IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1756 OF 2026

Mahindra & Mahindra Limited
K Shed-2, Akurti Road,
Kandivali (East),
Mumbai – 400101 … Petitioner

Versus

1. Union of India
through the Secretary, Ministry of
Finance, Department of Revenue,
North Block, New Delhi 110 001

2. Principal Commissioner of Customs (Import),
Air Cargo Complex, Sahar, Mumbai – III
Mumbai – 400707. …. Respondents

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Mr. Vikram Nankani, Senior Advocate a/w Adv. Yash K. Desai, Adv. Stella Joseph, Adv. Harsh Mawar, for the petitioner.

Mr. Vijay H. Kantharia a/w Adv. Niyati Mankad, for respondent No.2.

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CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.

DATE : 25th AUGUST 2026

JUDGMENT (PER M. S. KARNIK, J.) :

1. We have heard Mr. Vikram Nankani, learned Senior Advocate for the petitioner and Mr. Vijay Kantharia, learned counsel for the respondent No.2. We have perused the pleadings

and materials on record. We have also gone through the affidavit-in-reply filed on behalf of the respondent No.2 dated 22/08/2026.

2. The challenge in this writ petition filed under Article 226 of the Constitution of India is to the Order in Original dated 20/12/2025 passed by the respondent No.2 – Principal Commissioner of Customs (Import), Air Cargo Complex, Sahar, Mumbai.

3. The petitioner – Mahindra & Mahindra Limited has imported Battery Management Systems ("BMS", for short) and Cell Supervisory Circuits ("CSC", for short), for the use in its Electric Vehicle ("EV", for short) manufacturing operations, specifically for manufacturing lithium-ion battery packs. The petitioner has classified 'BMS' under CTH 9032 8990 and 'CSC' under CTH 8537 1000 / 8537 1090 of the First Schedule of the Customs Tariff Act, 1975 and has been availing the concessional rate of Basic Customs Duty applicable at 2.5% under Serial No.512 of the Notification No.50/2017-Customs dated 30/06/2017 ("Exemption Notification"), which gives an impetus to manufacturing of battery packs for EVs in India.

4. Sr. No.512 is reproduced herein for ease of reference :-

S.No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	IGST	Condition No.
(1)	(2)	(3)	(4)	(5)	(6)
512	85 or any other Chapter	(a) Parts, components and accessories **except Lithium-ion cell and Printed Circuit Board Assembly (PCBA)** for use in manufacture of Lithium-ion battery and battery pack; (b) Sub-parts for use in manufacture of items mentioned at (a) above.	2.5%	-	9

5. By the impugned order, the respondent No.2 denied the concessional rate of customs duty on the basis that the products are Printed Circuit Board Assemblies ("PCBAs") and are thus excluded from Serial No.512 of the Exemption Notification. It has accordingly confirmed demand of differential duty of INR 14,07,47,215/- along with applicable interest and penalty under the Customs Act, 1962 ("Customs Act", for short).

6. In its reply to the show cause notice, the petitioner specifically contended that the products do not qualify as PCBAs

while placing reliance on a detailed and independent Technical Expert Opinion dated 17/07/2025 from Veermata Jijabai Technological Institute ("VJTI"), Mumbai, one of the premier engineering institutes in India and having a specific EV automotive division. After physical inspection of the products and detailed component-level analysis, VJTI was of the opinion that the products cannot themselves be understood as PCBA used in the manufacture of battery packs. In paragraph 4.12.1 of the impugned order, the respondent No.2 observed thus :-

> "**4.12.1** Noticee's contention that as per expert opinion of Veermata Jijabai Technological Institute (VJTI) BMS & CSC cannot be understood as Printed Circuit Board Assembly (PCBA) and that investigation agency has used definition of PCBA specified for mobile phones in case of BMS, CSC imported for EV battery packs is not relevant since the PCBA is electronics terminology which is universally applicable to all such devices / machinery."

