming the benefit of Notification No. 67/95-CE dated 16.03.1995. By raising such commercial invoices, the said assessee recovers the cost of Tools/Moulds from M/s.FORD India Pvt. Ltd and the ownership of the Tools/Moulds also stands transferred to M/s. FORD India Pvt Ltd. The claim of the said assessee that the tools are not removed by them from the factory of production is therefore, incorrect.

4.6. Therefore, the benefit of Notification No.67/95-CE dated 16.03.1995 was not admissible to the said assessee as the Tools/Moulds have not been manufactured in the factory but have been procured by the said assessee from various tool manufacturers' on payment of central excise duty and have been subsequently sold to M/s. FORD India Pvt. Ltd. Consequently the said assessee has wrongly availed the benefit of the Notification No.67/95-CE and the said assessee is liable to pay central excise duty of Rs.97,02,123/- on sale of tools to M/s. Ford India Pvt. Ltd. for the F.Y. 2015-16 and 2016-17 under Section 11A of the Central Excise Act, 1944.

4.7. Accordingly the said assessee has contravened the provisions of-

- (a) Notification No. 67/95-CE dated 16.3.1995 inasmuch as they have wrongly availed the benefit of the exemption provided in Notification *ibid* for Tools/Moulds which were not manufactured within the factory premises;
- (b) Rules 4(1) read with 8(1) of the Central Excise Rules, 2002 as they failed to pay the appropriate duty on the assessable value on clearance of Tools/Moulds to M/s. FORD India Pvt. Ltd within the prescribed time frame;
- (c) Rule 5 of the Central Excise Rules, 2002 as they have failed to pay central excise duty at the appropriate rate and value in force on the date when such goods are removed from a factory;
- (d) Rule 6 of the Central Excise Rules, 2002 inasmuch as they have failed to correctly self-assess their central excise duty liability on sale of Tools/Moulds;

- (e) Rule 12 of the Central Excise Rules, 2002 inasmuch as they failed to submit a correct monthly return incorporating the details of removal of the goods and other relevant particulars within ten days after the close of the month to which the return relates.

4.8. It further appeared that the said assessee has procured tools/Moulds from various manufacturers; cleared the same to M/s. FORD India Pvt. Ltd. from their factory premises and also sold the goods to M/s. FORD India Pvt. Ltd. under Commercial invoices but have deliberately suppressed the details in the ER-1 returns filed by them and also deliberately failed to pay central excise duty on the assessable value of the tools cleared by them to M/s. FORD India Pvt. Ltd. It was only on scrutiny of the sales invoices during audit, that the department came to know that the said assessee had not manufactured tools within their factory premises but had procured such tools from tool manufactures which are then sold to M/s. Ford India Pvt. Ltd. under commercial invoices, charging VAT but without paying central excise duty by claiming exemption under Notification No.67/95-CE dated 16.3.1995. The said assessee was aware that the tools have not been manufactured within their factory premises and that they have deliberately and wrongfully claimed exemption under Notification No.67/95-CE dated 16.3.1995. The fact of clearance of tools to M/s. Ford India Pvt. Ltd. was neither intimated nor disclosed to the department at any point of time. Thus, it appears that the said assessee had deliberately and purposefully suppressed / withheld the material facts from the department with an intent to evade payment of central excise duty on sale of tools by wrongly availing the benefit of Notification No.67/95-CE dated 16.3.1995. As per their records, the said assessee have cleared and sold tools valued at Rs.5,15,41,748/-in 2015-16 and Rs.2,60,77,145/-in 2016-17, thus totaling Rs. 7,76,18,893/-, on which central excise duty comes to Rs. 97,02,362/-. As the said assessee has not paid central excise duty of Rs. 97,02,362/-on the tools removed by them under commercial invoices to M/s. FORD India Pvt. Ltd, the duty of Rs. 97,02,362/- is liable to be demanded and recovered from them under Section 11A(4) of the Central Excise Act,1994 along with interest under Section 11AA of the Act *ibid* and consequential penalty under Section 11AC of the Act *ibid*.

5. From the facts of (a) non-inclusion of the amortized value of tools, received free of cost from M/s. FORD India Pvt Ltd. in the assessable value of the motor vehicle parts cleared to M/s. FORD India Pvt. Ltd in contravention of the provisions of clause (ii) of Explanation 1 to Rule 6 of the *Valuation Rules* and (b) non-payment of duty on clearance of tools to M/s. FORD India Pvt. Ltd by wrongfully claiming the exemption under Notification No.67/1995-CE dated 16.3.1995, the assessee appeared to have been concealed from department deliberately, consciously and purposefully with intent to evade payment of tax. The non-payment of central excise duty by the said assessee has come to the notice of the department only during the course of audit by the officers of the Central Tax, Audit Commissionerate, Ahmedabad. In the case of *Mahavir Plastics versus CCE Mumbai*, 2010 (255) ELT 241, it had been held that if facts are gathered by Department in subsequent investigation, extended period can be invoked. Therefore, in this case all essential ingredients exist to invoke extended period under Section 11A(4) of the Central Excise Act, 1944 for demand of central excise duty. Therefore, unpaid central excise duty of Rs.1,77,89,052/- (Rs. 80,86,690/- + Rs. 97,02,362/-) is liable to be demanded and recovered from the said assessee under sub-section (4) to Section 11A of the Central Excise Act, 1944 along with applicable interest under the

provisions of Section 11AA of the Act, *ibid.* This act of omission on the part of said assessee constitutes an offence of the nature specified under Section 11AC of Central Excise Act, 1944, and hence, they have also rendered themselves liable to penalty under the provisions of Section 11AC of the Central Excise Act, 1994.

6. Pre-Show Cause Notice consultation in terms of Instructions issued from File No 1080/09/DLA/MISC/15 dated 21.12.2015, F.No. 1080/DLA/CC Conference/2016 dated 13.10.2016 and Master Circular No. 1053/02/2017-CX dated 10.03.2017, was granted on 02.11.2018, before the Joint Commissioner, Central Tax Audit, Ahmedabad. However, none appeared for the pre-scN consultation on behalf of the said assessee.

7. Therefore Show Cause Notice No. VI/1(b)CTA/Tech-11/SCN/Cooper/2018-19 dated 28.02.2019 was issued to the assessee as to why:

- i. the value of tools amounting to Rs 6,46,93,520, received from M/s. Ford India Pvt. Ltd., free of cost, for the period from 2014-15 to 2016-17, should not be considered as money value of additional consideration flowing from the buyer in terms of Section 4 of the Central Excise Act, 1944 read with clause (ii) of Explanation 1 to Rule 6 of the Valuation Rules and should not be added to the assessable value on sale of motor vehicle parts to M/s. Ford India Pvt. Ltd. for the purpose of payment of central excise duty;
- ii. the unpaid central excise duty of Rs 80,86,690/-, on the amortized value of tools, should not be demanded and recovered from them, under the provisions of Section 11A(4) of the Act. As the said assessee has paid the duty amounting to Rs 80,86,690/- under challan No 50125 dated 8.9.2017, they are required to show cause as to why the said amount of Rs 80,86,890/- should not be appropriated towards the proposed demand;
- iii. Central Excise duty amounting to Rs.97,02,362/- not paid on clearance of Tools/Moulds to M/s. Ford India Pvt. Ltd., should not be demanded and recovered from them under Section 11A (4) of Central Excise Act, 1944 ;
- iv. Penalty should not be imposed on them under the provisions of Section 11AC of the Act on the duty demanded at (ii) and (iii) above;
- v. Interest at the applicable rate should not be charged and recovered from them under the provisions of Section 11AA of the Act on the duty demanded at (ii) and (iii) above;

DEFENCE REPLY

8. The assessee vide their letter dated 15.04.2019 submitted their interim reply to SCN, wherein they stated that they are in the process of correlating the voluminous documents to defend their stand and requested more time to file required reply to SCN. Accordingly they have submitted reply to SCN vide letter dated 20.06.2019. Further the assessee vide letter dated

30.11.2020 submitted that they have submitted application to the settlement Commission and also furnished copy of acknowledgement. The Superintendent, Hon'ble settlement Commission, Mumbai vide letter F.No.24/Ex/AG/2020-SC(MB) dated 03.12.2021 has informed that "for the reasons that the present proceedings could not be completed before 30th November 2021 (statutory time frame of 9 Months extended by 3 months under the provisions of Rule 32F(6), the settlement commission abate. I have been directed to inform you that, you may approach the adjudicating authority before whom the proceedings at the time of making the application was pending for the further disposal of the case". Accordingly the case is taken for adjudication.

