



# THE HI-TECH GEARS LTD.

CIN - L29130HR1986PLC081555

Corporate Office: Millennium Plaza, Tower-B, Sushant Lok-1, Sector-27, Gurugram -122009,

Haryana, INDIA Tel.: +91(124) 4715100 E-mail: [secretarial@thehitechgears.com](mailto:secretarial@thehitechgears.com)

**Date: May 05, 2025**

**The Manager,  
Listing Department,  
National Stock Exchange of India Ltd  
"Exchange Plaza", C-1, Block – G  
Bandra – Kurla Complex,  
Bandra (E), Mumbai – 400051,  
India.  
Symbol: HITECHGEAR**

**The Manager,  
Listing Department,  
BSE Ltd.  
Phiroze Jeejeebhoy Towers,  
Dalal Street, Fort,  
Mumbai – 400001,  
India.  
Scrip Code: 522073**

**Subject: Disclosure under Regulation 30 read with Schedule III of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('SEBI (LODR) Regulations, 2015').**

Dear Sir / Madam,

We wish to inform that pursuant to the provisions of Regulation 30 read with Schedule III of SEBI (LODR) Regulations, 2015, the Company has received an order passed in favor of the Company by the Commissioner (Appeals) CGST, Central Excise and Customs, Jaipur pursuant to Section 107 of CGST Act, 2017 stating the fact that:

“There is no infirmity in classification of forged products under HSN 7326, therefore, the demand confirmed along with interest under the impugned order is not sustainable and liable to be dropped.”

Additional details required pursuant to the SEBI (LODR) Regulations, 2015 read with SEBI Circular No. SEBI/HO/CFD/CFD-PoD1/P/CIR/2023/123 dated July 13, 2023, are enclosed as **Annexure A** along with order copy.

The above information is received on May 05, 2025, at 03:01 P.M.

You are kindly requested to take the above information on record and oblige.

**Thanking You,  
Yours Faithfully,  
For The Hi-Tech Gears Limited**

**Naveen Jain  
Company Secretary & Compliance Officer  
M. No: A15237  
Encl: as above**

[www.thehitechgears.com](http://www.thehitechgears.com)

Works I: A-589, Industrial Complex, Bhiwadi - 301 019 Rajasthan INDIA Tel.: +91(1493) 265000

Regd. Office & Works-II: Plot No. 24,25,26 Sector-7, IMT Manesar - 122050 Gurugram, Haryana INDIA Tel.: +91 (124) 4715200

Works-III: Plot No. SP-146A, Industrial Complex, Bhiwadi - 301019 Rajasthan INDIA

Subsidiaries: The Hi-Tech Gears Canada. Inc. 361, Speedvale Ave W. Guelph, ON N1H 1C7, CANADA

Teutech LLC. 227, Barton St. Emporium. PA 15834, USA



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## Annexure- A

**Details under Regulation 30 of the SEBI (LODR) Regulations, 2015 read along with SEBI Circular SEBI Circular No. SEBI/HO/CFD/CFD-PoD-1/P/CIR/2023/123 dated 13th July 2023.**

S.No.	Particulars	Details
1.	<b>Name of the Authority</b>	Officer of the Commissioner (Appeals) CGST, Central Excise and Customs, Jaipur
2.	<b>Nature and details of the action(s) taken, initiated or order (s) passed</b>	The aforesaid order has been passed u/s 107 of CGST Act, 2017
3.	<b>Date of receipt of direction or order, including any ad-interim or interim orders, or any other communication from the authority</b>	May 05, 2025 at 03:10 P.M.
4.	<b>Details of the violations(s)/ contravention(s) committed or alleged to be committed</b>	Demand order raised on the Company on account of claim of input tax credit.
5.	<b>Impact on financial, operation or other activities of the listed entity, quantifiable in monetary terms to the extent possible</b>	There is no impact on financials, operations or other activities of the Company.

