

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
CHANDIGARH**

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REGIONAL BENCH – COURT NO. 1

**Excise Appeal No.1375 Of 2012**

[Arising out of Order-in-Original No.08/SSS/CCE/2012 dated 19.03.2012 passed by the Commissioner of Central Excise, Delhi-III, Gurgaon]

**M/s Hero Motocorp Ltd.**

69 KM Stone, Delhi-Jaipur  
Highway, Dharuhera,  
District- Rewari-122106  
Haryana

**: Appellant (s)**

Vs

**The Commissioner of Central  
Excise, Delhi-III**

Plot No.36-37, Sector-35,  
Gurgaon, Haryana-122021

**: Respondent (s)**

APPEARANCE:

Shri Srinivas Kotni and Shri Akshay Kumar, Advocate for the Appellant  
Shri Siddharth Jaiswal and Ms. Shivani, Authorised Representative  
for the Respondent

**CORAM :**

**HON'BLE Mr. S. S. GARG, MEMBER (JUDICIAL)**

**HON'BLE Mr. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER No.60232/2023**

Date of Hearing: 26.07.2023

Date of Decision:01.08.2023

**Per :P.ANJANI KUMAR**

Vide the impugned order, dated 19/03/2012, passed by Commissioner Central Excise Delhi-03 Gurgaon, Revenue demands CENVAT credit of Rs.2,82,34,630/- from the appellant, M/s Hero Moto Corp I Ltd. Revenue argues that CENVAT credit is not admissible on Helmet lock, supplied along with the Motorcycles as the same is not an essential accessory of the Excisable goods. A Show Cause Notice was

issued and the demand raised was confirmed along with interest and penalties.

2. Shri Srinivas Kotni assisted by Shri Akshay Kumar, Learned Counsel, for the appellants submits that the provision of Helmet is as per the requirement of provisions of Motor Vehicle Act and Rules made there under; Helmet lock falls under the definition of "input" being used in relation to manufacture of final product. He submits that North Zone Tariff -Cum- General conference held on 07th and 08th June 1990 , suggested the that the Helmet locking device is an essential accessory for two-wheelers and accordingly merits classification under heading no. 87.14 of Central Excise Tariff Act, 1985; CBEC vide Circular No. 24/90-CX-4 dated 11/07/1990 has accepted the said classification; Commissioner, Delhi-III, in the appellants own case , for a subsequent period , allowed the CENVAT Credit on Helmet locks, vide order dated 23/08/2012; Revenue has not appealed against this order and therefore, the issue attained finality . Learned Counsel submits that in view of the above the impugned order is liable to be set aside. Learned council relies on the following:

- (i) *Order No.53-55/ SA/CEE/2012 dated 23.08.2012 passed by the learned Commissioner, Delhi-III*
- (ii) *Mehra Bros. Vs Joint Commissioner Officer, Madras- 1991 (51) ELT 173 (SC).*
- (iii) *Pragati Silicons Pvt. Ltd. Vs CCE, Delhi- 2007 (211) ELT 534 (SC).*
- (iv) *Annapurna Carbon Industries Vs State of A.P. (Civil Appeals No.630-631 of 1971 decided on March 9, 1976)*
- (v) *Circular No.24/90-CX dated 11.07.1990 on Helmet Locking Device.*
- (vi) *Commissioner Vs Hero Motocorp Ltd.- 2015 (315) ELT A88 (P&H)*

*(vii) Hero Motocorp Ltd. Vs CCE, Delhi-III, Gurgaon-2012 (285) ELT 318 (Tri. Del.)*

*(viii) CCE Vs Hero Honda Motors Ltd.- 2015 (329) ELT 930 (Tri. Del.)*

*(ix) CCE Vs Honda Motorcycle & Scooter India P. Ltd.- 2014 (303) ELT 193 (P&H).*

*(x) Honda Motorcycle & Scooter India P. Ltd. Vs CCE- 2012 (282) ELT 533 :: 2012 (27) STR 473.*

*(xi) Interim Order dated 22.09.2015 passed by the Hon'ble Madras High Court in the case of R. Muthukrishnan Vs R. Mallika and Ors.*

3. Shri Siddharth Jaiswal assisted by Ms. Shivani, Learned Authorized Representative, appearing for Revenue, reiterates the findings of the impugned order and submits that the appellants have also cleared some motorcycles without the helmet locking systems; therefore, helmet lock is not an essential accessory of the Motorcycles and therefore CENVAT credit has been rightly denied.

4. Heard both sides and perused the records of the case. On going through the records of the case we find that CBEC Circular, cited above, classifies the helmet locks under heading no. 87.14 of CETA, i.e as part of Motorcycles. We find that the definition of "input" during the relevant period includes accessories of the final products; as long as an input is an accessory to the Excisable goods manufactured and cleared, credit cannot be denied. Moreover, contrary to the contention of the learned Authorized Representative, the definition does not prescribe the part/component to be an essential accessory. As long as the "input" in question is an accessory, it qualifies to be an "input" as per Section 2(k) of Central Excise Act, 1944. It is not Revenue's case that the Helmet lock is not an accessory. Such a conclusion runs

contrary to the classification approved by CBEC; Moreover, we find as per the various decisions cited, by the learned Counsel for Appellants, and the provisions of Motor Vehicle Act, Helmet (and lock thereof) is required to be supplied along with the motorcycles. This being a statutory provision, the department cannot argue that it is not an "input" for the manufacture of Motorcycles .Lastly, we find that the Revenue themselves, accepted the contention of the appellant and allowed the CENVAT credit for the subsequent period. As there is no change in the legal provisions for the subsequent period, credit is admissible in the previous period which is impugned in this case. Therefore, we are of the considered opinion that the impugned order is not legally sustainable and therefore, liable to be set aside.

5. In the result, the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law.

*(Pronounced in the open Court on 01/08/2023)*

**(S. S. GARG)**  
MEMBER (JUDICIAL)

**(P. ANJANI KUMAR)**  
MEMBER (TECHNICAL)

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