9. The assessee vide letter dated 20.06.2019 & 17.02.2023 submitted their detailed reply wherein they stated that :

- They have started its operation in India in the year 1997 and is pioneer manufacturer in fluid & brake line system for wheeler vehicles mainly cars since then. The company was then acquired by M/s.Cooper Standard Automotive Inc. The assessee are receiving inputs, capital goods and input services which are used directly or indirectly, in or in relation to manufacture of dutiable finished goods cleared on payment of duty. They have availed Cenvat credit on all such inputs, capital goods and input services in accordance with the provisions of central excise Act, 1944, Central Excise Rules, Cenvat Credit Rules and discharging duty as well as filing ER 1 Return regularly. Further audit was conducted for the period from August 2014 to March 2016 and submitted Audit Report No.1202/2017 dated 28.03.2017 and audit has not accepted the replied filed by the assessee dated 28.03.2017 & 01.06.2017. Audit team has also asked for submission of cost accountants certificate to quantify the duty involved in on non inclusion of tools cost supplied free by FORD (amortisation of cost)
- M/s Ford had not physically supplied any tools/mould to them. In fact, they had purchased tools/moulds on account and direction of M/s FORD for the manufacture of vehicle parts to be manufactured and supplied to FORD subsequently. Since, said tools/moulds were purchased by them on behalf of FORD, they raised commercial invoices on M/s FORD to get reimbursement of price of tools/moulds purchased by us on account of FORD. They used same for manufacture of motor vehicle parts to be supplied to M/s FORD.
- the Audit team initially raised only point with respect of amortization on account of tools/moulds received free of cost. This fact is amply clear from letter issued under F. No. VI/1(b)-139/AP-VII/C-II/16-17/2644 dated 16.03.2017 by the Assistant Commissioner, Central Excise & ST, Cir. II, Audit-II. Subsequently the Audit team stretched above stated single point in to two points i.e. to demand of Central Excise duty (i) on amortization of tools/moulds supplied free of cost and (ii) on clearance of said tools/mould to FORD. Thus, the Audit and subsequently SCN have erred in demanding Central Excise duty twice on account of same goods i.e. same tools/moulds.
- the assessee have cleared tools/moulds on commercial invoice by charging VAT but without payment of duty of cenvat credit availed on the same and the said tools/moulds are not manufactured in factory but have been procured from outside and this fact came to the notice only

during audit is without any base and is only made with intent to demand duty without appreciating the facts of instant case.

- the assessee has got manufactured and procured tools/moulds on behalf of the M/s.Ford India Pvt.Ltd and have made payment to supplier, as per their requirement and terms of agreement entered into. However, as the said tooling equipments were procured on behalf of M/s.Ford India Pvt.Ltd, they raised commercial invoices by charging invoice on M/s.Ford India Pvt.Ltd for reimbursement of the payment towards the said tooling equipments. Legally assessee has sold the tools to M/s.Ford India Pvt.Ltd and M/s.Ford India Pvt.Ltd became the owner of said tooling equipments and allowed us to manufacture the motor vehicle parts for them by using said tooling equipments.
- That, from reading of above it is clear that Rule 3(5) of CCR, 2004, deals with situation where inputs or capital goods are removed as such, cenvat credit to the extent of credit availed has to be paid. Rule 3(5) deals with situation where capital goods on which cenvat credit has been availed are removed after use, the manufacturer shall pay an amount equal to the cenvat credit taken on the said capital goods reduced by the percentage points calculated by straight line method as specified in table therein for each quarter of a year or part thereof from the date of taking the cenvat Credit. Rule 3(5B) deals with situation where capital goods on which cenvat credit has been availed are written off fully or partially then the manufacturer shall pay an amount equivalent to the cenvat credit taken in respect of the said input or capital goods. However, in the instant case capital goods procured from customers to which Rule 3(5A) of CCR, 2004 is applicable only if the referred tools equipments are removed from the factory of assessee and that too, to the extent proportionate to their unused life.
- In the instant case only commercial invoices are raised for recovery of cost from customer and no tools equipments have been removed from the factory, hence neither central excise duty is payable nor cenvat credit is reversible to the extent of unutilized portion and hence the notice issued for recovery of central excise duty needs to be set aside on this ground. They have relied upon the following case laws in their support.
- CC Vs IOC Ltd., 2004 (165) ELT 257 (SC)
- UOI Vs Arviva Industries Ltd 2007 (209) ELT 5 (SC)
- In the present case, assessee has got manufactured and procured tooling equipments on behalf of the M/s.Ford India Pvt.Ltd. However, as the said tooling equipments were procured on behalf of M/s.Ford India Pvt.Ltd, assessee raised commercial invoices on M/s.Ford India Pvt.Ltd for reimbursement of the payment towards the said tooling equipments. Now, the M/s.Ford India Pvt.Ltd became the owner of the said tooling equipment and allowed them to manufacture the motor vehicle parts for them. Thus in view of the CircularNo.170/4/96-CX dated 23.01.1996 is required to be done.
- That notice has demanded Central Excise duty of Rs. 80,86,690/- on amortization of tooling equipments procured by assessee on behalf of M/s.Ford India Pvt.Ltd. However, the demand as worked out by the department is not supported by the Chartered Engineer's

certificate certifying the life of said tooling equipments. As at the time of submitting the compliance to the Audit, the inspection of tooling equipments by Chartered Engineer for providing the required Certificate was getting delayed and the Audit officers were pressuring for compliance, we as advised by audit team, calculated the value for amortization of tooling equipment by considering entire value of said tooling equipment divided by the number of motor vehicle parts manufactured by using said tooling equipment till May 2017. It is a fact that said tooling equipment had more life, was still with us and was being used for manufacture of motor vehicle parts even after May 2017. The Audit Officers were also apprised of the said facts. The amortization cost being considered in the Audit Report as well as the SCN is exorbitantly high. Now they have obtained certificate dated 06.06.2019 from CE regarding life of tools and moulds procured on behalf of M/s.Ford India Pvt.Ltd. From the working of duty payable, if any, after including amortization cost works out to Rs.7,95,248/- and not Rs.80,6,690/- worked out and paid by the assessee during audit.

