

	<p>सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण Customs Authority for Advance Rulings नवीन सीमाशुल्क भवन, बेलाई इस्टेट, मुंबई - ४००००१ New Custom House, Ballard Estate, Mumbai - 400 001 E-MAIL: cus-advrulings.mum@gov.in</p>	
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F.No. CAAR/CUS/APPL/144, 149/2025 - O/o Commr-CAAR-Mumbai दिनांक/Date: 21.11.2025

Ruling No. & date	CAAR/Mum/ARC/112, 113/2025-26 dated 21.11.2025
Issued by	Shri Prabhat K. Rameshwaram, Customs Authority for Advance Rulings, Mumbai
Name and address of the applicant	Tata Autocomp Gotion Green Energy Solutions Systems Limited Taco House, Off Law College road, V. G. Damle Path, Erandwane, Pune, Maharashtra – 411004 {Email: rahul.khandelwal@tataautocomp.com}
Concerned Commissionerate	1. The Commissioner of Customs, NS-V, Jawaharlal Nehru Customs House, Nhava Sheva Taluka: Uran Dist. Raigad, Maharashtra – 400707. 2. The Pr. Commissioner of Customs, Port User Building, Mundra Port, Mundra, Kutch Gujarat -370421. (Email- commr-cusmundra@nic.in).

ध्यान दीजिए/ N.B.:

- सीमाशुल्क अधिनियम, 1962 की धारा 28I की उप-धारा (2) के तहत किए गए इस आदेश की एक प्रति संबंधित को निःशुल्क प्रदान की जाती है।
A copy of this order made under sub-section (2) of Section 28-I of the Customs Act, 1962 is granted to the concerned free of charge.
- इस अग्रिम विनिर्णय आदेश के खिलाफ कोई भी अपील ऐसे निर्णय या आदेश के संचार की तारीख से 60 दिनों के भीतर संबंधित क्षेत्राधिकार के उच्च न्यायालय के समक्ष की जाएगी।
Any appeal against this Advance Ruling order shall lie before the **High Court of concerned jurisdiction**, within 60 days from the date of the communication of such ruling or order.
- धारा 28-I के तहत प्राधिकरण द्वारा सुनाया गया अग्रिम विनिर्णय तीन साल तक या कानून या तथ्यों में बदलाव होने तक, जिसके आधार पर अग्रिम विनिर्णय सुनाया गया है, वैध रहेगा, जो भी पहले हो।
The advance ruling pronounced by the Authority under Section 28 - I shall remain valid for three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier.



4. जहां प्राधिकरण को पता चलता है कि आवेदक द्वारा अग्रिम विनिर्णय धोखाधड़ी या तथ्यों की गलत बयानी द्वारा प्राप्त किया गया था, उसे शुरू से ही अमान्य घोषित कर दिया जाएगा।

Where the Authority finds that the advance ruling was obtained by the applicant by fraud or misrepresentation of facts, the same shall be declared void *ab initio*.

अग्रिम विनिर्णय / Advance Ruling

Tata Autocomp Gotion Green Energy Solutions Systems Limited (having IEC No. AAHCT8266H) and hereinafter referred to as 'the applicant', in short) filed an application (CAAR-1) for advance ruling before the Customs Authority for Advance Rulings, Mumbai (CAAR in short). The said application was received in the secretariat of the CAAR, Mumbai on 31.07.2025 along with enclosures in terms of Section 28H (1) of the Customs Act, 1962 (hereinafter referred to as the 'Act' also). The applicant is seeking advance ruling in relation to applicability of entry number 527B of the Notification No. 50/2017-Cus dated 30 June 2017 which prescribed lower duty rate for import of "Lithium-ion cell for use in the manufacture of battery or battery pack of the electrically operated vehicle or hybrid motor vehicle" in various scenarios or otherwise.

2. The Applicant vide their application has submitted as follows:

2.1 As part of the business, Tata Auto Comp has joint ventures ('JV') in partnership with leaders of the global auto component industry for the purpose of manufacturing, marketing and export thereof of automotive components and systems which inter alia include engine cooling solutions, automotive batteries, motors, electronic solutions for automobiles, etc. In relation to the above activities, it entered into a Joint Venture with 'Gotion' which is a leading Battery Cell and Battery Pack manufacturer in the Chinese market with multiple facilities in China.

2.2 For manufacture of battery or battery pack, the Applicant imports Lithium-ion cells under the benefit of entry number 527B of the Notification No. 50/2017-Cus dated 30 June 2017 (as amended) which prescribes lower duty rate for import of "Lithium-ion cell for use in the manufacture of battery or battery pack of the electrically operated vehicle or hybrid motor vehicle". The said exemption is subject to a condition that the importer shall comply with the provisions of Customs (Import of Goods at Concessional Rate of Duty) Rules, 2022 (IGCRD Rules).

2.3 In respect of the cells used for manufacture of battery packs which are sold, the Company intends to claim the benefit as per aforesaid exemption entry which is squarely applicable for the manufacturing activity to be carried out by the Applicant. However, considering the specific intricacies of business and manufacturing process involved vis-a-vis the language used in the exemption notification read with IGCRD Rules, 2017 as regards the term "manufacturing" which is not defined, the Applicant wishes to seek advance ruling to clarify on certain scenarios which in its view are incidental and ancillary to manufacture and



thereby fit into the intent of exemption provided under entry number 527B of the Notification No. 50/2017-Cus dated 30 June 2017.

3. The following is the end-to-end manufacturing process/ business process:

3.1 The imported cells are graded to ensure similar voltage cells are grouped together. The process is referred as Open Circuit Voltage (OCV) grading. The graded cells are then assembled in module followed by CLW welding and PLW welding. Plates and brackets are attached to module to link them together. This is followed by tray assembly wherein other components like pre-charge relay, resistor, contactor, current sensor and other components are installed. Once battery packs are formed, various tests are performed including electrical performance test, EOL test and air leak test. Quality packs are stored for further dispatch.

3.2 Post issuance for production in the process of manufacture, some cells (imported goods) get damaged and become obsolete and cannot be used further. These cells are sold/ will be sold to the Government Authorized E-waste agency.

3.3 Before putting these goods in manufacture of Battery packs, it is observed that these cells are not meeting standard quality requirements. Hence, these cells are not issued for production. However, due to various logistic challenges, these cells are not returned to the exporter but are sold to the Government Authorized E-waste agency.

4. The Applicant seeks for an advance ruling to in relation to applicability of entry number 527B of the Notification No. 50/2017-Cus dated 30 June 2017 which prescribed lower duty rate for import of "Lithium-ion cell for use in the manufacture of battery or battery pack of the electrically operated vehicle or hybrid motor vehicle" in below scenarios:

- (A) Imported cells used in manufacture of battery or battery packs intended for use as replacements due to defects or under warranty conditions. (Scenario 1)
- (B) Imported cells that fall obsolete during the manufacturing process and then the said cells are sold as scrap. (Scenario, 2)
- (C) Imported cells that have been found to be defective post import and hence not issued to production (Scenario 3)
- (D) If the answer to the above questions is negative and the Applicant would be required to pay back the benefit availed, from which date interest would be payable?

5. Applicant's interpretation of Law/Facts

5.1 As per provisions of Customs Act, 1962, any goods imported into India are subject to customs duties which shall be levied at such rates as may be specified under the Customs Tariff Act, 1975.