[www.thehitechgears.com](http://www.thehitechgears.com)

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कार्यालय आयुक्त (अपील्स)  
OFFICE OF THE COMMISSIONER (APPEALS)  
सीजीएसटी, केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क, जयपुर  
CGST, CENTRAL EXCISE AND CUSTOMS, JAIPUR  
नव केन्द्रीय राजस्व भवन, स्टैच्यू सर्किल, सी-स्कीम, जयपुर-३०२००५ (राज.)  
NEW CENTRAL REVENUE BUILDING, STATUE CIRCLE, C-SCHEME, JAIPUR-302005 (RAJ.)  
Phone: (0141) 2385235; Email: appeal\_1@rediffmail.com; Website: cgstappealsjaipur.gov.in

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C.No. APPL/JPR/CGST/AL/560/III/2024/ 2131

Date: 27.4.2025

DIN NO. 20250463RW000000A505

**ORDER-IN-APPEAL No.02 (GS)CGST/JPR/2025**

PASSED BY GAURAV SINHA, COMMISSIONER (APPEALS)  
CENTRAL GOODS AND SERVICE TAX, JAIPUR  
गौरव सिन्हा जयपुर द्वारा पारित, केन्द्रीय वस्तु एवं सेवाकर (अपील्स) आयुक्त,

उद्भूत मूल आदेश संख्या / Arising out of the following Order-in-Original-

क्र /स. S.No	अपील संख्या / Appeal No (APPL/JPR/C GST/-	अपील ए नंबर .एन.आर. / Appeal ARN No.	अपीलकर्ता/ Appellant	मूल आदेश संख्या और दिनांक जिसके विरुद्ध अपील की गयी / Order In Original No.& Date	प्रतिवादी / Respondent
1	APPL/JPR/CGST/AL/560/III/2024		M/s The Hi-Tech Gears Limited, A-589, C-588, SP-146A, RIICO INDUSTRIAL AREA, BHIWADI, Alwar, Rajasthan, 301019 GST No. 08AAACH0156K1ZP	Order-in-Original No ALW-GST-Addl. Commr. 25/2023-24dated 19.12.2023/DRC-07(Ref No.) – ZD081223104925J dated 30.12.2023	The Additional Commissioner, CGST Commissioner ate, Alwar

- This Order-In-Appeal is issued in terms of Section 107 of Central Goods and Service Tax Act, 2017.  
यह अपील आदेश केन्द्रीय वस्तु और सेवाकर अधिनियम, 2017 की धारा 107 के तहत जारी किया गया है।
- The copy of this Order-in-Appeal is granted free of charge for the private use of the person to whom it is issued.  
इस आदेश की एक प्रति उस व्यक्ति के उपयोग के लिए नि:शुल्क दी जाती है जिसे जारी किया गया है।
- Any appeal or application against this Order-In-Appeal can be filed before Goods and Service Tax Appellate Tribunal (GSTAT) in terms of Section 112 of Central Goods and Service Tax Act, 2017 read with Rule 110 and 111 of the Central Goods and Service Tax Rules, 2017 and removal of difficulty Order No 09/2019-Central Tax dated 03.12.2019.  
इस अपीलीय आदेश के खिलाफ कोई भी अपील या आवेदन केन्द्रीय वस्तु और सेवाकर अधिनियम, 2017 की धारा 112 एवं केन्द्रीय वस्तु और सेवाकर नियमावली, 2017 के नियम 110 एवं तथा कठिनाइयों को 111 दूर करने हेतु पारित आदेश संख्या 09/2019-केन्द्रीय शुल्क दिनांक 03.12.2019 के तहत वस्तु और सेवाकर अपीलीय न्यायाधिकरण के समक्ष दायर किया जा सकता है।

4. This order is being issued in exercise of the powers conferred upon the undersigned in terms of the provisions contained under sub-section (11) of Section 107 of the Central Goods and Services Tax Act, 2017 (**hereinafter also referred to as "the CGST Act, 2017"**) which is applicable to the Integrated Goods and Services Tax Act, 2017 (**hereinafter also referred to as "the IGST Act, 2017"**) in terms of provisions contained under Section 20 of the Integrated Goods and Services Tax Act, 2017 as well as under Section 107(11) of the Rajasthan Goods and Services Tax Act, 2017 (**hereinafter also referred to as "the RGST Act, 2017"**) read with Section 6 of the Rajasthan Goods and Services Tax Act, 2017. Further, as all the provisions of Central Goods and Services Tax laws and Rajasthan Goods and Services Tax laws are identical, therefore, for the sake of brevity, in this order, any quote, reference and/or invocation of any provisions of Central Goods and Services Tax Act, 2017 and/or Central Goods and Service Tax Rules, 2017 (**hereinafter also referred to as "the CGST Rules, 2017"**) shall be deemed to be read and understood as quoting/referring to, or invocation of, corresponding provisions of Rajasthan Goods and Services Tax Act, 2017 and/or Rajasthan Goods and Services Tax Rules, 2017 (**hereinafter also referred to as "the RGST Rules, 2017"**).
5. This appeal has been filed under Section 107 of the Central Goods and Service Tax Act, 2017 by M/s The Hi-Tech Gears Limited, A-589, C-588, SP-146A, RIICO INDUSTRIAL AREA, BHIWADI, Alwar, Rajasthan, 301019 having GST No. 08AAACH0156K1ZP (hereinafter referred to as "the appellant" or "the appellant" or "M/s THGL" also), against Order-in-Original No ALW-GST-Addl. Commr. 25/2023-24 dated 19.12.2023/DRC-07(Ref No.) – ZD081223104925J dated 30.12.2023 passed by the Additional Commissioner, CGST Commissionerate, Alwar (hereinafter also referred to as "the Adjudicating Authority" or "the Proper Officer" or "the respondent" also).