- They have also relied upon the case law of Trent Plast Pouch P.Ltd Vs CCE & ST, Ahmedabad 2019 (5) TMI 576 (Tribunal Ahmedabad) & India Forge & Drop Stampings Ltd Vs CCE, Delhi -IV, 2018 (6) TMI 175 (Tribunal Chandigarh) vide it was clearly point out that entire value of tools/ tooling equipments cannot be considered for amortization and for calculation of amortized cost, Chartered Engineer's certificate is must. Therefore, assessee have, now, obtained Chartered Engineer's certificate as above. Chartered Engineer has with the help of charts annexed to the said certificate provided the life of each tools equipment. As can be observed from the Chartered Engineer's certificate, the life of said tooling equipments shown in the demand made in the SCN is much lower than the actual life. Under the circumstances, it is requested to set aside the demand made in excess of Rs.7,95,248/- and refund the balance amount after adjusting the interest amount on delayed payment of duty, which also is not demandable from us as same is hit by limitation of extended time as narrated in subsequent paras.
- It was further submitted that, the department cannot demand central excise duty on amortized cost of the tools equipments and also central excise duty on full value of tools equipments which cost is recovered from customers on commercial invoice without clearance of goods. Further, the department has not disputed the fact that the said tools were not cleared out of factory and were still being used in the factory.
- Demand of duty on full commercial value of tools equipments from M/s.Ford India Pvt.Ltd amounts to double taxation on same tools equipments which is not allowed under the law. In the case of INDIA FORGE AND DROP STAMPINGS LTD. cited supra, it was held that the department had made incorrect and legally not sustainable demand Central Excise duty in respect of entire value of the tools (Cylinders) and not on amortized cost of said cylinders. However, in the instant case, the Department has gone step beyond and have demanded Central Excise duty on amortized cost of tooling equipments as well as on entire value of the tooling equipments. Going by the above ratio of the decision of the Tribunal, the demand of Central Excise duty amounting to Rs. 97,02,362/- needs to be set aside. They relied upon the following cases

wherein it was held that when central excise duty has been paid on amortised cost of tools equipment again full duty cannot be demanded on clearance of such tools.

Sun Polytron Ind.Ltd Vs CCE, CApi 2009(238)ELT380(Tri-Ahmedabad
UOI Vs J.G.Glass Industries Ltd 1998 (97) ELT 5 SC
Phoenix Yule Ltd Vs CCE, Kolkata-III, 2018(7) TMI 683 (Tri Kolkata)

- From the above, it is clear that the department could demand central excise duty only on one point i.e. amortisation and which also required to be re calculated in light of CE certificate which works out duty payable at Rs.7,95,248/- as against the demand made and recovered RS.80,86,690/-.
- there is nothing in notice, which shows suppression of any information by assessee, which they were obliged to declare/ provide under law. Assessee have filed necessary Returns declaring therein the clearance of duty paid goods and clearances made as such and also the amount of Cenvat credit reversed under Rule 6 of the CCR, 2004 in monthly returns filed in ACES system which is supposed to be verified every month by Range office and approved by Division office. Further, there was no intention to evade payment of duty on assessee part because there is no dispute about amortization and payment of Central Excise duty thereon.
- They further stated that the assessee have proved their bonafide and have paid Central Excise duty amounting to Rs. 80,86,690/- as worked out and pointed out by audit team in excess of actual duty of Rs. 7,95,248/- vide GAR-7 challan No. 50125 dated 08.09.2017, while notice dated 28.02.2019 (received on 18.03.2019) has been issued thereafter i.e. after the lapse of period of more than one year from the said payment. Therefore, going by the above ratio of the decision of Tribunal, the demand raised by invoking extended period is not sustainable and needs to be set aside. They also stated that in view of the above facts, they are liable to pay any interest or penalty. They relied upon the following citation in their favour:
- Trend Plast pouch Pvt. Ltd. Vs CCE & ST, Ahmedabad, 2019 (5) TMI 576 (Tribunal-Ahmedabad)
- India forge & Drop Stampings Ltd. Vs CCE, Delhi-IV, 2018 (6) TMI 175 (Tribunal-Chandigarh)
- Sun Polytrom Industries Ltd. Vs CCE, Vapi, 2009 (238) ELT 380 (Tri. - Ahemdabad)
- UOI Vs J. G. Glass Industries Ltd., 1998 (97) E.L.T. 5 (SC),
- Phoenix Yule Ltd. Vs CCE, Kolkata-III, 2018 (7) TMI 683 (Tri-Kolkata)
- CCE Vs H.M.M. Limited 1995 (76) ELT 497 (SC)
- Cosmic Dye Chemical Vs CCE, Bombay, 1995 (75) ELT 721 (SC)
- Continental Foundation Jt Venture Vs CCE, Chandigarh, 2007 (216) ELT 177 (SC)
- Johnson Lifts Pvt. Ltd. VS CC & CE, Nagpur, 2016 (3) TMI 945 - (Tri-Mumbai)

- CCE, Chennai-II Vs. Sundaram Dynacast Ltd., 2015 (10) TMI 848 – (CESTAT Chennai)
- CCE Vs VAE VKN Industries Pvt. Ltd., 2005 (322) ELT 269 (Punjab & Haryana High Court)
- Jai Bharat Maruti Ltd Vs CCE, Delhi-III [2014 (307) ELT 282 (Punjab & Haryana High Court) and others and requested to drop the matter.

On the basis of the above clarifications and points, the assessee requested to set aside the demand of Rs.80,86,690/- on value of amortization of tools equipments supplied free of cost. They further agreed to pay the appropriate duty of Rs.7,95,248/- on account of amortised cost as certified by the Chartered Engineer though the same is hit by limitation of time. The demand of duty of Rs.97,02,362/- on value of tools equipments not cleared from factory is not sustainable on facts, merits as well as law may be set aside. They have also produced copies of FAR, Chartered Engineer's certificate, Cost Accountant Certificate, duty calculation, copies of invoices, copies of various citation etc in support of their claim.

PERSONAL HEARING

10. In the instant case, Personal Hearing was granted to the assessee on 17.02.2023 & 02.06.2023. Shri Parth R Joshi, CA, authorised representative of the noticee attended for P.H. on behalf of the assessee. He reiterated their written submissions dated 30.11.2020, 17.02.2023 & 09.05.2023 during the P.H and requested to decide the SCN on merits.

DISCUSSION AND FINDINGS

11. The proceedings under the provisions of the Central Excise Act, 1944 and Rules made thereunder are saved by Section 174(2) of the Central Goods & Service Tax Act, 2017 and accordingly I am proceeding further.

12. In this regard, I have gone through the Show Cause Notice dated 28.02.2019 along with Annexure A, Final Audit Report No.1202/2017-18 dated 28.03.2018, Hon'ble settlement Commission's letter F.No.24/Ex/AG/2020-SC(MB) dated 03.12.2021 wherein it was directed the assessee to approach the adjudicating authority for further process, the reply to SCN and other documents available on file. On perusal of the above records, I find that the Hon'ble settlement Commission vide their letter F.No.24/Ex/AG/2020-SC(MB) dated 03.12.2021 directed the assessee to approach the adjudicating authority for further process. Accordingly I take this SCN for further disposal.