5.2 Section 2 of Customs Tariff Act, 1975 (CTA Act, 1975) provides that the rates at which duties of customs shall be levied under the Customs Act, 1962, are specified in the First and Second Schedules. The rates specified in these schedules are the standard rate applicable for such goods.

5.3 Rule 10(1) of IGCRD Rules provides that the importer who has availed the benefit of a notification shall use the goods imported in accordance with the conditions mentioned in the concerned notification within six months from the date of import. In instant case, the imported cells are to be used in manufacture of battery or battery packs of electrically operated vehicles.

Applicant's interpretation w.r.t. Scenario 1

5.4 In Scenario-1, the Applicant will use the imported cells in manufacture of battery or battery packs. However, these battery or battery packs are intended for use as replacements due to defects or under warranty conditions. Thus, the essential condition that the cells should be used for manufacture of battery pack is complied.

5.4.1 As a common industry practice, goods are sold to customer with condition of replacement within given warranty time period. Accordingly, if there is a defect in the goods sold within the agreed warranty period, the Applicant provides its customer with replacement products. In this regard it is submitted that the Applicant imports cells for manufacturing of battery or battery packs. Such battery packs can be intended for fresh sale or as replacement for defective goods. The aforesaid exemption notification imposes conditions solely concerning the employment of such cells within battery packs and does not specify that the benefit is contingent upon the sale of these battery packs.

5.4.2 Therefore, it can be said that such **imported cells, used for manufacture of replacement parts should qualify for exemption** under Serial No. 527B of Notification No. 50/2017, as they are being employed in the production of battery packs for electrically operated vehicles as required in condition mentioned therein.

Applicant's interpretation w.r.t. Scenario - 2

5.5 In case of Scenario-2 - the cells are issued for manufacture and during the manufacturing process, these cells get damaged/ obsolete. It is important to note that every manufacturing process involves certain line rejection/ manufacturing process loss etc. by which certain goods issued for production, are not converted in final products so manufactured. However, in such cases, it can be said that the goods lost in manufacturing process are used in manufacture.

5.5.1 The intent of the aforesaid exemption is to provide concessional benefit where the goods have been used **for the manufacture**. The ultimate result of the manufacturing process is immaterial. There is no condition that the goods on which exemption has been availed should form part of the end products i.e. battery packs in the present case. The usage of words "for use



in manufacture' indicates that benefit is available in respect of all inputs and parts which have been put to use for manufacturing the battery packs and not only in respect of inputs and parts which form part of the finished battery packs.

5.5.2 Such exemption benefit under the aforesaid notification is subject to condition no.9, which mandates the importer to follow the procedure set out in IGCRD Rules. Thus, to substantiate the interpretation of the above, support is borrowed from the IGCRD Rules wherein:

Under Rule 4(3), the importer who intends to avail the benefit of a notification shall submit a continuity bond that the goods imported shall be put to use for manufacture of goods.

Rule 6 requires the importer to maintain accounts and produce before the jurisdictional commissioner indicating the goods imported which shall be put to use for manufacture of goods or for rendering output service.

5.5.3 Here, it is pertinent to highlight that even the IGCRD Rules uses the language that the imported goods shall be "put to use." for manufacture of goods. Therefore, the intent of the Rules is clear i.e., to provide concessional benefit where the goods have been used during the manufacture process and not necessarily the goods which form part of the manufactured good.

Advance Ruling and jurisprudence on similar fact pattern under the Customs law

5.5.4 In case of *M/s. Sunwoda Electronic India Private Limited (2024(11)LCX0162(AAR))* dated 20.11.2024, the Applicant is engaged in the business of manufacturing of battery packs of cellular mobile phones. For manufacturing of battery packs, the Applicant imports lithium-ion cells. While deciding for eligibility of concessional rate of duty under Sr. No. 527A of Notification No. 50/2017 dated 30.06.2017 in case of import of lithium-ion cells, where such imports get subsequently scrapped during the manufacturing process, Delhi AAR allowed the benefit of concessional rate and held that:

"5.12it is trite law laid in the Dilip Kumar case that an exemption notification ought to be construed strictly to determine the applicability of the exemption provision. However, once the exemption becomes applicable then the provisions must be construed liberally as upheld in the Union of India Vs. Wood Papers Ltd., [1990 (47) E.L.T. 500 (S.C.)] (Wood Papers Case') which was also followed by the Hon'ble Supreme Court in Para 45 and 46 of the judgement in Dilip Kumar Case relied on by the Ld. Assistant Commissioner. Applying the rule laid down in Wood Papers Case (as followed in Dilip Kumar Case) to the instant matter. Since the Applicant is eligible to avail the exemption benefit on lithium-ion cells, and other inputs & parts for use in manufacture of battery packs of cellular mobile phones under the Notification 50/2017, then as per liberal construction of the exemption notification it can be said that such imports which are for use in manufacturing of battery packs for, if they are damaged/ scrapped during the manufacturing process, will be eligible for exemption benefit."



5.5.4 In case of *M/s. Samsung Display Noida Private Limited Advance ruling No. CAAR/Del/Samsung Display/22/2024/ 928 to 933* dated 04.06.2024, the language used in S. No. 5D(b) of Notification No. 57/2017 is similar to the language used in S. No. 527B of NN 50/2017 as both the notifications use the phrase “for use”, wherein it was held that the importer was eligible to avail the exemption benefit under S. No. 5D(b) of the Notification No. 57/2017 in respect of inputs and parts for use in manufacture of mobile display assembly even when such inputs and parts get scrapped during the manufacturing process.

5.5.5 The Applicant further relies on decision of Allahabad High Court in case of *M/s Jhunjhunwala Vanaspati Ltd. Jaunpur (U.P.) Versus The CCE, Allahabad [2015 (10) TMI 1532 - Allahabad High Court]* wherein the Appellant had availed benefit of concessional rate of duty under notification No. 16/2000-Cus dated 1.3.2000 on import of palm olive oil for manufacture of vanaspati. On deciding whether the benefit of concessional rate of duty should be allowed on the quantity of imported palm olive oil which was lost in transit on account of its having viscous material which sticks to the surface of the containers in which it is kept and it is not possible to take out the entire quantity of palm olive oil from the containers, Allahabad HC ruled in favour of Appellant and held that “the object of grant of exemption was only to debar those importer/manufacturers from the benefit of the Notifications who had diverted the products imported for other purposes and had no intention to use the same for manufacture of the specified items at any stage”.

5.5.6 Reference can be further made to the observations made in the judgement of the Gujarat High Court in the case of *Goodluck Garments Pvt. Ltd. Vs. CCE [2019 (365) E.L.T. 893 (Guj.)]* wherein the appellant imported duty-free raw material for export production. The respondent alleged that during the manufacturing process, waste was generated more than standard input-output norms, therefore, such excess wastage cannot be said to have been used in export manufacture. Consequently, the benefit of exemption by way of duty-free import was denied to the appellant. The Hon’ble high court in Para 16 has laid that,

“In this case, there is no dispute that the duty-free imported goods were used in the manufacture of final products for export and the waste was generated during the course of the manufacturing process. The export obligation against the goods imported as per the letter of intent has been fulfilled. It is also not in dispute that the waste was disposed of after due permission being obtained from the Deputy Commissioner, Central Excise. The department has nowhere alleged that the duty-free imported goods were not consumed in the manufacturing of the finished goods or that such goods have been cleared in the guise of removal of waste. There is no allegation relating to removal of goods with intent to evade payment of duties. In the opinion of this Court, once it is not disputed that the goods were used in the manufacturing of finished goods and the export obligation has been duly fulfilled, the benefit of exemption provided under the notification in question cannot be denied to the appellant.”



