

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 1**

CUSTOMS APPEAL NO. 52184 OF 2022

[Arising out of Order in Original No. 02/Commr/ MS/ Motherson/ ICD-PPG/2022-23 dated 04.07.2022 passed by the Commissioner of Customs, Inland Container Depot, Delhi]

**MOTHERSON SUMI WIRING INDIA
LIMITED**

.....APPELLANT

C-1A, 1B, 14A, 14B, Sector-1,
Noida, UP-201301

Vs.

**COMMISSIONER, CUSTOMS-
PATPARGANJ**

.....RESPONDENT

Inland Container Depot,
Patparganj & Other ICDs,
Delhi-110096

Appearance:

Shri B.L. Narasimhan, Shri Anurag Kapoor and Shri Ashwini Sundaram,
Advocates for the Appellant

Shri Nikhil Mohan Goyal, Authorised Representative for the Respondent

CORAM:

**HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)**

FINAL ORDER NO. 50324 /2026

Date of Hearing : 04/02/2026

Date of Decision: 09/03/2026

P.V.SUBBA RAO

1. M/s Motherson Sumi Wiring India Limited¹ filed this appeal to assail the order dated 04.07.2022 passed by the Commissioner of Customs, ICD, Patparganj, wherein he decided the proposals made in the Show Cause Notice² dated 14.07.2021 covering the imports made during period 28.08.2017 to 31.05.2019. He confirmed demand of duty of customs of Rs.

**1 Appellant
2 SCN**

1,73,58,467/- invoking the extended period of limitation under section 28(4) of the Customs Act, 1962³ along with interest under section 28AA of the Act. He also imposed a penalty of equal amount under section 114A of the Act.

2. The appellant manufactures automotive wiring harness for automobiles. During the period 24.08.2017 to 31.05.2019 the appellant had imported clamps, clips, cover, stopper, brackets, protectors and adaptors made of plastic for use in manufacture of wiring harness for automobiles and classified them under the Customs Tariff Item⁴ 3926 90 99. The goods were cleared under various Bills of Entry by the Customs for home consumption. The SCN proposed change of the classification to CTI 8708 99 00 and consequently charge the differential customs duty along with IGST. The demand was made invoking the extended period of limitation under section 28(4) of the Act.

3. We have heard learned counsel for the appellant and the learned authorized representative appearing for the department and perused the records.

4. Learned counsel for the appellant made various submissions on merits of the classification of the goods and also on the question of limitation. It is his submission that the imported goods were correctly classified under CTI 3926 90 99 and, therefore, the demand needs to be set aside along with interest and penalty.

3 Act
4 CTI

5. On the question of limitation, it is the submission of the learned counsel to the appellant that the demand invoking the extended period of limitation can only be raised invoking section 28(4) of the Act if the non-payment or short payment of duty was due to any collusion, willful mis-statement or suppression of facts. In this case, the dispute is on the question of interpretation of the customs tariff by the appellant and in the impugned order. Therefore, extended period of limitation could not have been invoked.

6. Learned authorized representative appearing for the department vehemently supported the impugned order and submitted that the question of classification of these goods was already decided by the Bench of this Tribunal in the case of **Commissioner of Central Excise, Chennai vs. Besmark Components Private Limited**⁵. In that case Revenue's contention that these goods were classifiable under CTI 3926 90 99 was rejected by the Tribunal and the assessee's classification of the goods under CTI 8708 was upheld. He, therefore, submits that the issue is no longer *res-integra* and the matter may be decided accordingly.

7. We have considered the submissions by both sides and perused the records.

8. Before going into the merits of the case, we proceed to examine the invocation of extended period of limitation because if the demand is found to be time barred, it will not be necessary

for us to examine the merits of the case. The reason for invoking the extended period of limitation given in the impugned order is as follows:

"As section and chapter notes determine the classification and party has cleared goods on basis of self declaration of classification, it is party's responsibility to give evidence of its self-classification. Party's understanding of "parts of general use" as per section XV note 2 is mis-statement placed as shown by expert opinions submitted which have not even considered section XV note 2 specific requirements. Similarly section XVII note 3 clearly requires part or accessories for use not principally or solely with articles of chapter 87 (vehicles). This is not declared by party. It does declare goods as "plastic parts for captive consumption and as component of wiring harness. But it doesn't declare "components of wiring harness note for automobile/ vehicles". The opportunity to prove as not for principal use with automobiles was given to party but it couldn't.

So the party, which is claiming on its website as market leader in passenger car wiring harness in India, can't declare the imported goods are not for automobiles/vehicles/passenger cars. This fact the importer has deliberately omitted to skip section XVII note 3 requirement. This becomes more particular as party is aware that they need to pay higher duty if they claim imported goods are components of wiring harness of passenger cars. The party has clearly declared "plastic part" to take the imported goods to CTH 3926. So the party has used words in declaration to suit its own CTH declaration.

3.30 This makes the party guilty of suppression of facts. This evidence that their imported goods are not for passenger cars they could have established with proof of where these are used. It only submitted opinions and evidences of potential use, hiding the onus put on it under section XVII note 3. The classification under CTH 8708 is not based on end use but principal use as per section notes and HSN explanatory notes so the goods are classified as presented and with reference to section and chapter notes. The party itself admitted on 3.11.21 that it makes wiring harness for commercial vehicles. The party has not given full declaration in its bills of entry."

9. We find that the demand of duty under section 28 can only be raised within the normal period of limitation. In order to invoke the extended period of limitation it must be established that non-payment or short payment of duty was by reason of any

collusion or willful misstatement or suppression of facts. None of these three factors were alleged or established in the impugned order. Therefore, extended period of limitation could not have been invoked in the case .

10. It was a case of the self-assessment of the case by the importer under a particular CTI and the opinion of the department that they should have been classified under a different CTI. The entire period of demand was beyond the normal period of limitation of two years and, therefore, the impugned order deserves to be set aside on this ground alone.

11. As we have held in favour of the assessee only on the ground of limitation, we leave the question of classification open to be decided in any appropriate case in future.

12. The appeal is allowed and the impugned order is set aside with consequential relief, to the appellant if any.

[Order pronounced on **09/03/2026**]

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)

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