13. In the instant case, I find that the assessee is engaged in the manufacture of Motor Vehicle Parts falling under Chapter 87 of the Central Excise Tariff Act, 1985. The said assessee was holding Central Excise Registration No. AABCC3665PEM004 and Service Tax Registration No AABCC3665PSD004, respectively and was availing the facility of cenvat credit on Inputs, Input Services and Capital Goods under the provisions of Cenvat Credit Rules, 2004. During the course of audit for the period FY 2014-15 to 2016 - 17, During the process of Audit, two points were remained disputed i.e. Non payment of Central Excise duty of Rs.80,86,690/- on amortised value of tools supplied by the buyer free of cost and Non payment of central excise

duty of Rs.97,02,362/- on sale of tools. Accordingly instant SCN was issued demanding central excise duty on the two points. Hence the issues which are to be discussed are as follows:

- a) Whether the value of tools amounting to Rs 6,46,93,520/- received from M/s. Ford India Pvt. Ltd., free of cost, for the period from 2014-15 to 2016-17, should not be considered as money value of additional consideration flowing from the buyer in terms of Section 4 of the Central Excise Act, 1944 read with clause (ii) of Explanation 1 to Rule 6 of the Valuation Rules and the unpaid central excise duty of Rs 80,86,690/-, on the amortized value of tools, should not be demanded and recovered from them, under the provisions of Section 11A(4) of the Act or not and
- b) Whether the Central Excise duty demand amounting to Rs.97,02,362/- not paid on clearance of Tools/Moulds to M/s. Ford India Pvt. Ltd., should not be demanded and recovered from them under Section 11A (4) of Central Excise Act, 1944 ;

14. For the sake of clarity, I would like to discuss the matter point wise. The first point to be decided is whether the value of tools amounting to Rs 6,46,93,520/- received from M/s. Ford India Pvt. Ltd., free of cost, for the period from 2014-15 to 2016-17, should not be considered as money value of additional consideration flowing from the buyer in terms of Section 4 of the Central Excise Act, 1944 read with clause (ii) of Explanation 1 to Rule 6 of the Valuation Rules and the unpaid central excise duty of Rs 80,86,690/-, on the amortized value of tools, should not be demanded and recovered from them, under the provisions of Section 11A(4) of the Act or not.

15. In this connection, I have gone through the Show Cause Notice alongwith Annexure A, reply to SCN, Certificate issued by Chartered Engineer and Cost Accountant, additional submissions of the assessee and other documents available and find that during the audit it was observed that the said assessee was engaged in the manufacture of motor vehicles parts for M/s. Ford India Pvt. Ltd. The tools required for manufacture of motor vehicle parts were provided, free of cost, by M/s. Ford India Pvt. Ltd. to the said assessee. On further scrutiny, it appeared that the said assessee had not included the cost of tools supplied by the buyer, i.e, M/s. Ford India Pvt. Ltd., while arriving at the assessable value on sale of motor vehicle parts to M/s Ford India Pvt. Ltd, as per provisions of clause (ii) of Explanation 1 to Rule 6 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 ('Valuation Rules'). In this connection, I reproduce the relevant portions of the Act and Rule is reproduced as under:

Section 4 of the Central Excise Act, 1944 ('Act') reads as under:

SECTION 4. Valuation of excisable goods for purposes of charging of duty of excise.

- (1) *Where under this Act, the duty of excise is chargeable on any excisable goods with reference to their value, then, on each removal of the goods, such value shall-*
 - (a) *in a case where the goods are sold by the said assessee, for delivery at the time and place of the removal, the said assessee and the buyer of the*

goods are not related and the price is the sole consideration for the sale, be the transaction value;

(b) in any other case, including the case where the goods are not sold, be the value determined in such manner as may be prescribed”.

[Explanation. — For the removal of doubts, it is hereby declared that the price-cum-duty of the excisable goods sold by the assessee shall be the price actually paid to him for the goods sold and the money value of the additional consideration, if any, flowing directly or indirectly from the buyer to the assessee in connection with the sale of such goods, and such price-cum-duty, excluding sales tax and other taxes, if any, actually paid, shall be deemed to include the duty payable on such goods.]

Rule 6 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 (hereinafter referred to as Valuation Rules) reads as under:

RULE 6. Where the excisable goods are sold in the circumstances specified in clause (a) of sub section (1) of section 4 of the Act except the circumstance where the price is not the sole consideration for sale, the value of such goods shall be deemed to be the aggregate of such transaction value and the amount of money value of any additional consideration flowing directly or indirectly from the buyer to the assessee.

[Provided that where price is not the sole consideration for sale of such excisable goods and they are sold by the assessee at a price less than manufacturing cost and profit, and no additional consideration is flowing directly or indirectly from the buyer to such assessee, the value of such goods shall be deemed to be the transaction value.]

[Explanation 1] - For removal of doubts, it is hereby clarified that the value, apportioned as appropriate, of the following goods and services, whether supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale of such goods, to the extent that such value has not been included in the price actually paid or payable, shall be treated to be the amount of money value of additional consideration flowing directly or indirectly from the buyer to the assessee in relation to sale of the goods being valued and aggregated accordingly, namely :-

.....

(ii) value of tools, dies, moulds, drawings, blue prints, technical maps and charts and similar items used in the production of such goods”

16. When the above provisions are read conjointly, it is clear that in circumstances where price is not the sole consideration for sale, the value of such goods shall be deemed to be the aggregate of the transaction value and the amount of money value of any additional consideration flowing directly or indirectly from the buyer to the assessee. In the present instance, the value of the tools supplied by the buyer, i.e., M/s FORD India Pvt. Ltd., free of charge, in connection with the production and sale of motor vehicle parts, shall be treated as an additional consideration, flowing indirectly from M/s. FORD India Pvt. Ltd to the said assessee. Hence, I find that the amount of money value of additional consideration, i.e, value of tools supplied by M/s. Ford India Pvt. Ltd. to the said assessee, free of charge, apportioned as appropriate, is required to be loaded in the assessable value of the motor vehicle parts, sold to

M/s. FORD India Pvt. Ltd., by the said assessee, in terms of clause (ii) of Explanation 1 to Rule 6 of the Valuation Rules

17. In this connection, the assessee in their reply to SCN stated that the demand as worked out by the department is not supported by the Chartered Engineer's certificate certifying the life of said tooling equipments. At the time of submitting the compliance to the Audit, the inspection of tooling equipments by Chartered Engineer for providing the required Certificate was getting delayed and the Audit officers were pressuring for compliance, therefore as advised by audit team, calculated the value for amortization of tooling equipment by considering entire value of said tooling equipment divided by the number of motor vehicle parts manufactured by using said tooling equipment till May 2017. It was a fact that said tooling equipment had more life, was still with them and was being used for manufacture of motor vehicle parts even after May 2017.

18. I have gone through the contention of the assessee wherein they stated that the audit party has arrived the amortised value without certificate from Chartered Engineer/cost accountant and they have paid the duty under pressure from the audit party on the full value. Now they have filed a certificate dated 06.06.2019 from a chartered engineer and a certificate dated 09.05.2023 from cost accountant wherein they have arrived at Rs.63,61,985/- as the amortised value of the goods in question and accordingly the excise duty payable was worked out at Rs.7,95,249/- instead of Rs.80,86,690/- arrived on the value of Rs.6,46,93,520/- at the time of audit by the audit party. They contended that while for calculating the amortised value, the clarification issued by the Board vide Circular No.170/4/96-CX dated 23.01.1996 needs to be considered. They also stated that the Hon'ble Supreme Court in the case of CC Vs IOC Ltd 2004 (165) ELT 257 (SC) and UIO Vs. Arviva Industries Ltd 2007 (209) ELT 5 (SC) it was held that Board circulars are binding on the department. In view of the above they requested that by going by the above circular amortization of value of said tooling equipments only is required to be done in their case also.