5.5.7 Reference can also be made to the findings of CESTAT, Bangalore in the case of **Aditya Birla Nuvo Ltd. Vs. CC [2009 (5) TMI 434 - CESTAT, Bangalore]** wherein it has been held that,

“It is settled law and also clarified by the Board in Circular No. 36/1997-Customs dated 16 September 1997 that words "required for" in this definition does not necessarily mean actual usage and physical incorporation of exempted goods in the export product. The exemption on inputs may also be allowed even if they are not exactly those used in the export product but provided the inputs are commercially known to be usable in the product exported.”

5.5.8 Reliance is further placed on decision of CESTAT, New Delhi in the case of **Samtel Colour Ltd vs. CCE [2003 (11) TMI 485 – CESTAT, New Delhi]** wherein it was held in Para 4 that,

“We have considered the submissions of both the sides. It has not been disputed by the Revenue that the impugned goods, imported by the appellant at concessional rate of duty, had been taken for use in the manufacture of excisable goods. Once the inputs had been taken for manufacture of intended goods, it cannot be claimed by the Revenue that the inputs had not been used in manufacture of excisable goods as the inputs during such manufacture were destroyed by fire. We observed that the Assistant Commissioner, while dealing with disallowance of Modvat credit of duty paid on inputs, has clearly given his findings that “as soon as the goods are issued for the purpose of manufacture; they become in the nature of work in process and if they are damaged during this process, it is to be treated as manufacturing loss.” The same reason is squarely applicable to the imported goods. We therefore allow the appeal filed by the appellants.”

5.5.9 Reliance is further placed on **M/S. ERICSSON INDIA PVT. LTD. VERSUS CCE, JAIPUR 2015 (4) TMI 641 - CESTAT NEW DELHI (Exhibit –5)**, wherein the appellant had imported various components for use in the manufacture of telecommunication equipment by availing basic customs duty exemption under Notification No.24/2005-Cus. which is available subject to following the procedure prescribed under 1996 Rules. In this regard, CESTAT Delhi held that

*“The point of dispute in that case was as to whether in respect of the components which had been issued for manufacture and were used for assembly but later-on being found to be defective was re-exported, cenvat credit of the additional customs duty earlier taken would be reversible and the Tribunal in para 8 of the judgment after considering the Delhi High Court judgment in the case of **Asahi India Safety Glass Limited vs. Union of India** reported in 2005 (180) ELT 5 (Del.) held that such components have to be treated as having been used and hence the assessee cannot be asked to reverse the cenvat credit. Following the judgments of the Tribunal, we hold that these components have to be treated as having been used for the intended purpose and hence the duty demand of Rs. 1,71,07,253/- would not be sustainable and has to be set aside”*



Jurisprudence under the excise law

5.5.10 The Hon'ble Madras High Court in the case of **Rupa & Co. Limited, Tirupur V/s The Customs, Excise and Service Tax Appellate Tribunal, The Commissioner of Central Excise 2015 (324) E.L.T. 295 (Mad.)**(Exhibit – 6) has allowed the CENVAT credit against the entire inputs used by the assessee even when there was 5% manufacturing process loss. The Hon'ble High Court observed as under:

"13. To say that what is contained in finished product is only a quantity of all the inputs of the same weight as that of the finished product would presuppose that all manufacturing processes would never have an inherent loss in the process of manufacture. The expression 'inputs of such finished product' contained in finished products' cannot be looked at theoretically with its semantics. It has to be understood in the context of what a manufacturing process is. If there is no dispute about the fact that every manufacturing process would automatically result in some kind of a loss such as evaporation, creation of by-products, etc., the total quantity of inputs that went into the making of the finished product represents the inputs of such products in entirety."

5.5.11 Reliance can be placed on the judgement of Supreme Court in the case of **Dalmia Dadri Cement Ltd. [2004 (178) ELT 13(SC)]**, wherein the SC has observed that the words '**For use**' has to be interpreted as '**Intended for use**'. The relevant para is quoted as:

"...It must be noted that the important words used in the relevant provisions are goods for use by it in the generation or distribution of such energy (emphasis supplied by us). On a plain reading of the relevant clause it is clear that the expression "for use" must mean "intended for use". If the intention of the legislature was to limit the exemption only to such goods sold as were actually used by the undertaking in the generation and distribution of electrical energy, the phraseology used in the exemption clause would have been different as, for example, "goods actually" used or "goods used"."

5.5.12 In view of the above, the Applicant is of the view that the **Lithium-ion cells getting damaged during the manufacturing process, the same is used in the manufacturing of battery pack** (even though not incorporated in the final product i.e., battery pack) **and the duty exemption as per entry 527B of the Notification No. 50/2017-Customs is applicable** for these goods.

Applicant's interpretation w.r.t.Scenario - 3

5.6 There are instances wherein cells are imported, and exemption is availed under SL. No. 527B of Notification No. 50/2017-Customs dated 30 June 2017. However, before issue of these goods for production, it is observed that these cells are not meeting standard quality requirements. Hence, these cells are not issued for production. However, due to various logistic challenges, these cells are not returned to the exporter but are sold to the Government Authorized E-waste agency.



In this regard the Applicant submits that the intent of importing the said cells have always been for manufacturing of battery or battery packs. Hence, while importing the goods, the exemption benefit is availed thereon.

5.6.1 In case of **Steel Authority of India Ltd. Versus CCE (1996 (7) TMI 147 - SC)**, while allowing the benefit of exemption notification for goods imported with intent of specific use, Hon'ble Supreme Court held that:

"5. It is important to note that the exemption notification required proof that the raw naphtha was "intended for use" in the manufacture of fertiliser and not that the raw naphtha was used in the manufacture of fertiliser. Due emphasis has to be given to the clear language of the first condition of the exemption notification

*6. There can be no doubt that the raw naphtha that was fed by SAIL into its plant was for the purpose and with the intention of manufacturing fertiliser and that it was only because of supervening circumstances, namely, the low, uncertain and fluctuating availability of power, that the reformed gas produced during the interim stage of manufacture had to be vented out. **The benefit of the exemption notification is, therefore, available to SAIL in regard to the raw naphtha that it utilised in its plant for the manufacture of fertiliser but which, for reasons over which it had no control, did not, in fact, result in the manufacture of fertiliser but had, at the interim stage of reformed gas, to be vented out.**"*

5.6.2 Drawing an analogy from above, it is understood that the Applicant is importing cells 'for use' in the manufacture of battery or battery pack of electrically operated vehicle or hybrid motor vehicles. It was always imported with intent of manufacturing battery pack. As explained above, it has been consistently held that expression 'for use' means 'intended for use'.

5.6.3 Reliance is further placed on decision of Madhya Pradesh High Court in case of **Prakash Metal Crafts Industries Vs. CCT', 2016 (337) E.L.T. 342 (MP)**. Hence the condition 'for use' is duly complied with. It is only post receipt of goods and suitable quality checks that it is identified that goods are not meeting standard quality requirements and could not be utilised.