7. It is therefore the submission of the learned Senior Advocate for the petitioner that the impugned order has simply brushed aside the said opinion of VJTI by observing that it is not relevant. Learned Senior Advocate submitted that no counter-expert opinion, independent technical testing or other

scientific/technical material has been obtained by the Department to rebut the findings recorded by VJTI. Learned Senior Advocate relied upon the decisions in **Commissioner of Income Tax, Delhi vs. Bharti Cellular Limited**[1]; **M/s. Monopoly Innovations Pvt. Ltd. vs. Union of India & Ors.**[2]; **M/s. Parle Agro (P) Ltd. vs. Commissioner of Commercial Taxes, Trivandrum**[3]; **Shahnaz Ayurvedics vs. Commissioner of Central Excise, Noida**[4]; **Panama Chemical Works vs. Union of India**[5] and **Neena Uppal vs. The Union of India**[6], in support.

8. Learned counsel for respondent No.2, on the other hand, invited our attention to the findings rendered by the respondent No.2 and submitted that on an overall conspectus and after considering all the materials, respondent No.2 has correctly arrived at a finding that the products of the petitioner are excluded from Sr. No.512 of the Exemption Notification. A preliminary objection is raised that the petitioner has a statutory remedy of appeal under Section 129A of the Customs Act before the Customs,

1 (2014) 6 SCC 401
2 2021 (9) TMI 1111 – Bombay High Court
3 (2017) 7 SCC 540
4 2004 (173) E.L.T. 337 (All.)
5 1992 (62) E.L.T. 241 (M.P.)
6 2024 (3) TMI 704 – Bombay High Court

Excise and Service Tax Appellate Tribunal ("CESTAT") as the same is an appealable order.

9. Learned counsel for respondent No.2 relying on the affidavit-in-reply submitted that the Importer had self-classified the items BMS (Battery Management System) and CSC (Cell Supervisory Circuit) under CTI 9032 8990 and 8537 1000/8537 1090 respectively. It is submitted that the dispute involved in the present case pertains to the correct classification of BMS and CSC under the Customs Tariff and the eligibility to exemption under Sr. No.512 of Notification No. 50/2017-Cus., which is required to be determined on the basis of statutory tariff provisions, Chapter Notes, HSN Explanatory Notes, technical literature. General Rule of Interpretation (GIR) 1 states that the classification of goods is to be determined according to the terms of the Headings and any relative Section or Chapter Notes. Note 3 of Chapter 85 defines "the electric accumulators which includes those presented with ancillary components which contribute to the accumulator's functions of storing and supplying energy or protect it from damage, such as electrical connectors, temperature control devices

and circuit protection devices. They may also include a portion of the protective housing of the goods in which they are to be used". The investigation, statements of Shri Abhishek Chhabra and Shri R. Ganesh Kumar, and the importer's own submissions establish that BMS and CSC perform functions such as monitoring voltage, current and temperature, cell balancing, protection against overcharging and over-discharging, communication and safety management of lithium-ion battery cells and battery packs. These functions directly contribute to the operation, protection and performance of electric accumulators. Accordingly, by virtue of Chapter Note 3 to Chapter 85 and the HSN Explanatory Notes to Heading 8507, the goods are appropriately classifiable as parts of electric accumulators under CTH 8507 9090. Further, Note 2(b) to Section XVI of the Customs Tariff Act, 1975 states that "other parts, if suitable for use solely or principally with a particular kind of machine or with a number of machines of the same heading (including a machine of heading 8479 or 8543 are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 appropriate". The Battery

Pack of Electric Vehicle manufactured by the Petitioner is covered under CTH 8507. The imported goods BMS and CSC are specifically designed and solely used in the manufacturing of such batteries. Hence, the input goods i.e. BMS and CSC are rightly classifiable under CTH 8507 9090 as parts.

10. Further, it is submitted that Sr. No.512 of Notification No.50/2017-Cus. grants concessional BCD of 2.5% to parts, components and accessories for manufacturing of lithium-ion batteries and battery packs, but specifically excludes Printed Circuit Board Assemblies (PCBAs). Since the imported BMS and CSC are found to be PCBAs classifiable under CTI 85079090, they fall within the exclusion provided under Sr. No.512. Consequently, the benefit of the said exemption notification is not available to the petitioner. Further, Sr. No.139 of Schedule IV of Notification No. 01/2017-Integrated Tax (Rate) dated 28/06/2017 covers goods falling under Heading 8507 and prescribes IGST at the rate of 28%. Further, merely because the VJTI report opines that the goods are technologically advanced products and not ordinary PCBAs does not alter their essential character or tariff

classification. The adjudicating authority has therefore rightly held that the observations contained in the expert opinion do not negate the applicability of Heading 8507 and has assigned cogent and reasoned findings while arriving at the classification adopted in the OIO. Hence, the allegation that the expert opinion was ignored, arbitrarily rejected or that a counter-expert opinion was mandatory is factually incorrect and legally untenable.