6. **BRIEF FACTS OF THE CASE:-**

- 6.1 The Hi-Tech Gears Limited, is a listed Company engaged in manufacturing of Gears, Transmission Shafts including Main Shaft since 1987. THGL is an Auto Ancillary Unit supplying the automobile components to various Original Equipment Manufacturers (OEMs) engaged in manufacturing of Two-Wheeler, Medium & Heavy Commercial Vehicles, Tractor, Off Road Vehicles etc.
- 6.2 An intelligence was gathered that M/s The Hi-Tech Gears Limited, Bhiwadi were engaged in manufacture and supply of some goods by classifying them under HSN 7326 as forged goods on payment of GST @ 18%. However, the said forged goods appeared to be classifiable under HSN 8483 as being Transmission shafts (including cam shafts and crank shafts) and cranks and gears under HSN 8714 leviable to GST @ 28% as they were doing further processes on the forged goods in their factory.

6.3 Acting upon the said intelligence, an inspection under Section 67(1) of the CGST Act, 2017 was conducted at the factory premises of appellant on 12-13/10/2021. During inspection of the factory, it was noticed that various machines were installed to carry out the manufacturing processes on forged goods and details of the manufacturing process explained by Sh. Rajkumar, Authorized signatory were described with photos of machines and processes were recorded in the panchnama dated 12-13/10/2021 and these processes were as under:-

- (a) Forging
- (b) Sew/Cutting/Trimming
- (c) Hardening
- (d) Tempering
- (e) Shot Blasting
- (f) Grinding
- (g) Ultra Sonic Scanning
- (h) Coining and Stamping

It therefore appeared that they were doing Forging but then these forged parts were undergoing many processes as mentioned above which clearly disqualified these goods for classification under HSN 7326.

6.4 Statement of Shri Rajkumar, Authorised Signatory of M/s The Hi-Tech Gears Limited, Bhiwadi were recorded on 13.10.2021 during the course of inspection wherein he interalia stated that:-

(i) M/s. The Hi-Tech Gears Limited, Bhiwadi, is engaged in the manufacturing of Crank Shaft, Main Shaft, Transmission Shaft and Gears for automobiles and their main supplies is to M/s Hero Motocorp Ltd., and also stock transfer to M/s The Hi-tech Gears Ltd (Manesar) Haryana. Further, he stated that the goods being cleared by them were classified under HSN 8714, 8708, 8409, 8483, 7326 etc. of the Customs Tariff Act, 1975.

(ii) Their main raw material is Alloy and Carbon Steel Bars that they purchase from various suppliers. He further stated that their main supplies were to M/s Hero Motocorp Ltd., and also stock transfer to M/s The Hi-tech Gears Ltd (Manesar), Haryana.

(iii) In their plant at A-589, C-588, there are two sheds, in one shed hot forging is being done whereas in the other shed cold forging & machining is being done. In the premises SPL-146A there is separate manufacturing process for Transmission shaft Gear for Commercial Vehicles and Tractors.

(iv) On being asked about the manufacturing process undertaken in the hot forging shed against the goods cleared under HSN 7326 along with the description of the machines used for each process in the shed, he stated that following process are being undertaken along with the description of the machine used for the process for the goods cleared under HSN 7326:-

(a) Forging Machine:- It is a first process where small pieces of uniform size of Alloy Bars are put into the Forging Machine/induction furnace and Forging process was carried out through these machines by heating of the billet at very high temperature of 1200° C. Thereafter, the Forged metal pieces are

received through the above process and moved forward to the machine in sequence for further process.

(b) Sew/Cutting/Trimming Machine:- The forged metal pieces goes through this process to remove the excess material/ flash and after that the trimmed pieces are collected in trollies to send for further process.