5.6.4 Reference is drawn from judgement of Hon'ble Supreme Court in **BPL Display Devices Ltd. 2004 (174) E.L.T. 5 (S.C)** wherein the Appellant had imported parts of picture tubes for manufacture of colour picture tubes and availed the benefit of Notification No. 13/97-Cus. as amended by Notification No. 25/99-Cus. While allowing the benefit of said notification, Hon'ble Court held as under:

"We are of the view that no material distinction can be drawn between the loss on account of leakage and loss on account of damage. The word 'for use' used in similar exemption Notifications have also been construed by this Court earlier in the State of Haryana V. Dalmia Dadri Cement Ltd., 1987 (Suppl) SCC 679 to mean 'intended for use'. According to this decision the object of grant of exemption was only to debar those



importers /manufacturers from the benefit of the Notifications who had diverted the products imported for other purposes and had no intention to use the same for manufacture of the specified items at any stage."

5.6.5 The Applicant further relies on judgement of ***M/S Jhunjhunwala Vanaspati Ltd. Jaunpur (U.P.) Versus The CCE, Allahabad [2015 (10) TMI 1532 - Allahabad High Court]*** as quoted above, which shall be applicable in instant scenario as well. Hence it is submitted that the Applicant has availed the exemption in good faith and with intent for use in manufacture and hence should be allowed the benefit of exemption.

Submissions w.r.t. alternate possible view that the exemption would not be applicable

5.7 Rule 10(3) of IGCRD Rules provides that the importer who intends to clear unutilised or defective goods for home consumption shall have an option of voluntary payment of applicable duty along with interest on the common portal and the particulars of such clearance and the duty payment shall be recorded by the importer in the monthly statement.

5.7.1 Further, Rule 11 of the IGCRD Rules provides for recovery of duties in certain cases which failure on the part of the importer to comply with the conditions mentioned in sub-rule (1) of rule 10 or where the payment referred in sub-rules (3) and (4) of rule 10 is not paid or short paid.

5.7.2 Thus, it is clear that in the present case the exemption is provided for use of the imported goods in manufacture. Accordingly, in cases where the imported goods are not used in manufacture, it can be said that there is violation of Rule 10 of the IGCRD Rules, and duty is required to be paid. Further, the unutilized or defective goods shall be re-exported or cleared for home consumption upon voluntary duty payment. However, in instant case cells are imported from China and cannot be re-exported back due to various restrictions there.

5.7.3 Similar view was also expressed in Circular 10/2021- Customs dated 17 May 2021 (issued in the context of IGCRD Rules 2017 which had similar provisions) wherein para 4.11 was read as under:

"Re-Export or clearance for home consumption:

An importer shall utilise the imported goods for the intended purpose or re-export the same, within a period of six months from the date of import, failing which the importer is liable to payment of duty with interest, as per the procedure laid out in the said IGCRD Rules.

In the case the importer intends to clear the unutilised or defective goods on payment of requisite duty and interest, the import duty payable would be equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest at a rate as fixed by



notification under section 28AA. The period for calculation of interest would start from the date of import of such goods and end with the date of actual payment [refer rule 7(2)]”

5.7.4 From the above, the Applicant understands that the cells being imported under IGCRD Rules are to be used for the intended purpose or re-exported. Further, as per para 4.12, the defective or unutilized goods need to be cleared on the payment of the duty along with interest.

Submissions w.r.t. computation of interest in case would be required to pay back the benefit availed

5.8 In relation to computation of interest, aforesaid Circular suggests that in the case the importer intends to clear the unutilized or defective goods on payment of requisite duty, interest is to be computed for a period starting from date of import to date of payment of differential duty. However, it may be noted that the imported goods were intended for manufacture of battery packs and hence exemption benefit is availed.

Further the exemption allows imported to utilise the goods within 6 months of import. It is only after completion of six months and not using goods within that time, the exemption condition does not get satisfied. Hence, in such cases, the interest, if any, shall be levied from the first day after completion of the six months to date of payment of differential duty.

Considering the comprehensive reasoning provided above read with relevant legal precedence, the applicant believes that the Lithium-ion cells imported by it for manufacture of battery and battery packs of the electrically operated vehicle or hybrid motor vehicles should be eligible for exemption under Sl. No. 527B of Notification No. 50/2017-Customs dated 30 June 2017 under above scenarios. Further, in case exemption is not available and duty is to be paid back, interest should be computed starting from the first day after completion of the six months.

Port of Import and reply from concerned jurisdictional Commissionerate

6. The applicant in their CAAR-1 indicated that they intend to import the subject goods i.e. Litium-ion Battery Cell at the jurisdiction of Office of the Commissioner of Customs, NS-V, JNCH, Nhava Sheva, Mumbai-II and The Pr. Commissioner of Customs, Port User Building, Mundra Port, Mundra, Kutch Gujarat -370421. The application was forwarded to the The Pr. Commissioner of Customs, Port User Building, Mundra Port, Mundra, Kutch Gujarat -370421 for their comments on 18.08.2025, 29.09.2025, 16.10.2025 and 03.11.2025. However, no response was received from the concerned Commissionerate. The application was also forwarded to the Office of the Commissioner of Customs, NS-V, JNCH, Nhava Sheva, Mumbai-II for their comments on 18.08.2025, 29.09.2025 and 16.10.2025. The concerned Commissionerate submitted their comments on 28.10.2025 wherein it is mentioned that:



6.1 From the notification it is evident that the exemption under Serial No. 527B of Notification *ibid*, shall apply to the import of lithium-ion cells that are intended for use in the manufacture of battery or battery pack of electrically operated vehicles or hybrid motor vehicles, subject to the importer's compliance with the provisions of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2022 (IGCRD Rules).

6.2. As per provisions of the Rule 10(1) of the IGCRD Rules, the Notification benefit of this exemption shall be available only when the imported lithium-ion cells are used or intended to be used in the aforesaid manufacturing process within the prescribed time frame as stipulated under Rule 10(1) of the IGCRD Rules. Any quantity of such imported cells which remains unutilized, found defective prior to use, or not used in manufacture within the specified period shall be liable to duty and interest in accordance with Rule 10(3) and Rule 11 of the said Rules.

6.3 The concessional rate of Basic Customs Duty (BCD) under Serial No. 527B *ibid* applies only when lithium-ion cells are imported for use in the manufacture of battery or battery packs meant for electrically operated vehicles (EVs) or hybrid motor vehicles, it is pertinent to refer to the definition of the term "manufacture" as provided under Rule 3(1)(i) of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2022 (IGCRD Rules), which reads as follows: "manufacture" means the processing of raw materials or inputs by the importer in any manner that results in emergence of a new product having a distinct nature or character or use or name; and the term "manufacturer" shall be construed accordingly;

6.4 Therefore, from the above facts of the discussion, it emerges that the concessional benefit under the aforesaid notification shall be available only if; i. the imported lithium-ion cells are used or intended to be used in a process of manufacture of battery or battery pack ii. the manufacturing process results in the production of a new battery or battery pack, having a distinct nature, character, or use.