19. In this connection, I have gone through the of Circular No.170/4/96-CX dated 23.01.1996, wherein the issue of calculation of assessable value of castings, addition of value patterns supplied by the buyers in the assessable value has been clarified by the Board as under:

"The matters has been examined and it is hereby clarified that the proportionate cost of pattern has to be included in the assessable value of the casting even in cases, where such patterns are being supplied by the buyers of the casting or are got prepared / manufactured by the job worker at the cost of the buyer. In cases where there is difficulty in apportioning the cost of pattern, apportionment can be made depending on the expected life and capability of the pattern and the quantity of castings that can be manufactured from it and thus working the cost to be apportioned per unit. For this purpose, a certificate from a Cost Accountant, may be accepted".

20. On perusal of the said Circular, I find that the matter of addition of value of patterns supplied by the buyers in the assessable value was clarified in the said Circular and accordingly in cases where there is difficulty in apportioning the cost of pattern, apportionment can be made depending on the

expected life and capability of the pattern and the quantity of castings that can be manufactured from it and thus working the cost to be apportioned per unit. For this purpose, a certificate from a Cost Accountant, may be accepted. The Circular prescribes that if there is any difficulty in the apportionment, a certificate from the cost accountant may be accepted.

21. In this connection, the assessee submitted copies of letters dated 17.03.2017 & 23.03.2017 received from the Audit, wherein the audit party has asked for Certificate from engineer and cost accountant for calculating amortization value. They have also submitted assessee's reply dated 28.03.2017 & 01.06.2017 wherein they submitted that the duty on the amortised value of tools/moulds supplied them by M/s.Ford India P.Ltd was being ascertained by the Chartered Engineer and Cost accountants and on determination of value they will pay the remaining excise duty by way of supplementary invoices and will report the compliance. Meanwhile the audit was finalized and FAR No.1202/2017-18 was issued on 28.03.2018 and the issue was concluded by in Revenue Para No.7 of the FAR. In the audit report, it was mentioned that the in view of Rule 6 of Valuation Rules, 2000, the cost of tools supplied by Ms/Ford India P. Ltd was to be taken while calculating the assessable value of parts sold to M/s. Ford India P. Ltd. On being pointed out the assessee calculated the amount of tools as detailed in annexure which was arrived at Rs.6,46,96,520/- and required to pay excise duty of Rs.80,86,690/- without considering any Certificate for amortization and accordingly they have paid the amount vide challan No.50125 dated 08.09.2017 but not paid any interest or penalty. On perusal of the said Audit Para and the relevant SCN, I find that the department has arrived the value at Rs.6,46,96,520/- as the cost of tools, however nothing is mentioned whether the value is arrived on amortised or not. Neither in the FAR nor in the SCN, it has been mentioned that the value arrived is on the basis of any certificate issued by any Chartered Engineer or Cost Accountant as required Circular 170/4/96-CX dated 23.01.1996 supra.

22. In this connection, I have gone through the relevant portion of the Central Excise valuation Rules which reads as under:

Rule 6 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 (hereinafter referred to as Valuation Rules) reads as under:

RULE 6. Where the excisable goods are sold in the circumstances specified in clause (a) of sub section (1) of section 4 of the Act except the circumstance where the price is not the sole consideration for sale, the value of such goods shall be deemed to be the aggregate of such transaction value and the amount of money value of any additional consideration flowing directly or indirectly from the buyer to the assessee.

[Provided that where price is not the sole consideration for sale of such excisable goods and they are sold by the assessee at a price less than manufacturing cost and profit, and no additional consideration is flowing directly or indirectly from the buyer to such assessee, the value of such goods shall be deemed to be the transaction value.]

*[Explanation 1] - For removal of doubts, it is hereby clarified that the value, **apportioned as appropriate**, of the following goods and services, whether supplied directly or indirectly by the buyer free of charge or at reduced cost*

for use in connection with the production and sale of such goods, to the extent that such value has not been included in the price actually paid or payable, shall be treated to be the amount of money value of additional consideration flowing directly or indirectly from the buyer to the assessee in relation to sale of the goods being valued and aggregated accordingly, namely :-

.....

value of tools, dies, moulds, drawings, blue prints, technical maps and charts and similar items used in the production of such goods”

23. On perusal of the explanation of the said Rule, it is clear that the value of tools, dies, moulds, drawings, blue prints, technical maps and charts and similar items used in the production of such goods is should be **apportioned as appropriate** and not the full value of the goods as taken in the FAR and SCN. If there is any difficulty in arriving the said apportioned figure, the Board vide Circular No.170/4/96-CX dated 23.01.1996, the matter was clarified as in cases where there is difficulty in apportioning the cost of pattern, apportionment can be made depending on the expected life and capability of the pattern and the quantity of castings that can be manufactured from it and thus working the cost to be apportioned per unit. For this purpose, a certificate from a Cost Accountant, may be accepted.

24. In this connection, I have gone through the copies of all the invoices and find that the excise duty of Rs.80,86,690/- is demanded on entire assessable value of Rs.6,46,93,520/- which is the total value of the tools. However as per the above Valuation Rules, excise duty on value of tools, dies, moulds, drawings, blue prints, technical maps and charts and similar items used in the production of such goods is should **apportioned as appropriate** and not the full value of the goods. Here in this case, the SCN is proposed to recover central excise duty of Rs.80,86,690/- on the entire assessable value of Rs.6,46,93,520/- instead of amortised value which is contrary to provisions of Valuation Rules and Circular.

25. In view of the above facts, I find that the before issuance of FAR or SCN, the certificate issued by the Chartered Engineer or Cost accountant, as envisaged in the Valuation Rules and Circular, has not been considered by the issuing authorities. On perusal of the records, I find that the demand has been proposed on the full value, and not on the amortised value, which is contrary to the provisions of the Rules and relevant Circular issued by the Board. During the course of audit, the department vide various letters 17.03.2017 & 23.03.2017 asked for Chartered Engineer/Cost Accountant Certificate to arrive at amortised value. However they did not produce any certificate as required by the audit. In this connection, the assessee has furnished a certificate dated 06.06.2019 from Chartered Engineer, Shri M.G.Bhatt wherein it was certified that they have examined the documents viz. invoices, production reports with regard to tools/moulds and parts thereof used by the assessee in relation to the life span of tools/equipment/molds. They assessee has also furnished a certificate dated 09.05.2023 from Cost Accountant firm M/s. Pant S & Associates wherein it was certified that amortization value of Rs.63,61,986/- as per explanation 1 to the Rule6 of the Central Excise Valuation (Determination of price of excisable goods) Rules, 2000 on examination of invoices , production reports and books of accounts of the assessee. They have also verified the sales invoices of tooling equipments/moulds and also certified that on

verification it was also confirmed that the same set of tools equipments/moulds are mentioned have been used in the manufacture of motor vehicle parts by assessee. They have also arrived the amortised value in each invoice and according to which the total value is arrived at Rs.63,61,95.98 and the duty involved is Rs.7,95,248/-. On perusal of the Certificate, I find that the certificate was issued only on 06.06.2019 while the FAR was issued on 28.03.2018 and SCN was issued on 28.02.2019 i.e.before submission of Certificate from Chartered Engineer/Cost accountant. On perusal of these documents, I find that the Certificates were issued after issuance of SCN, therefore, the value arrived in the SCN is without considering the Certificate which proves that the value arrived for demanding central excise duty is without considering the Certificate issued by the Chartered Engineer/Cost Accountant. Therefore to determine the matter, I have no option but to consider the Circular No.170/4/96-CX, dated 23.01.1996 and also the decisions of CC Vs IOC Ltd 2004 (165) ELT 257 (SC) and UIO Vs. Arviva Industries Ltd 2007 (209) ELT 5 (SC). Accordingly, I consider the certificate issued by the Chartered Engineer and Cost Accountant for arriving the amortization value of the tools supplied free of cost.