11. It is further submitted that in terms of Chapter Note 3 to Chapter 85 and the HSN Explanatory Notes to Heading 8507, ancillary components which contribute to the functioning, protection and energy management of electric accumulators are appropriately classifiable as parts thereof. The adjudicating authority, after examining all evidences on record, rightly concluded that the VJTI report merely highlights the advanced architecture and functionalities of the imported goods but does not displace their essential character as components specifically designed for and used in the operation and protection of lithium-ion battery packs. There is no statutory requirement under the Customs Act, 1962 that classification can be determined only on

the basis of expert opinion or that a counter-expert opinion is mandatory before arriving at a classification different from that suggested by the importer. The findings recorded in the impugned order are based on statutory tariff provisions, HSN Explanatory Notes, technical evidence. The contention that the goods are eligible for concessional duty under Sr. No.512 of Notification No. 50/2017-Cus. is not sustainable once the goods are correctly classifiable as parts of batteries.

12. We have given our anxious consideration to the arguments advanced by the learned counsel. The petitioner imported BMS and CSC for use in its EV manufacturing operations, specifically for manufacturing lithium-ion battery packs. The petitioner does not dispute the classification under CTH 9032 8990 and CSC under CTH 8537 1000 / 8537 1090 of the First Schedule of the Customs Tariff Act, 1975. It is however submitted that the BMS and CSC cannot be said to be excluded from Sr. No.512 of the Exemption Notification as held by the respondent No.2. VJTI is one of the premier engineering institutes in India. There is no dispute that it has a specific EV automotive division. The product

was physically verified. We have gone through the report of the VJTI. There is a detailed component-level analysis. The opinion unequivocally concluded that the products cannot themselves be understood as PCBA used in the manufacturing of battery packs.

13. Undoubtedly, Sr. No.512 excludes PCBA from the Exemption Notification. The classification is not in dispute. The question is whether the products BMS and CSC are parts of PCBA or not. If the same are to be regarded as PCBA, obviously the products would stand excluded from the Exemption Notification.

14. The Exemption Notification gives an impetus to manufacturing of battery packs for EVs in India. The claim of the petitioner is that BMS and CSC are not part of PCBAs. For that purpose, they relied upon the detailed and independent report of VJTI. VJTI concluded after a physical inspection of the products and detailed component-level analysis that the products cannot themselves be understood as PCBA used in the manufacture of battery packs. Even in the context in which the Exemption Notification is issued, which gives an impetus to manufacturing of battery packs for EVs in India, the question is what is the worth of

the VJTI's report and should it have been discredited without there being a scientific base or a counter-expert opinion. It is the submission of the learned Senior Advocate for the petitioner that the manufacturing of EVs in India is being encouraged and therefore, the Exemption Notification has to be viewed from that angle.

15. In *Commissioner of Income Tax vs. Bharti Cellular Ltd.* (supra), Their Lordships in paragraph 11 observed thus :-

> "11. Before concluding, we are directing CBDT to issue directions to all its officers, that in such cases, the Department need not proceed only by the contracts placed before the officers. With the emergence of our country as one of the BRIC countries and with the technological advancement, matters such as the present one will keep on recurring and hence time has come when the Department should examine technical experts so that the matters could be disposed of expeditiously and further it would enable the appellate forums, including this Court, to decide legal issues based on the factual foundation. We do not know the constraints of the Department but time has come when the Department should understand that when the case involves revenue running into crores, technical evidence would help the tribunals and courts to decide matters expeditiously based on factual foundation. The learned Attorney General, who is present in Court, has assured us that our directions to CBDT would be carried out at the earliest."