6.5 In view of the above, it would be concluded that the benefit under the said notification will not be available for i. the imported cells not utilized for such manufacturing purposes within the prescribed time frame as stipulated under Rule 10(1) of the IGCRD Rules, ii. the imported cells found defective and not used for manufacturing of battery or battery pack; iii. the imported cells used for replacement or repair of an existing battery or battery pack covered under warranty conditions.

6.6 In view of the above discussion, the reply to the question of ruling is as under:

i. Whether the benefit of entry number 527B would be applicable for imported cells used in manufacture of battery or battery packs intended for use as replacements due to defects or under warranty conditions.

Ans:- No, as the cell replacement or repair of an existing battery pack does not qualify the definition of manufacture for the reason that this will not produce new product and hence, benefit will not be available under Entry 527B of the notification *ibid*.

ii. Whether said benefit would be applicable to the imported cells that fall obsolete during the manufacturing process and then the said cells are sold as scrap.



Ans:- No, as the said cells are sold as scrap i.e not used in the manufacturing of the battery or battery pack and hence it will fall under the category of the unutilized goods which will be governed by the provisions of Rule 10(1) of IGCRD, 2022.

iii. Whether said benefit would be applicable to the imported cells that have been found to be defective post import and hence not issued to production.

Ans:- No, as the defective goods are to be dealt with in accordance with provisions of Rule 10(1) of IGCRD, 2022, where the option either for reexport or clearance for home consumption were given after following due procedure.

6.7 The applicant has submitted the rebuttal vide letter dated 18.11.2025 wherein they have reiterated the contention made in the application.

Details of Hearing

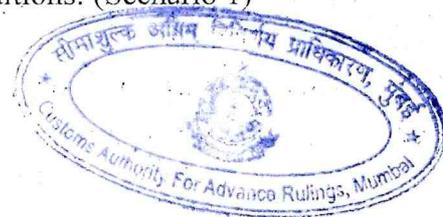
7. A hearing was held on 06.11.2025 at 03.30 PM. Shri Ajay Maheshwari and Ms. Ruchi Bhat, representatives appeared online on behalf of the applicant for the hearing and reiterated the contention submitted with the application in as much as they wanted to import Lithium-Ion Cell for use in manufacture of battery or battery pack of electrically operated vehicle. That the entry no. 527B of the notification no. 50/2017-customs dated 30.06.2017 (as amended) issued under section 25(1) of the Customs Act, 1962 prescribes lower duty rates for import of lithium-ion cell for the said battery or battery pack for EV.

They relied upon the following case laws:

1. ***Dalmia Dadri Cement Ltd. [2004 (178) ELT 13(SC)]***, wherein the SC has observed that the words '**For use**' has to be interpreted as '**Intended for use**'.
2. ***M/s. Samsung Display Noida Private Limited Advance ruling No. CAAR/Del/Samsung Display /22/2024/ 928 to 933 dated 04.06.2024***, the language used in S. No. 5D(b) of Notification No. 57/2017 is similar to the language used in S. No. 527B of NN 50/2017 as both the notifications use the phrase "for use", wherein it was held that the importer was eligible to avail the exemption benefit under S. No. 5D(b) of the Notification No. 57/2017 in respect of inputs and parts for use in manufacture of mobile display assembly even when such inputs and parts get scrapped during the manufacturing process.
3. ***M/s. Sunwoda Electronic India Private Limited (2024(11)LCX0162(AAR)) dated 20.11.2024***, in case of import of lithium-ion cells, where such imports get subsequently scrapped during the manufacturing process. Delhi AAR allowed the benefit of concessional rate.

They sought clarification on the following aspects:

- (A) Imported cells used in manufacture of battery or battery packs intended for use as replacements due to defects or under warranty conditions. (Scenario 1)



- (B) Imported cells that fall obsolete during the manufacturing process and then the said cells are sold as scrap (Scenario 2)
- (C) Imported cells that have been found to be defective post import and hence not issued to production (Scenario 3)
- (D) If the answer to the above questions is negative and the Applicant would be required to pay back the benefit availed, from which date interest would be payable?

7.2 Nobody appeared for PH from the department side.

Discussion and findings

8. I have considered all the materials placed before me in respect of the subject goods. I have gone through the submissions made by the applicant during the personal hearing. I proceed to pronounce a ruling on the basis of information available on record as well as existing legal framework. At the outset, I find that the issue raised in the question in the Form CAAR-1 is squarely covered under Section 28H(2) of the Customs Act, 1962, being a matter related to classification of goods under the provisions of this Act.

8.1 Before deciding the issue, let me deliberate on the legal framework prescribed in Customs Tariff Act, 1975, Chapter/ Section notes along with HSN explanatory notes. As per Rule 1 of GRI, the titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes.

8.2 The applicant has sought advance ruling in relation to applicability of entry number 527B of the Notification No. 50/2017-Cus dated 30 June 2017 which prescribed lower duty rate for import of "Lithium-ion cell for use in the manufacture of battery or battery pack of the electrically operated vehicle or hybrid motor vehicle" in below scenarios:

- i. Imported cells used in manufacture of battery or battery packs intended for use as replacements due to defects or under warranty conditions. (Scenario 1)
- ii. Imported cells that fall obsolete during the manufacturing process and then the said cells are sold as scrap (Scenario 2)
- iii. Imported cells that have been found to be defective post import and hence not issued to production (Scenario 3)
- iv. If the answer to the above questions is negative and the Applicant would be required to pay back the benefit availed, from which date interest would be payable.

8.3 Further, CBIC has issued Notification No. 2/2021-Customs dated 1st February 2021 to insert Entry No. 527B in the principal exemption Notification No. 50 /2017 -Customs dated, 30th June 2017. By virtue of the said entry, exemption is granted on the import of Lithium-Ion



cells for use in the manufacture of batteries or battery packs of electrically operated vehicles subject to the prescribed condition in the said notification.

The Applicant submits that it is involved in manufacture of batteries or battery packs of electrically operated vehicles and imports Lithium-ion cells ('cells') for manufacturing the same. Thus, it avails the exemption as per the said entry while importing cells. The relevant entry reads as under:

Sr. No.	Chapter heading	Description of goods	Standard rate	IGST	Condition No.
527B	8507 60 00	Lithium-ion cell for use in the manufacture of battery or battery pack of electrically operated vehicle or hybrid motor vehicle Provided that nothing contained in this Sr.No. shall have effect after the 31st of March, 2026.	5%	-	9

Thus, it is clear that the above exemption is subject to compliance of condition no. 9 of the said notification. The condition no. 9 provides that the importer shall follow the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 ('IGCRD Rules').

8.4 The IGCR Scheme refers to the "Imports of Goods at Concessional Rate of Duty" scheme, which is governed by the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022, commonly known as the IGCR Rules, 2022. This scheme enables eligible manufacturers and specified users to import goods at a reduced or nil rate of customs duty, subject to compliance with certain prescribed conditions. The IGCR Rules, 2022 were notified by the Central Government through Notification No. 74/2022- Customs (N. T.) dated, 9th September 2022, which superseded the earlier Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Consequently, any reference to the 2017 Rules in exemption notifications, including their annexures, shall now be construed as a reference to the IGCR Rules, 2022- These Rules primarily lay down the procedural framework for availing concessional customs duty, including requirements such as prior intimation to the jurisdictional customs officer, maintenance of usage records, and filing of quarterly returns to ensure compliance with the end-use conditions. Importantly, the IGCR Rules, 2022 do not explicitly prohibit the simultaneous availment of other benefits under the Customs Act 1962, provided that the conditions of each applicable scheme or notification are independently met. Relevant portion of the notification is as under:



[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION-3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
NOTIFICATION

No. 74/2022 - Customs (N. T.)