(c) Hardening Machine:- The trimmed metal pieces collected after going through forging- Cutting-Trimming steps undergo hardening process. Due to very high temperature at forging process the forged metal pieces become fragile in nature. Due to this these metal pieces further undergo Hardening process to re-obtain the metallurgical properties lost in the forging process.

(d) Tempering Machine:- After the Hardening process the metal pieces go through tempering process that relieves the internal stresses and regulate the hardness and toughness.

(e) Shot Blasting:- The metal pieces obtained from the Tempering Machine were going through the Shot Blasting Machine to clean the surface of the part and polish/strengthen the part.

(f) Grinding Machine:- For smoothening of the peripheral of the metal part, the Grinding process was being carried out on it.

(g) Ultra Sonic Scanning:- After going through the above mentioned processes the metal pieces were going for final check. For this the Ultra Sonic Scanning was being done on the parts for crack detection, if any

(h) Coining and Stamping:- After the above all processes, a final stamp was embossed on the item confirming ultrasonic scanning of the part.

(v) The resultant product obtained from the above all processes is being cleared to their another unit i.e. M/s Hi-Tech Gears Limited, Manesar under HSN 7326 after payment of GST @ 18% for further machining processes.

(vi) On being asked about the manufacturing process undertaken in the Cold Forging Shed against the goods cleared under HSN 7326 along with the description of the machines used for each process in the shed, he stated that following process are undertaken along with the description of the machine used for the process.

(a) Phosphating:- He stated that they buy forged main shaft from external vendors which first undergo Phosphating process which creates surface lubrication for making it suitable for extrusion process.

(b) Cold Forging/Extrusion:- After Phosphating process the main shaft undergo the extrusion process wherein length of the main shaft increases and grooving on main shaft is also carried out.

(vii) On being asked, he stated that the resultant product obtained from Extrusion process is cleared to their own Unit i.e. M/s Hi-Tech Gears Limited, Manesar under HSN 7326 and on payment of 18% GST as forged component.

(viii) On being asked that M/s. The Hi-Tech Gears Limited has classified the parts cleared to their Manesar Unit under HSN 7326 whereas further processing has

been made on the part therefore, the same did not appear to fall under HSN 7326, he stated that as per the technical inputs and our understanding above processes are the part of forging only hence classified under HSN 7326.

(ix) On being asked, he submitted the manufacturing process of the items cleared under HSN 7326 along with process flow chart and details of the clearance made under HSN 7326 during the Period 01.07.2017 to 31.12.2018.

(x) He also submitted a letter dated 13.10.2021 intimating that they have deposited Rs 75 Lacs in cash vide DRC 03 dated 13.10.2021.

6.5 Summon dated 29.12.2021 was issued to the appellant to appear on 11.01.2022. However, the appellant in compliance to the above summon submitted details of forged items cleared under CTH 7326 for the period from Dec, 2017 to Dec, 2018 and sought 30 days time for personal appearance.

6.6 Further, letter was issued to the appellant on 20.09.2022 to seek the details of the goods cleared under HSN 7326 and appellant was requested to pay the differential GST on such goods. The appellant in compliance of the said letter submitted a detailed reply vide its letter dated 07.10.2022 wherein they have submitted that:-

6.6.1 That, they have already apprised the department about the material facts of the case such as manufacturing process of various products, their multiple stages of production under different processes and company's understanding about the applicability of HSN Code at different stages. Based on the said understanding it was urged that the HSN classification undertaken by the company is correct and that also the tax based on the said classification was correctly paid by the company. They have made following submissions:

6.6.2 The Company has installed its manufacturing facilities at Bhiwadi in Rajasthan and IMT Manesar in Haryana and having itself registered under Two different GST of Rajasthan and Haryana.

Plant -1 Situated at Bhiwadi – Plot No. A-589 & C-588:

Having Forging and Machining Facility since 1987

Plant -2 Situated at Bhiwadi – Plot No. SPL-146A:

Having Machining Facility only since 2011

Plant-3 Situated at IMT Manesar – Plot No. 24, 25, 26, Sector-7 –

Having Machining Facility only since 2005

6.6.3 The appellant has obtained Technical Know-how to make Transmission Shafts and Gears which are used in Two-Wheeler Motor Vehicles manufactured by Hero Motocorp Limited (HMCL). THGL has also installed in-house Die Manufacturing Shop (DMS) for all these types of components. For developing forged components, the company primarily utilizes two processes, one being HOT FORGING and another being COLD FORGING for making the Gears and Transmission Shafts.