16. In *M/s. Monopoly Innovations Pvt. Ltd. vs. Union of India & Ors.* (supra), this Court at paragraph 20 held thus :-

> "20. At paragraph 7(vii) of the impugned order, the

> Commissioner upon consideration of the opinion of the Institute of Chemical Technology, Mumbai (hereafter "the Institute", for short), rejected the same by observing that he did not "find the report to be proper". The comments made for rejecting the report would tend to suggest that the Commissioner has good deal of knowledge in the subject of chemical science. However, we do not claim to be experts in the said subject and, therefore, it is beyond our competence to say which of the two versions (that of the Institute and the Commissioner) is correct. At the same time, we are also not aware of the educational qualifications of the Commissioner or his expertise in chemical science. In any event, how far the report of the Institute was worth consideration should have been examined by the Commissioner by obtaining a counter expert opinion and based thereon he could have proceeded to reject the Institute's report instead of discrediting the same. The observations made by the Commissioner are not structured on any referable scientific basis and, therefore, it is all the more necessary that the prayer of the petitioner for lifting of the orders of provisional attachment deserves de novo consideration."

17. The decision in *M/s. Parle Agro (P) Ltd.* (supra), *Shahnaz Ayurvedics* (supra), *Panama Chemical Works* (supra) and *Neena Uppal* (supra) are authorities for the proposition that where classification or taxability turns on specialised technical or scientific considerations, the adjudicating authority is bound to meaningfully evaluate expert opinion, and, if it seeks to disagree therewith, it must do so only on the basis of commensurate expert or scientific material and not on subjective assumptions.

18. The impugned order has simply brushed aside the

opinion of the VJTI by observing that it is not relevant. The petitioner does not say that PCBAs are not excluded from the purview of the Exemption Notification. The petitioner's case is that the products BMS and CSC are not part of PCBAs, in support, the petitioner had relied upon the expert opinion of the VJTI. The petitioner's challenge is to the manner in which a specialised technical issue has been adjudicated.

19. We are satisfied that the VJTI's expert opinion has been brushed aside without a reasoned technical rebuttal or counter-expert opinion. In a given case, respondent No.2 may well have been justified in forming an opinion after considering all the technical material placed before him and upon appreciation of the entire materials and a detailed analysis of the products that a counter expert opinion is not necessary, but in a case of such nature, when the VJTI's opinion is based on physical inspection of the products and detailed component-level analysis, the same should not have been brushed aside lightly by substituting the adjudicating authorities own technical perception, without a reasoned technical rebuttal.

20. So far as the preliminary objection raised by learned counsel for respondent No.2 that there exists an alternate statutory remedy, in the facts of this case, considering that the issue is squarely covered by the decisions in *M/s. Monopoly Innovations Pvt. Ltd. vs. Union of India & Ors.* (supra) and *Commissioner of Income Tax vs. Bharti Cellular Ltd.* (supra), we are of the opinion that instead of relegating the petitioner to the alternate statutory remedy of a statutory appeal, we are inclined to entertain the present writ petition.

21. Learned counsel for respondent No.2 was at pains to point out that such objections, which are purely technical in nature, may be raised in each and every case where an exemption is claimed. It is his submission that based on the materials the respondent No.2 rightly came to the conclusion that the products stand excluded from the purview of the Exemption Notification. However, we make it clear that it is in the facts and circumstances of this case, where we are of the view that a reasoned technical rebuttal is necessary, that we are inclined to interfere with the impugned order.

22. It is open for the respondent No.2 to obtain a counter-expert opinion and thereafter proceed to analyse the VJTI's report, instead of discrediting the same by simply observing that it is not relevant. It is in these facts and circumstances that we are of the opinion that in the light of the VJTI's report, this is a fit case where a counter-expert opinion ought to have been obtained by the Commissioner before discrediting the VJTI's report. Hence, the following order :-

O R D E R

(i) The impugned order is quashed and set aside.

(ii) The matter is remanded to the Adjudicating Authority i.e. Respondent No.2 - Principal Commissioner of Customs (Import) for fresh adjudication of the show cause notice on merits and in accordance with law.

(iii) The petitioner to remain present before the Adjudicating Authority on 02/09/2026 at 11:00 a.m. when further schedule of hearing be fixed by the Adjudicating Authority.

(iv) The Adjudicating Authority to adjudicate the show cause notice expeditiously after hearing the petitioner.

23. The writ petition is allowed and accordingly disposed of.

(SANDESH D. PATIL, J.) **(M. S. KARNIK, J.)**