New Delhi, 9th September, 2022

G.S.R..... (E). - In exercise of the powers conferred by section 156 of the Customs Act, 1962 (52 of 1962), and in supersession of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely: -

1. Short title and commencement. -

(1) These rules may be called the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022. (2) They shall come into force on the date of their publication in the Official Gazette.

2. Application. - (1) These rules shall apply where -

- a. a notification provides for the observance of these rules;
- b. an importer intends to avail the benefit of any notification and such benefit is dependent upon the use of the goods imported being covered by that notification for the manufacture of any commodity or provision of output service or **being put to a specified end use**.

3. Definition. - (1) In these rules, unless the context otherwise requires, -

- d. "date of import" means the date of the order made by the proper officer under section 47; permitting clearance of the goods;
- i. "manufacture" means the processing of raw materials or inputs by the importer in any manner that results in emergence of a new product having a distinct nature or character or use or name; and the term "manufacturer" shall be construed accordingly;

4. Importer to give one-time prior information. - (1) The importer shall provide one-time prior information on the common portal, in Form IGCR-1 containing the following particulars, namely: -

(3) The importer who intends to avail the benefit of a notification shall submit a continuity bond with such surety or security as deemed appropriate by the Deputy Commissioner of Customs or Assistant Commissioner of Customs having jurisdiction over the premises where the goods imported shall be **put to use** for manufacture of goods or for rendering output service or being put to use for a specified end use, with an undertaking to pay-



5. Procedure to be followed. – (1) The importer who intends to avail the benefit of a notification shall be required to mention the IIN (referred to in sub-rule (2) of Rule 4) and continuity bond number and details while filing the Bill of Entry.

(2) The Deputy Commissioner of Customs or, as the case may be, Assistant Commissioner of Customs at the custom station of importation shall allow the benefit of the notification to the importer.

(3) Where a Bill of Entry is cleared for home consumption, the bond submitted by the importer gets debited automatically in the customs automated system and the details shall be made available electronically to the jurisdictional Customs Officer.

6. Importer to maintain records.– (1) The importer shall maintain an account so as to clearly indicate and shall produce the said account as and when required by the Deputy Commissioner of Customs, or, as the case may be, the Assistant Commissioner of Customs having jurisdiction over the premises or where the goods imported **shall be put to use** for manufacture of goods or for rendering output service: Provided that in case of non-receipt or short receipt of goods imported in the relevant premises, the importer shall intimate such non-receipt or short receipt immediately on the common portal in the Form IGCR-2.

10. Re-export or clearance of unutilised or defective goods. –

(1) The importer who has availed the benefit of a notification shall use the goods imported in accordance with the conditions mentioned in the concerned notification within the period and with respect to unutilised or defective goods, so imported, the importer shall have an option to either re-export or clear the same for home consumption, within the said period, namely –

(i) within the period specified in the notification;

(ii) within six months from the date of import, where the time period is not specified in the notification:

Provided that, the said period of six months can be further extended by the jurisdictional Commissioner for a period not exceeding three months, if sufficient reason is shown that the causes for not conforming to the time period were beyond the importer's control.

(2) Any re-export of the unutilised or defective goods referred to in sub rule (1) shall be recorded by the importer in the monthly statement by providing the details of necessary export documents: Provided that the value of such goods for re-export shall not be less than the value of the said goods at the time of import.

(3) The importer who intends to clear unutilised or defective goods for home consumption shall have an option of voluntary payment of applicable duty along with interest



on the common portal and the particulars of such clearance and the duty payment shall be recorded by the importer in the monthly statement.

(4) The importer shall have an option to clear the capital goods imported, after having been used for the specified purpose, on payment of duty equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest, at the rate fixed by the notification issued under section 28AA, on the depreciated value allowed in straight line method as under —

- i. for every quarter in the first year @ 4%;
- ii. for every quarter in the second year @ 3%;
- iii. for every quarter in the third year @ 3%;
- iv. for every quarter in the fourth and fifth year @ 2.5%;
- v. and thereafter for every quarter @ 2%.

Explanation. - (1) For the purpose of computing rate of depreciation under this rule for any part of a quarter, a full quarter shall be taken into account.

(2) The depreciation shall be allowed from the date when the capital goods imported have come into use for the purpose as laid down in the notification, upto the date of its clearance.

11. Recovery of duty in certain case. —

(1) In the event of any failure on the part of the importer to comply with the conditions mentioned in sub-rule (1) of rule 10 or where the payment referred in sub-rules (3) and (4) of rule 10 is not paid or short paid, the Deputy Commissioner of Customs or, as the case may be, Assistant Commissioner of Customs having jurisdiction over the premises where the imported goods shall **be put to use** for manufacture of goods or for specified end use or for rendering output service shall take action by invoking the Bond to initiate the recovery proceedings of an amount as under —

a. in case of a notification that provides a duty exemption, equal to the difference between the duty leviable on such goods but for the exemption and that already paid, if any, at the time of importation, along with interest, at the rate fixed by notification issued under section 28AA, for the period starting from the date of import of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay;

b. in cases where the notification is other than one that provides an exemption benefit, an amount equal to the assessable value of the goods being imported.

The applicant submits that it will import lithium-ion cell for the manufacturing of the battery or battery pack of electrically operated vehicle or hybrid motor vehicle.

8.5 Now, I will discuss each scenario on which advance ruling has been sought. There is no doubt that the lithium-ion cells for use in the manufacture of battery or battery pack of electrically operated vehicle or hybrid motor vehicle are eligible for notification benefit provided that the importer shall follow the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022.



8.5.1 In Scenario-1, the Applicant will use the imported cells in manufacture of battery or battery packs. However, these imported cells, **used as replacement parts** in battery or battery packs due to defects or under warranty conditions.

The concessional rate of Basic Customs Duty (BCD) under Serial No. 527B *ibid* applies only when lithium-ion cells are imported for use in the manufacture of battery or battery packs meant for electrically operated vehicles (EVs) or hybrid motor vehicles, it is pertinent to refer to the definition of the term “manufacture” as provided under Rule 3(1)(i) of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2022 (IGCRD Rules), which reads as follows:

“manufacture” means the processing of raw materials or inputs by the importer in any manner that results in emergence of a new product having a distinct nature or character or use or name; and the term “manufacturer” shall be construed accordingly;

The aforesaid exemption notification imposes conditions solely concerning the employment of such cells within battery packs and does not specify that the benefit is contingent upon the sale of these battery packs.

In the present scenario, imported cells will be used as a replacement or repair of an existing battery or battery packs, it will not result in emergence of a new product having a distinct nature or character or use or name. Hence, it can be implied that the exemption benefit will not be available for such lithium-ion cells. Any quantity of such imported cells which remains unutilized, found defective prior to use, or not used in manufacture within the specified period shall be liable to duty and interest in accordance with Rule 10(3), 10(4) and Rule 11 of the said Rules.