26. In this connection, the assessee has submitted the following two case laws wherein the similar issue is involved. Hence, I have also gone through the case law of M/s.Trent Plast Pouch P.Ltd VS CCE& ST, Ahmedabad, 2019 (5) TMI 576 (Tribunal Ahmedabad) wherein the Hon"ble Tribunal held that *" as per Rule 6 of Central Excise Valuation Rules, since the cylinder was owned by the buyer of the finished goods which were used by the appellant, its amortization cost is to be added in the value of the goods i.e.plastic pouches. As per the facts of the case, revenue has demanded the duty on the entire value of the cylinder, which is not correct and legal, and only amortized cost of each product is to be added and on that basis first, amortised cost according to the capacity of the cylinder has to be worked out and the said amortised cost can only be added in respect of number of products manufactured and cleared by the appellant. Therefore the method adopted i.e. demand on the entire value of cylinder is incorrect. For the purpose amortization cost, Chartered Engineer can certify the capacity of the cylinder and corresponding amortization cost per piece of product. Since the said exercise was not carried out and the demand was confirmed on the basis of value of cylinder, it is not correct and legal."*

27. The same issue was again concluded in the case law of India forge & Drop stampings Ltd Vs CCE, Delhi IV 2018 (6) TMI 175 (Tribunal Chandigarh) held that *" the issue of apportioning the cost of patterns to assessable value of castings made from patterns was considered by CBEC in Circular dated 23.01.1996 where it was laid down that the proportionate cost of pattern has to be included in the assessable value of casting even in cases such patterns are being supplied by the buyers of the casting or are got prepared/manufactured by the job workers at the cost of the buyer. The issue of apportionment of cost of mouldes and dies, where the use of moulds and dies is spread over long period was dealt by this Tribunal in the case of Flex Industries Ltd (1997 (1) TMI 173 -CEGAT, New Delhi) wherein this Tribunal after considering the aforesaid Board"s Circular dated 23.01.1996 has held that the conclusion arrived at by the lower authorities that the entire value o the cylinders is to be added to the value of printed pouchers manufactured during the relevant period without reference to the expected life and capacity of the cylinders has to*

be set aside and the matter has to be considered afresh by the respective adjudicating authorities”.

28. On perusal of the above case laws and SCN, I find that the matter is similar in the instant SCN wherein the excise duty is demanded on the full value of the goods instead of amortised value as determined on the basis of certificate issued by the Chartered Engineer/Cost Accountant. The contention of the assessee that they could not produce any certificate of Chartered Engineer/Cost accountant is substantiated by their letters to the audit party wherein they sought time to submit the certificate for arriving amortised value. However neither in the FAR nor in the SCN, it has been mentioned that the assessable value on which duty demanded is amortised one as per Valuation Rules or Circular. Now they have produced the Certificates issued by the Chartered Engineer as well as Cost Accountant wherein they have given the detailed calculation of amortised value of each invoice. I have gone through the certificates and find that that the certificate consists of part No. description, quantity, original value of tools/moulds and excise duty involved, amortised value and excise duty thereof. While issuing the certificate they have certified that they have examined the invoices, production reports and books of accounts with regard to tools/moulds and parts thereof used by the assessee. It was also certified that the same set of tooling equipment/moulds have been used in the manufacturer of motor vehicle parts of the client and amortised value has been arrived as per explanation 1 to the Rule 6 of the Central Excise Valuation (determination of prices of excisable goods) Rules, 2000. In view of the above facts, I accept the amortised value determined by the Chartered engineer and Cost Accountant as the assessable value for determining the excise duty.

29. Further, I have gone through the relevant invoices, value, Certificate issued by Chartered Engineer and Cost Accountant, detailed calculation sheet of amortised value, according to which the total amortised value comes to Rs.63,61,985/- instead of total assessable value of Rs.6,46,93,520/- as proposed in the SCN. Accordingly the Central Excise duty is calculated at Rs.7,95,248/- instead of the total central excise duty demanded of Rs.80,88,345/-. In view of the above facts, I find that the assessee is required to pay excise duty of Rs.7,95,248/- on amortised value of Rs.63,61,985/- instead of Rs.80,88,345/- on the amortised value of Rs.6,46,93,520/-.

30. In view of the above facts and figures, I determine Rs.63,61,985/- as the amortised value of tools received from M/s. Ford India P. Ltd, free of cost, for the period 2014-15 to 2016-17 and considered it as money value of additional consideration flowing from the buyer in terms of Section 4 of CEA, 1944 read with clause (ii) and is required to be added on sale value of motor vehicle parts for the purpose of payment of central excise duty. Further, I confirm the demand of Rs.7,95,248/- on the amortised value of tools as per Section 11A(4) of the Act. Further, on perusal of the SCN, I find that the assessee has already paid an amount of Rs.80,86,690/- during the time of audit vide challan No.50125 dated 08.09.2017 as demanded by the audit. Hence, I appropriate the confirmed central excise duty of Rs. 7,95,248/- paid vide challan No.50125 dated 08.09.2017 against the above said confirmed demand. I also find that the assessee has paid excess excise duty to the tune of Rs.72,91,442/- on account of excise duty on amortised value, the same is

required to be refunded to the assessee as they are liable to pay only Rs.7,95,248/- instead of Rs.80,86,890/- as proposed in the SCN.

31. The other point is to be decided is whether the Central Excise duty amounting to Rs.97,02,362/- not paid on clearance of Tools/Moulds to M/s. Ford India Pvt. Ltd., should not be demanded and recovered from them under Section 11A (4) of Central Excise Act, 1944. In this regard, on perusal of the records, I find that the said assessee has procured Tools/Moulds on behalf of M/s. Ford India Pvt. Ltd and availed cenvat credit under the provisions of Cenvat Credit Rules, 2004. The said assessee has put the Tools/Moulds into use and subsequently sold the same to M/s. Ford India Pvt. Ltd. by issuing Commercial invoices on payment of VAT but without payment of Central Excise duty, during the F.Y. 2015-16 and 2016-17, respectively. The details are as given in the Table below:-

Sr. No.	Commercial Invoice Value	Central Excise duty(Payable)
F.Y. 2015-16	Rs. 5,15,41,748/-	Rs. 57,28,434/-
F.Y. 2016-17	Rs. 2,60,77,145/-	Rs. 39,73,928/-
Total	Rs. 7,76,18,893/-	Rs. 97,02,362/-

32. In this connection, I have gone through the FAR, SCN, reply to SCN alongwith copies of invoices, commercial invoices and find that said assessee has procured tools/Moulds from various manufacturers; also sold the goods to M/s. FORD India Pvt. Ltd. under Commercial invoices but have deliberately suppressed the details in the ER-1 returns filed by them and also deliberately failed to pay central excise duty on the assessable value of the tools cleared by them to M/s. FORD India Pvt. Ltd. It was only on scrutiny of the sales invoices during audit, that the department came to know that the said assessee had not manufactured tools within their factory premises but had procured such tools from tool manufactures which are then sold to M/s. Ford India Pvt. Ltd. under commercial invoices, charging VAT but without paying central excise duty by claiming exemption under Notification No.67/95-CE dated 16.3.1995. The said assessee was aware that the tools have not been manufactured within their factory premises and that they have deliberately and wrongfully claimed exemption under Notification No.67/95-CE dated 16.3.1995. The fact of clearance of tools to M/s. Ford India Pvt. Ltd. was neither intimated nor disclosed to the department at any point of time. Thus, it appeared that the said assessee had deliberately and purposefully suppressed / withheld the material facts from the department with an intent to evade payment of central excise duty on sale of tools by wrongly availing the benefit of Notification No.67/95-CE dated 16.3.1995. As per their records, the said assessee have cleared and sold tools valued at Rs.5,15,41,748/-in 2015-16 and Rs.2,60,77,145/-in 2016-17, thus totaling Rs. 7,76,18,893/-, on which central excise duty comes to Rs. 97,02,362/-.

