DIRECTORATE GENERAL OF FOREIGN TRADE
NC-I SECTION

MINUTES OF THE MEETING (OFFLINE)

Meeting No.NC/1/MEET/NOV/202324/17(Offline Cases) Dated: 08.11.2023

Sl. No.1

M. No.: NC/1/MEET/NOV/202324/17(Offline Cases) Dated: 08.11.2023	**M/s Windsor Exports, Gurgaon**	**Status of case**
Lic. No :		
HQ. F. No.: 01/80/162/02/AM24/NC-I	**Subject: Classification of the product Cart Axle/Trolley Axle/Trailer Axles square claimed as 'Rear Axle Shaft' under S.No.272 of Engineering Group 61 of the DEPB Schedule-reg.**	**Approved**
RLA No.:		

Case History: Vide mail dated 17.10.23, PC-IV has forwarded inter alia the mail dated 10.10.23 and Letter No.GEN/ADJ/ADC/283/2022-Adjn-O/o-Commr-Cus-Ludhiana dated 04.09.2023 received from O/o. the Commissioner of Customs, Ludhiana seeking certain clarification from this Directorate on the subject mentioned above, for taking further necessary at our end.

2. O/o. the Commissioner of Customs, Ludhiana has stated in their communication that the firms named M/s Windsor Exports, Plot No.76, Pace City II, Sector 37, Gurgaon and M/s KNM Spares Pvt. Ltd., Jalandhar filed Shipping Bills declaring the export goods as **'Rear Axle Shaft'** and classified the same under CTH 87085000 of First Schedule to the Customs Tariff Act, 1975 and claimed DEPB benefit @6% under Serial No.272 Engineering Group 61 of the DEPB Schedule. However, **on examination of the export goods**, the same were found to be actually the **'Cart Axle/Trolley Axle/Trailer Axles square fitted with hubs'** which was confirmed by the empaneled Chartered Engineer in his report dated 24.08.2011.

3. Subsequently, Show Cause Notice dated 21.02.2012 was issued to M/s Windsor Exports, proposing denial of the DEPB benefit to M/s Windsor Exports, besides issuing two show cause notice both dated 15.06.2012 to M/s KNM Spares Pvt. Ltd., Jalandhar on the same grounds.

4. Thereafter, the demands for denial of DEPB benefit to both of the above parties were upheld by the Adjudicating Authority and the orders of the original adjudicating authority were upheld by the Commissioner (Appeals) in the appeals filed by the both the Parties. Subsequently, all the above mentioned firms preferred appeals before the Customs Central Excise & Service Tax Appellate Tribunal (CESTAT), Chandigarh and as per the observation of the Hon'ble Tribunal in Final Order No. A/60041-60044/2018 dated 24.01.2018, the Customs, Ludhiana has referred this matter to this Directorate under Section 13 of the Foreign Trade (Development and Regulation) Act, 1992.

5. **The Customs, Ludhiana has sought clarification from this Directorate as to whether 'Cart Axle/Trolley Axle/Trailer Axles' classifiable under CTH 87169090 of the Tariff Act, having NIL rate of DEPB benefit are covered against Serial No.272 Engineering Group 61 of the DEPB Schedule involving DEPB benefit @ 6% or not.**

6. As per S.No.272 of the 'Scheduled of DEPB rates' amended vide Public Notice (P.N.) No.17 dated 12.07.07 issued by this Directorate, DEPB rate for **'Front/rear axle shaft'** is 6%. The relevant extracts of the said P.N. are enclosed.

7. The Customs, Ludhiana has brought to our notice that M/s Windsor Exports has filed CWP No.19380-2023 before the Hon'ble Punjab & Haryana High Court on 28.08.2023 seeking quashing of Show Cause Notice dated 21.02.2012 on account of in-ordinate delay in adjudication. **Further, Hon'ble Punjab & Haryana High Court has in**

interim order dated 02.09.2023 in the above said CWP has fixed the next date of hearing on 20.11.2023 .

8. We had earlier referred this matter to Consultant (SKB) vide mail dated 09.08.23 for seeking his comments. In reply to that, vide mail dated 11.08.23, he intimated that the matter comes under the purview of DPIIT.

9. Since in this matter, the next dated of hearing before **Hon'ble Punjab & Haryana High Court** is **20.11.2023,** we have referred the matter to all (Technical Experts) TEs of MHI, DPIIT, MSME, Consultant (Tech-3) and Consultant (SKB) on 20.10.2023 for their urgent comments/clarification on the point mentioned in para 5 above, latest by 27.10.2023.

10. As of 31.10.2023, we have received only the comments of Consultant(SKB) and TE, DPIIT vide mails dated 22.10.23 & 31.10.23 respectively. Consultant(SKB) has stated that the comments from DPIIT and MHI may be obtained. TE, DPIIT has stated that the item namely , "Rear Axle Shaft" is a auto component and DPIIT is not concerned in the matter. Comments from MHI vide mail dt.31.10.23 have also been received.

11. As suggested by TEs, the matter is placed in the NC for a decision.

Decision: The Committee considered the case as per the agenda and deliberated it in the meeting. After due deliberation, the committee decided to convey the Custom, Ludhiana, as under:-

Sl. No. 272 of DEPB Schedule allows DEPB benefit @ 6% on export of 'Front/Rear Axle shaft' & there is no mention of CTH in the DEPB schedule.

In accordance with the report from the Office of the Commissioner of Customs, Ludhiana vide their letter No. GEN/ADJ/ADC/283/2022-Adjn-O/o-Commr-Cus-Ludhiana dated 04.09.2023, the firm has exported 'Cart Axle/Trolley Axle/Trailer Axles' square-fitted with hubs.

In view of the above, the NORMS Committee is of the view that the DEPB rates had been established for these items under a broad description, without reliance on the Harmonized Classification System. Consequently, the Customs authority may assess the eligibility of the firm based on the description of the exported items and the applicable DEPB rate.