8.5.2 In scenario 2, the applicant submitted that the imported cells are issued for manufacture and during the manufacturing process, these cells get damaged/ obsolete. It is important to note that every manufacturing process involves certain line rejection/ manufacturing process loss etc. by which certain goods issued for production, are not converted in final products so manufactured. However, in such cases, it can be said that the goods lost in manufacturing process are used in manufacture. The applicant seeks exemption benefit on the imported cells that fall obsolete during the manufacturing process and then the said cells are sold as scrap.

The intent of the aforesaid exemption is to provide concessional benefit where the goods have been used **for the manufacture**. The ultimate result of the manufacturing process is immaterial. There is no condition that the goods on which exemption has been availed should form part of the end products i.e. battery packs in the present case. The usage of words ‘for use in manufacture’ indicates that benefit is available in respect of all inputs and parts which have been put to use for manufacturing the battery packs and not only in respect of inputs and parts which form part of the finished battery packs.

Under the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 importers are generally required to utilize imported goods within six



months of import and have the option to re-export or clear them for home consumption if they are unutilized or defective. If the goods are not used for the intended purpose, the importer is responsible for ensuring proper disposal, which may involve re-export or clearance for home consumption. Under the Customs (Import of Goods at Concessional Rate of Duty or IGCR) Rules, 2022, Rule 10 provides the provisions related to disposal of unutilized or defective goods. The relevant provision is as follows:

10. Re-export or clearance of unutilised or defective goods. – (1) *The importer who has availed the benefit of a notification shall use the goods imported in accordance with the conditions mentioned in the concerned notification within the period and with respect to unutilised or defective goods, so imported, the importer shall have an option to either re-export or clear the same for home consumption, within the said period, namely –*

(i) *within the period specified in the notification;*

(ii) *within six months from the date of import, where the time period is not specified in the notification:*

Provided that, the said period of six months can be further extended by the jurisdictional Commissioner for a period not exceeding three months, if sufficient reason is shown that the causes for not conforming to the time period were beyond the importer's control.

(2) *Any re-export of the unutilised or defective goods referred to in sub rule (1) shall be recorded by the importer in the monthly statement by providing the details of necessary export documents: Provided that the value of such goods for re-export shall not be less than the value of the said goods at the time of import.*

(3) *The importer who intends to clear unutilised or defective goods for home consumption shall have an option of voluntary payment of applicable duty along with interest on the common portal and the particulars of such clearance and the duty payment shall be recorded by the importer in the monthly statement.*

(4) *The importer shall have an option to clear the capital goods imported, after having been used for the specified purpose, on payment of duty equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest, at the rate fixed by the notification issued under section 28AA, on the depreciated value allowed in straight line method as under –*

i. *for every quarter in the first year @ 4%;*

ii. *for every quarter in the second year @ 3%;*

iii. *for every quarter in the third year @ 3%;*

iv. *for every quarter in the fourth and fifth year @ 2.5%;*

v. *and thereafter for every quarter @ 2%.*

Explanation. - (1) For the purpose of computing rate of depreciation under this rule for any part of a quarter, a full quarter shall be taken into account.

(2) *The depreciation shall be allowed from the date when the capital goods imported have come into use for the purpose as laid down in the notification, upto the date of its clearance.*



It is relevant to note that while the IGCR Rules, 2022 specifically deal with unutilized or defective goods, they do not provide a separate rule for waste or scrap generated during the manufacturing process.

However, rule 10 of the IGCRD, 2022 provides specifically for unutilized or defective goods. As the goods which got scrapped during manufacturing are not incorporated in the final product and there is no limit of such losses are given in the rules, therefore, it can be implied that such goods are to be considered as unutilized or defective goods. Hence, the exemption benefit will not be available for such lithium-ion cells. Any quantity of such imported cells which remains unutilized, found defective prior to use, or not used in manufacture within the specified period shall be liable to duty and interest in accordance with Rule 10(3), 10(4) and Rule 11 of the said Rules.

The applicant relied upon Advance Ruling No. CAAR/Del/22/2024/928-933 dated 04.06.2024 in the matter of Samsung Noida Display Private Limited, issued by CAAR, Delhi.

In this regard, it is pertinent to note that an advance ruling is binding only upon the applicant sought it and the jurisdictional authorities concerned. Further, on examination of the said ruling it is observed that the same was rendered in the context of availment of the IGCRD Scheme on inputs or parts used in the manufacture of display assemblies which were scrapped during the manufacturing process. By contrast the present case relates to the availment of IGCRD benefits on inputs or parts used in the manufacture of battery or battery pack which get scrapped during the manufacturing process. The issues and factual matrix are, therefore, materially different from those considered in the Samsung ruling. Accordingly, I do not find the said ruling relevant or applicable for consideration in the present matter.

The Applicant further relies on decision of Allahabad High Court in case of *M/s Jhunjhunwala Vanaspati Ltd. Jaunpur (U.P.) Versus The CCE, Allahabad [2015 (10) TMI 1532 - Allahabad High Court]* which deals with the benefit of concessional rate of on the quantity of imported palmolive oil which was lost in transit wherein the Allahabad HC ruled in favour of Appellant and held that “the object of grant of exemption was only to debar those importer/manufacturers from the benefit of the Notifications who had diverted the products imported for other purposes and had no intention to use the same for manufacture of the specified items at any stage” is also inapplicable as this decision was intended to protect bona fide manufacturers from being denied exemption where inputs never reached the stage of manufacture due to such incidental losses. In the present case, however, the issue is not of inputs lost or damaged before or during use, but of waste or refuse generated in the process of the manufacturing and applicability of procedures governing the same.

The applicant relied upon case of *Goodluck Garments Pvt. Ltd. Vs. CCE [2019 (365) E.L.T. 893 (Guj.)]* which deals with the wastage is in excess of the input-output norms wherein the Hon'ble Court is of the view that the mere fact that the wastage is in excess of the input-output norms, without anything more, would not be sufficient for the Assistant Collector to arrive at the satisfaction that the imported fabric has not been used for the manufacture of the



articles for export. Condition No. 6 of the Notification No. 13/Customs, dated 9-2-1981, cannot be read in a manner whereby despite the fact that the assessee is in a position to show that the entire material has been used for the purpose of manufacture of goods and there is no allegation with regard to diversion of goods, merely because the wastage norms are not satisfied, the Assistant Collector of Customs can record satisfaction to the effect that the goods have not been used for the manufacture of articles for export. The Appellate Tribunal was, therefore, not justified in confirming the Customs duty on imported raw materials contained in wastage in excess of input-output norms under the Export Import policy, is not applicable because the present case deals with the waste generated during the manufacturing process on account of the importer and then such waste are to sold as scrap not with the deviation from the norms.

Further, the appellant has relied upon various case laws which I find not applicable here in as much the facts and circumstances of these cases are different. The Hon'ble Supreme Court in the matter of Bhavnagar University v. Palitana Sugar Mills Pvt. Ltd.-2003(2) SCC 111 has observed that "*It is well settled that a difference in facts or additional facts may take a lot of difference in the precedential value of a decision*". However, I rely on the judgement in the case of Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company reported as 2018 (361) E.L.T. 577 (S.C.) wherein the Hon'ble Court observed that

- (1) *Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.*
- (2) *When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue.*

In a prior decision in the case of **Tata Iron & Steel Co. Ltd. v. State of Jharkhand** reported as (2005) 4 SCC 272 the two judge bench of Hon'ble Supreme Court laid down that eligibility clause in relation to exemption notification must be given a strict meaning.