33. In this regard, the assessee in their reply stated that they have cleared tools/moulds on commercial invoice by charging VAT but without payment of duty and the said tools/moulds are not manufactured in factory but have been procured from outside and this fact came to the notice only during audit is without any base and is only made with intent to demand duty without appreciating the facts of instant case. They have got manufactured and procured tools/moulds on behalf of the FORD and have made payment to supplier, as per their requirement and terms of agreement entered into.

However, as the said tooling equipments were procured on behalf of M/s.Ford India Pvt.Ltd , they raised commercial invoices by charging invoice on M/s.Ford India Pvt.Ltd for reimbursement of the payment towards the said tooling equipments. Legally assessee has sold the tools to M/s.Ford India Pvt.Ltd and M/s.Ford India Pvt.Ltd became the owner of said tooling equipments and allowed us to manufacture the motor vehicle parts for them by using said tooling equipments. They further stated that they had not paid central excise duty on sale of Tools as the said Tools were not removed from the factory and the same are still used in the factory for production of excisable goods; that they have not paid Central Excise duty as per Notification No.67/95-CE dated 16.03.1995.

34. In this connection, the assessee further submitted that, the department cannot demand central excise duty on amortized cost of the tools equipments and also central excise duty on full value of tools equipments which cost is recovered from customers on commercial invoice without clearance of goods. Further, the department has not disputed the fact that the said tools were not cleared out of factory and were still being used in the factory. Demand of duty on full commercial value of tools equipments from M/s.Ford India Pvt.Ltd amounts to double taxation on same tools equipments which is not allowed under the law. In the case of INDIA FORGE AND DROP STAMPINGS LTD. cited supra, it was held that the department had made incorrect and legally not sustainable demand Central Excise duty in respect of entire value of the tools (Cylinders) and not on amortized cost of said cylinders. However, in the instant case, the Department has gone step beyond and have demanded Central Excise duty on amortized cost of tooling equipments as well as on entire value of the tooling equipments. Going by the above ratio of the decision of the Tribunal, the demand of Central Excise duty amounting to Rs. 97,02,362/- needs to be set aside

35. In this connection, I have gone through the SCN and details reply thereof given by the assessee. On perusal of the same, I find that the SCN is proposed to recover Central Excise duty on the goods cleared by the assessee to M/s.Ford India Ltd on commercial invoice. In this the connection, I have gone through the reply of the assessee wherein it was stated that they have got manufactured and procured tools/moulds on behalf of M/s. FORD India Ltd and have made payment to supplier, as per their requirement and terms of agreement entered into. However, as the said tooling equipments were procured on behalf of M/s.Ford India Pvt.Ltd, they raised commercial invoices by charging invoice on M/s.Ford India Pvt.Ltd for reimbursement of the payment towards the said tooling equipments. Legally assessee has sold the tools to M/s.Ford India Pvt.Ltd and M/s.Ford India Pvt.Ltd became the owner of said tooling equipments and allowed us to manufacture the motor vehicle parts for them by using said tooling equipments. They further stated that they had not paid central excise duty on sale of Tools as the said Tools were not removed from the factory and the same are still used in the factory for production of excisable goods. On perusal of the SCN, FAR and other records, I find that the point of the assessee is acceptable. They have not coming to the aspect of removal of tools/moulds, the Show Cause Notice has not given any specific documents to corroborate the argument that the goods were actually removed from assessee's factory, instead he relied on the details of date, time and destination of removal reflected in the commercial invoices. The appellant have strongly contended that commercial invoices were raised only to transfer title of the goods to M/s.Ford India Pvt.Ltd without actual removal of goods. Further,

the liability to pay central excise duty on manufactured goods arises on the instance when the goods are removed.

36. In the present case, other than the commercial invoices, there is no evidence on record, to prove that the goods in question were physically removed from the appellant's factory premises. Issuing commercial invoice for transferring the title of goods without actually removing them from factory is an understanding between the assessee and M/s. Ford India Pvt. Ltd. This arrangement appears to have been made to avoid unnecessary transit of goods. Removal cannot be established merely based on the commercial invoices wherein date, time and place of removal are mentioned but all other relevant details are missing.

37. It is also observed that the Central Excise duty levied under the Central Excise Act, 1944 is on manufacture of goods. However, the payment of duty is required to be made only at the time of removal of goods from the factory. To levy central excise duty, it would be essential to establish that the assessee manufactured tools/moulds and duty shall be paid when goods are removed from the place of manufacture. In the present case the assessee has got manufactured and procured tools/moulds on behalf of the F M/s.Ford India Pvt.Ltd and have made payment to supplier, as per their requirement and terms of agreement entered into. However, as the said tooling equipments were procured on behalf of M/s.Ford India Pvt.Ltd, they raised commercial invoices by charging invoice on M/s.Ford India Pvt.Ltd for reimbursement of the payment towards the said tooling equipments. Legally assessee has sold the tools to M/s.Ford India Pvt.Ltd and M/s.Ford India Pvt.Ltd became the owner of said tooling equipments and allowed us to manufacture the motor vehicle parts for them by using said tooling equipments.

38. Even otherwise, the assessee is discharging the excise duty on the amortized value of the tools/moulds at the time of raising invoice for final goods sold to M/s.Ford India Pvt.Ltd. Further, these tools/moulds were intended for utilization in the further production of final excisable goods, as these assembled tools / moulds even if removed by the assessee will be sent back by M/s.Ford India Pvt.Ltd to the assessee to be used in further manufacture of motor vehicle parts on behalf of M/s.Ford India Pvt.Ltd. Hence the argument that the goods have not been removed or cleared from the factory appears convincing.

39. As far as removal of moulds/tools are concerned the allegation in the Show Cause Notice has not been supported by specific documentary evidence to substantiate the argument that the goods were removed from assessee's premises instead they relied upon the details reflected in the commercial invoice only. The assessee contended that the commercial invoices raised only to transfer title of goods to M/s.Ford India Pvt.Ltd without actual removal of goods. The liability to pay central excise duty on manufactured goods arises on the instance when the goods are removed. In the instant issue, other than commercial invoice, I find no evidence on record to prove that the goods in question were removed physically from the assessee's factory premises. Issuing commercial invoice for transferring the title of goods without actually removing from factory is an understanding between the assessee and M/s.Ford India Pvt.Ltd. This arrangement appears to have been made to avoid unnecessary transit of goods.