6.6.4 Hot Forged components involve mainly following process:

- Billet Cutting from Alloy Steel Bar and Billet Heating

- Pre-Forming and Finish Forming
- Trimming
- Heat Treatment i.e., Hardening
- Tempering Process
- Shot Blasting and Grinding
- Inspection

6.6.5 After all these processes the unfinished/semi-finished components of final products i.e., Crank Shafts, Gears, Shafts are sent from Plant -1 Situated at Bhiwadi (Rajasthan) to Plant 3 situated at IMT Manesar (Haryana) for further Machining Process. Till the time these unfinished/semi-finished components are sent from Bhiwadi Plant to Manesar Plant, no machining process is being carried out on these components. The components in the present form cannot be utilized by the client i.e., HMCL for their desired use in the Automobiles neither are they capable of any desired use as automobile parts and components and it is a mere pre-formed billet of steel without any characteristic of a gear/transmission shaft.

6.6.6. Following Machining activities are performed at the Components, based on specific product use & requirement, at the Manesar Plant: -

- a. Facing & Centering
- b. Finish Turning 1 & 2 (Based on faces)
- c. U- Drilling
- d. Deburring
- e. Keyway Milling / Cylindrical Grinding
- f. Hobbing
- g. Spline Rolling
- h. Gun Drilling
- i. Case Carburizing
- j. Shot Blasting
- k. Laser Marking
- l. Straightening
- m. Annealing
- n. Grinding
- o. Final Inspection
- p. Packing & Dispatch

After all these processes the final component gets ready and thereafter supplied to HMCL and only after these processes a product manufactured by the company can be used as a transmission shaft/gear. It is again submitted that without these processes there is a mere forged/pre-formed billet which is of no desired use.

6.6.7 During the Cold Forging Process the Company receives the Cold Forged Component (shaft's billet) from vendor who sends the unfinished/semi-finished shaft component's billet directly to the company. Thereafter, the following processes are carried out on such component before machining process(es): -

- Phosphating
- Spline Extrusion (longing process – billet size is increased)

6.6.8 That after these processes are complete, the components are finally inspected and thereafter sent to the Manesar Plant for the purpose of

Machining & Heat Treatment. At this stage of Cold Forging the components cannot be used in their final use and it is only after the Machining & Heat Treatment processes are completed at Manesar plant, they are sent to HMCL. During the Machining following further processes are performed at the Manesar Plant:

- a. Facing & Centering
- b. Turning
- c. Grooving
- d. Hobbing
- e. Heat Treatment
- f. Shot Blasting
- g. Hard Grinding/Hard Turning, if required
- h. Inspection
- i. Final Inspection
- j. Packing & Dispatch

6.6.9 That THGL Bhiwadi plant is dispatching such Forged components (before machining process) under HSN Code 73261910 and 73261990 by applying 18% of IGST based on the understanding that these components are not suitable for end use as per desired operations in the present forged state and are therefore, classified in "Other Articles of iron and Steel" only under Heading 7326.

6.6.10 The Explanatory Notes to Heading 7326 makes it clear that some further processes may be allowed after forging to be classifiable under this heading. The Explanatory Notes read as under: -

Removal of burrs, runouts and other stamping defects by rough burring, grinding, hammering, chiseling or filing; removal of annealing by acid dipping; simple sand-blasting; roughing or rough bleaching and other operations intended exclusively to detect flaws in the metal; application of rough coatings of graphite, oil, tar, red lead or similar products, clearly intended to protect the subjects against rust or other types of oxidation; stamping, punching, printing, etc., with simple inscriptions, such as trademarks.

6.6.11 That, as regards to classification of the goods supplied from Bhiwadi Plant to the Manesar Plant under HSN Code 8409, 8483 or 8708; they have submit that the said classification is not applicable in the present case as till the point of time goods are at Bhiwadi Plant they are not capable of intended use and are rather a pre-formed forged billet of steel which do not have any property of being a gear or shaft and therefore are correctly classified by us under heading 7326. Therefore, in any case all the items which are shafts, gears and gearings etc. are classifiable under HSN 8483 rather than any other heading as this heading specifically covers these items. However, it is again urged that the said classification is also for the finally processed items which are capable of being use for the desired purpose of the goods under the said heading 8483. Till the point of time such goods are not capable of use for their desired purposes, by way of machining processes which create teeth into the billet; the goods are nothing but a simple steel billet classifiable under heading 7326.

