

S.MURUGAPPAN

ADVOCATE, HIGH COURT

ASSISTED BY:

K.NANCY B.COM, B.L. (HONS.),

VINUPRIYA MUTHURAMALINGAM, B.A., L.L.B. (HONS.)

CONSULTANTS:

GST, CUSTOMS, FOREIGN TRADE LAWS,
FOREIGN EXCHANGE MANAGEMENT ACT.

OPINION

1. **Queriest :**

M/s. Brakes India Private Limited,
Padi,
Chennai – 600 050.

2. **Facts :**

2.1 Queriest regularly imports Electronic Control Unit. (hereinafter referred to as “ECU”). This is assembled with hydraulic control unit and the resultant product, which is referred to as ‘ABS assembly’ is used in automobiles. This particular part is classifiable under heading 9032 and also is subjected to 7.5% customs duty.

2.2 After amendment of Notification 50/2017-Customs dt.30.6.2017 in terms of Notification 21/2021-Customs dt.31.3.2021 the benefit of 7.5% is available only for certain specified goods in terms of SI.No.494A of the table attached to the notification. This serial number reads as follows:

(1)	(2)	(3)	(4)	(5)	(6)
“494A.	9032 89	All goods other than those suitable for use in – (i) motor vehicles falling under heading 8702 or 8704; (ii) motor cars falling under heading 8703; or (iii) motor cycles falling under heading 8711	7.5%	-	-”;

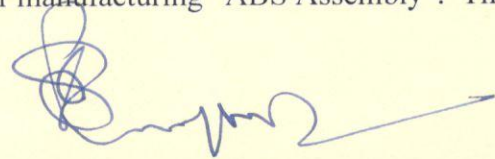
2.3 In the light of the above, it is reported that the customs authorities are now contending that the ECU which is imported by the queriest will not be eligible for concessional duty and will attract merit rate of duty.

3. **Query :**

In the above background, the queriest would like to know the correct rate of duty applicable for these goods. For providing the opinion the queriest has submitted a photograph of the assembled unit i.e. ECU with hydraulic control unit and also provided a write-up which reads as follows:

“We are importing Electronic Control Unit (ECU) (Part No.29061077) from M/s ZF, China. The ECU imported cannot be directly fitted into any vehicle. The ECU is one of the parts for manufacturing “ABS Assembly”. The ECU

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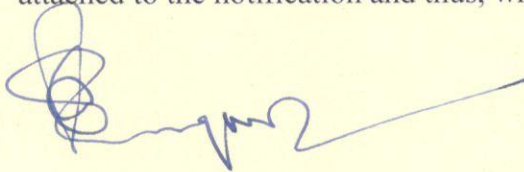
Website: www.smurugappan.com

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will be assembled with the "Hydraulic Control Unit" manufactured in our plant, along with other parts produced / locally procured by us. The total assembled part is called "ABS Assembly". The ABS assembly (also known as EHCU Assembly) is our finished goods, which is used in the passenger vehicle's brake applications."

4. Opinion :

- 4.1 It may be noted that the exclusion is for certain goods as specified in Sl.No.494A and the condition is that goods other than those suitable for use in those items alone will be eligible for 7.5%. The expression used here is "those suitable for use".
- 4.2 In the present case, it is seen that the electronic control unit is a specific unit, which is solely used in automobile application. This unit bearing part No.29061077 does not fit in any other type of equipment. As such, it can be concluded that this item is suitable for use in automobile vehicles. There is no condition that the product should be directly used as such and fitted to the automobile. It is assembled with hydraulic control unit and then fixed to the automobile. This is an admitted position.
- 4.3 In the absence of any condition in the notification that the use should be direct without any further working on the goods imported, it will be difficult to hold that the ECU is not an item which is not suitable for use in automobile applications.
- 4.4 It is the golden rule of interpretation that the expressions used in an exemption notification are to be interpreted 'as such' without adding or subtracting anything.
- 4.5 It may be noted that the ECU is not a general purpose item which will have other uses. For example, a 'bearings' or a 'screw' which are capable of use in any number of products cannot be held that they are suitable for use in automobiles alone. That is not the case here.
- 4.6 Therefore, in our view, the ECU will be excluded from Sl.No.494A of the table attached to the notification and thus, will attract a statutory rate of duty.



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Disclaimer:- The above opinion is provided based on the information and documents made available to us by the querist and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.