40. Further, it was also seen that the assessee has already agreed and paid excise duty on the amortised value of the tools/moulds by the assessee which was appropriated as discussed in Para 29 above. These finished motor parts are subsequently sold to M/s.Ford India Pvt.Ltd on payment of excise duty, which includes duty on amortized tools/moulds cost. So in the entire valuation, I find that the amortized costs of tools are included on which appropriate central duty is discharged. Central Excise duty demand cannot be raised merely because commercial invoices were raised to M/s. Ford India Ltd. Even if commercial invoices were raised, as long as the payment of VAT on such commercial invoice is not disputed by the department, liability to pay Central Excise duty does not arise unless these goods are physically removed from their factory. Therefore, I hold that the appellant is not required to pay excise duty on tools/ moulds when the same were not actually removed to M/s. FORD and also have paid central excise duty of the amortised value of the tools in question.

41. Further the assessee also claimed that the demand of duty on full commercial value of tools equipments from M/s.Ford India Pvt.Ltd amounts to double taxation on same tools equipments which is not allowed under the law. Here the department has demanded central excise duty on amortised cost of tooling equipments as well as the entire value of tooling equipments i.e. double taxation on a single item. They relied upon the ruling of India Forge & Drop stampings Ltd. Vs.CCE, Delhi IV, 2018 (6) TMI 175 (Tribunal Chandigarh). I have gone through the case law wherein the hon'ble Tribunal held that "*the issue of apportionment of the cost of moulds and dies, where the use of moulds and dies is spread over long period was dealt by this Tribunal in the case of Flex Industries Ltd (1997 (I) TMI 173 - CEGAT - New Delhi) wherein this Tribunal after considering Boards Circular dated 23.01.1996 has held that the conclusion arrived at by the lower authorities that entire value of the cylinders is to be added to the value of printed pouches manufactured during the relevant period without reference to the expected life and capability of cylinders has to be set aside and the matter has to be considered afresh by the respective adjudicating authorities*". Vide above decision the Tribunal held that the entire value of goods without reference to the expected life and capability of cylinders cannot be considered for duty demand. Similarly in the instant case also demand of duty of the entire value without considering the expected life and capability is not sustainable. In this connection, I find that the duty demanded should be amortised value only and not on the full value.

42. Thus by considering all the facts and case laws, I find that the department has already demanded and appropriated central excise duty on the amortised value of the tools procured by the assessee on behalf of M/s.Ford India Pvt.Limited, further demand of central excise duty on the same tools on the basis of commercial invoice issued is not tenable in law. It is a fact that the goods are still in the premises of the assessee and are being used for the manufacturing activities on behalf of M/s. Ford India Pvt.Ltd. As long as the goods were not physically cleared from the premises of the assessee to M/s.Ford India Pvt.Ltd and are still lying in the premises of the assessee, as discussed above, department cannot demand duty on the said goods and any such demand will lead to double taxation on same goods. Hence the central excise demand of Rs.97,02,362/- is not sustainable in law and therefore the same is required to be dropped.

43. Further the issue has been settled by the Ahmedabad CESTAT in the case of Commissioner of C.Ex. Vadodara Vs Automotive Stamping & Assemblies Ltd {2013 (298) ELT 591 } wherein it was held that

“ Demand – mere fact of raising invoice in favour company does not create a liability for charging duty – tools and dies manufactures and used in own factory for manufacture of components for customer – Notification 67/95-CE exempts capital goods as defined in Cenvat Credit Rules, 2004 manufactured and used within the factory of production – in case of revenue that goods have been removed from factory at all – levy of excess duty is in relation to manufacture and nothing to do with the sale – No merits in appeal – demand of duty not imposable –section 11A of CEA, 1944 – appeal rejected

..... I also find that the decision of the Tribunal in the case of BPL Electronics Ltd Vs.CCE Bangalore reported in 1994 (71) ELT 801 (Tribunal) , Elcon Clipsal India Ltd Vs.CCE, Ahmedabad reported in 2002 (146) ELT 360 (Tri- Delhi) are applicable to the facts of this case. In both the case, the Tribunal took the view that notification nowhere provides that the use of capital goods should be on account of the manufacturer. It was also observed by the Tribunal in the case of BPL Electronics Ltd that mere fact of raising any invoice in favour of a company does not crate a liability for charging duty. It was also held that levy of excess duty is in relation tom manufacture and has nothing to do with the sale. Since both the decisions of Tribunal are applicable to the facts of this case and the Notification also has no restriction, I find that the appeal filed by the revenue has no merits Accordingly appeal is rejected “ On perusal of the above referred case law, I find that the circumstances of the said decision is squarely applicable in this case also. In view of the above, the allegation that the assessee availed benefit of Notification No.67/95 wrongly is not sustainable.

44. In view of the above facts and findings, legal provision in force at the material time and documentary evidence produced by the assessee, I find that the assessee is not liable to central excise duty of Rs.97,02,362/- on the tools/ moulds when the same were not actually removed to M/s. FORD and also have paid central excise duty of the amortised value of the tools in question. Thus the subject demand is liable to be dropped on merits being in correct and legally not sustainable. Further since there is no short payment of tax by the assessee, as alleged in the SCN, accordingly no penalty is imposable under Section 11AC(a) (c) of CEA, 1944 as proposed in the SCN. Similarly no interest is leviable from the assessee under Section 11AA of CEA, 1944.

45. In view of above discussion and findings in the forgoing paras, I pass the following orders:-

O R D E R

- (i) I hold the amortised value of tools amounting to Rs 63,61,985/- received from M/s. Ford India Pvt. Ltd., free of cost, for the period from 2014-15 to 2016-17, is considered as money value of additional consideration flowing from the buyer in terms of Section 4 of the Central Excise Act,1944 read with clause (ii) of Explanation 1 to Rule 6 of the Valuation Rules and added to the assessable value on sale of motor vehicle parts to M/s. Ford India Pvt. Ltd. for the purpose of payment of central excise duty;

- (ii) I confirm the excise duty demand of Rs.7,95,248/- (Rs.Seven Lakh Ninety Five Thousand Two Hundred Forty Eight only) and order to recover the same on the amortised value of tools under the provisions of Section 11 A(4) of the Act as discussed.
- (iii) I order to appropriate the excise duty of Rs.7,95,248/- paid vide challan No.50125 dated 08.09.2017 against the duty confirmed in (ii) above as discussed.
- (iv) I consider excise duty of Rs.72,91,442/- (Rs.80,88,345/- - Rs.7,95,248/-) paid by the assessee vide challan No.50125 dated 08.09.2017 as excess duty paid and accordingly the same is required to be refunded to the assessee.
- (v) I drop demand of Central Excise duty of Rs. 97,02,362/- (Rs. Ninety Seven Lakhs Two Thousand Three Hundred Sixty Two only) as discussed.

46. Accordingly, SCN No. F. No. VI/1(b)/CTA/Tech-11/SCN/Copper/2018-19 dated 28.02.2019 is disposed of in view of above terms.

(Lokesh Damor)

Joint Commissioner
Central GST & Central Excise
Ahmedabad North

BY SPEED POST/HAND DELIVERY
F.No. V.87/15-10/OA/2019

Date:

To,
M/s Cooper Standard Automotive India Pvt. Ltd
(Now known as M/s.SFC Solutions India (Fluid) Private Limited) ,
Plot AV 03, BoL Industrial Estate, Sanand-II,
Ahmedabad 382170

Copy to:

- 1) The Commissioner Central GST & Central Excise, Ahmedabad North.
- 2) The DC/A.C, Central GST & Central Excise, Division-III, Ahmedabad North.
- 3) The Supdt., CGST & C. E., Range-V , Division-III, Ahmedabad North
- 4) The Supdt. Systems ,CGST& CX, Ahmedabad North for uploading the order
- 5) Guard File.

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