As per the Rule 10 of IGCRD Rules, 2022, it is clearly mentioned that any quantity of such imported cells which remains unutilized, or defective, or not used in manufacture within the specified period, importer shall have an option to re-export within time limit or clear the goods for home consumption on payment of duty and interest in accordance with Rule 10(3) & (4) and Rule 11 of the said Rules.

Therefore, it can be said that as the obsolete cells are sold as scrap i.e not used in the manufacturing of the battery or battery pack and hence it will fall under the category of the unutilized goods which will be governed by the provisions of Rule 10(1), 10(3), 10(4) and 11 of IGCRD, 2022.

8.5.3 In Scenario 3, there are instances wherein cells are imported, and exemption is availed under SL. No. 527B of Notification No. 50/2017-Customs dated 30 June 2017. However,



before issue of these goods for production, it is observed that these cells are not meeting standard quality requirements. Hence, these cells are not issued for production. However, due to various logistic challenges, these cells are not returned to the exporter but are sold to the Government Authorized E-waste agency. In this regard the Applicant submits that the intent of importing the said cells have always been for manufacturing of battery or battery packs. Hence, while importing the goods, the exemption benefit is availed thereon.

The reliance placed on the judgment of the Hon'ble Supreme Court in *Steel Authority of India Ltd. v CCE* [1996 (7) TMI 147] is further irrelevant to this case, as the issue in that case was whether exemption on raw naphtha could be denied when, due to unforeseen circumstances beyond the control of the assessee, the intermediate reformed gas had to be vented out and did not ultimately result in the manufacture of fertiliser, despite the assessee having the clear intention to use the input for the notified purpose. The Court allowed the benefit as the loss arose from supen'ening circumstances (power fluctuations) and not from the manufacturing process itself, hence, this is not applicable in the present case.

I again observe that the ratio of the judgement in the case of *Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company* reported as 2018 (361) E.L.T. 577 (S.C.) is squarely applicable to this scenario. This view is also upheld in the case of *Tata Iron & Steel Co. Ltd. v. State of Jharkhand* reported as (2005) 4 SCC 272.

Rule 10 of the IGCRD, 2022 clearly provides that

(1) The importer who has availed the benefit of a notification shall use the goods imported in accordance with the conditions mentioned in the concerned notification within the period and with respect to unutilised or defective goods, so imported, the importer shall have an option to either re-export or clear the same for home consumption, within the said period, namely –

(i) within the period specified in the notification;

(ii) within six months from the date of import, where the time period is not specified in the notification:

Provided that, the said period of six months can be further extended by the jurisdictional Commissioner for a period not exceeding three months, if sufficient reason is shown that the causes for not conforming to the time period were beyond the importer's control.

(3) The importer who intends to clear unutilised or defective goods for home consumption shall have an option of voluntary payment of applicable duty along with interest on the common portal and the particulars of such clearance and the duty payment shall be recorded by the importer in the monthly statement

Therefore, it can be stated that in the present case the exemption is provided for use of the imported goods in manufacture. Accordingly, in cases where the imported goods are not used in manufacture, it can be said that there is violation of Rule 10 of the IGCRD Rules, and duty



is required to be paid. Further, the unutilized or defective goods shall be re-exported or cleared for home consumption upon voluntary duty payment.

Furthermore, I relied on the Circular 10/2021- Customs dated 17 May 2021 (issued in the context of IGCRD Rules 2017 which had similar provisions) wherein para 4.11 was read as under:

4.11 An importer shall utilise the imported goods for the intended purpose or re-export the same, within a period of six months from the date of import, failing which the importer is liable to payment of duty with interest, as per the procedure laid out in the said IGCR Rules.

8.5.4 In scenario 4, the applicant sought clarification, if the applicant would be required to pay back the benefit availed, from which date interest would be payable-

Rule 11 of the IGCRD, 2022 provides that-

11. Recovery of duty in certain case. –

*(1) In the event of any failure on the part of the importer to comply with the conditions mentioned in sub-rule (1) of rule 10 or where the payment referred in sub-rules (3) and (4) of rule 10 is not paid or short paid, the Deputy Commissioner of Customs or, as the case may be, Assistant Commissioner of Customs having jurisdiction over the premises where the imported goods shall **be put to use** for manufacture of goods or for specified end use or for rendering output service shall take action by invoking the Bond to initiate the recovery proceedings of an amount as under –*

a. in case of a notification that provides a duty exemption, equal to the difference between the duty leviable on such goods but for the exemption and that already paid, if any, at the time of importation, along with interest, at the rate fixed by notification issued under section 28AA, for the period starting from the date of import of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay;

b. in cases where the notification is other than one that provides an exemption benefit, an amount equal to the assessable value of the goods being imported.

Also, Circular 10/2021- Customs dated 17 May 2021 (issued in the context of IGCRD Rules 2017 which had similar provisions) wherein para 4.12 was read as under:

4.12 In the case the importer intends to clear the unutilised or defective goods on payment of requisite duty and interest, the import duty payable would be equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest at a rate as fixed by notification under section 28AA. The period for calculation of interest would start from the date of import of such goods and end with the date of actual payment.



From the above, it is amply clear that if the importer fails to comply with the conditions mentioned in the notification, then the interest on duty is payable from the date of import. The term "Date of Import" as provided under Rule 3 (1) of IGCRD Rules, 2022, which is as under-

"date of import" means the date of the order made by the proper officer under section 47, permitting clearance of the goods;

Therefore, it is clear that in the event of any failure on the part of the importer to comply with the conditions mentioned in sub-rule (1) of rule 10 or where the payment referred in sub-rules (3) and (4) of rule 10 is not paid or short paid, the importer is liable to pay differential between the duty leviable on such goods but for the exemption and that already paid, if any, at the time of importation, along with interest, at the rate fixed by notification issued under section 28AA, for the period starting from the date of import of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty.

9. In view of the above discussions and findings, my answers in respect of the questions asked in the present application are as follows:

- a) Benefit will not be available under Entry 527B of the notification to the Imported cells used in manufacture of battery or battery packs intended for use as replacements due to defects or under warranty conditions as the cell replacement or repair of an existing battery pack does not qualify the definition of manufacture for the reason that this will not produce new product.
- b) Benefit will not be available under Entry 527B of the notification to the Imported cells that fall obsolete during the manufacturing process and then the said cells are sold as scrap as the said cells i.e not used in the manufacturing of the battery or battery pack and hence it will fall under the category of the unutilized goods which will be governed by the provisions of Rule 10(1), (3), (4) and 11 of IGCRD, 2022.
- c) Benefit will not be available under Entry 527B of the notification to the imported cells that have been found to be defective post import and hence not issued to production as the defective goods are to be dealt with in accordance with provisions of Rule 10(1), (3), (4) and 11 of IGCRD, 2022; where the option either for re-export or clearance for home consumption were given after following due procedure.
- d) The Applicant would be required to pay back the benefit availed, and interest would be payable for the period starting from the date of import of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty.

10. I rule accordingly.

Prabhat K. Rameshwaram
21/11/25

(Prabhat K. Rameshwaram)

Customs Authority for Advance Rulings,
Mumbai



This copy is certified to be a true copy of the ruling and is sent to:

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Customs Authority for Advance Rulings,
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