6.6.12 That, in respect of the same, month wise details of the semi-finished/unfinished components for the period 01.07.2017 to 31.12.2018, which are cleared by the Bhiwadi Plant of the company to its Manesar Plant under HSN Code 7326. According to the said detail, they have supplied forged item valued at Rs. 36,93,16,458/- on payment of GST of Rs. 6,64,76,964/-.

- 6.7 The department was of the view that finished goods manufactured by them are not forged parts as further processes are being carried out on the forged parts. The said fact has been clearly described in the Panchnama dated 12/13-10-2021 and Sh. Rajkumar in his volunteer statement dated 13.10.2021 tendered under Section 70 of the CGST Act, 2017 has also accepted that various processes i.e. Sew/Cutting/Trimming, Hardening, Tempering, Shot Blasting, Grinding, ultra Sonic Scanning and Coining and Stamping are being carried out after forging process on the forged goods in their plant. Also, further processing of Phosphating and Cold Forging/Extrusion is also being carried out on forged parts in Cold Forging Shed of the plant as stated by Sh. Rajkumar in his volunteer statement dated 13.10.2021. The appellant vide its detailed reply dated 07.10.2022 has also accepted that the above said processes are being done on the forged parts. The goods mentioned against HSN 7326 are as under:-

"7326 OTHER ARTICLES OF IRON OR STEEL –

Forged or stamped, but not further worked :

7326 11 00 -- Grinding balls and similar articles for mills

7326 19 -- Other :

7326 19 10 -- For automobiles and earth moving equipments

7326 19 90 -- Other

It is therefore clear from above heading that it includes those goods which are forged or stamped but not further worked i.e. no further processing has been done on the goods. Here it has been amply proved that many processes have been done on the forged goods in the factory premises as mentioned in the statements, panchnama and flow diagram submitted by the tax payer. Therefore the goods cleared by the tax payer shall not be classifiable under HSN 7326. The decision and circular cited by the tax payer is also not in his favour as it also concluded that if the forged goods are machined and further worked shall not fall under forged goods.

- 6.8 Further, even if the appellant's contention is accepted that their finished goods are further worked out in their Manesar Plant and then it can be used as a automobile parts, it is a fact that the finished goods manufactured by them have taken essential character of Crank Shaft/Main Shaft and gears and can only be used as parts of automobiles. The same has also been clarified in Interpretative Rule 2(a) issued under Section 2 of Customs Tariff Act, 1975. Material portion of Interpretative Rule 2(a) of Customs Tariff Act, 1975 reads as follows:

"2(a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that the incomplete or unfinished article has the essential character of the complete or finished article."

The scope of Interpretative Rule 2(a) of Customs Tariff has also been clarified and backed in Hon'ble Supreme Court's decision dated 01.01.1994 in the case of M/s Bajaj Auto Limited vs Collector of Customs in which it has been clarified that any reference to an article under any heading shall be taken to include a

reference to that article unfinished or incomplete provided the same has attained the "essential character" of the complete or finished goods.

- 6.9 Further department's contention is also being clarified vide WCO HSN explanatory notes for HSN 7326 & 8483, which are reproduced below:

7326; Other Articles of Iron or steel.

This heading does not cover forgings which are products falling in other headings of the Nomenclature (e.g. recognizable parts of machinery or mechanical appliances) or unfinished forgings which require further working but have the essential character of such finished products.-----"

HSN 8483 of the Customs Tariff:-

Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)

8483.10 -Transmission shafts (including cam shafts and crank shafts) and cranks

**(A) TRANSMISSION SHAFTS (INCLUDING CAM SHAFTS AND CRANK SHAFTS) AND CRANKS**

These usually transmit a rotary motive power. They include:-

- (1) Main shafts or driving shafts driven directly by the motor.
- (2) Counter shafts, for coupling to the main shaft by belts and pulleys or by cogs, etc.; they are used to take the drive from the main shaft to a number of machines, or to different parts of a machine.
- (3) Articulated shafts, consisting of two or more shafts connected by ball and socket joints, etc.
- (4) Flexible shafts which transmit the motion of a driving unit to, e.g., hand tools, measuring instruments (revolution counters, speedometers, etc.).
- (5) Cranks and crank shafts. These may be either made in one piece or assembled from several parts. They receive a reciprocating motion (e.g., from a piston engine) and convert it into rotary movement, or vice versa.
- (6) Cam shafts and eccentric shafts.

87.14- Parts and accessories of vehicles of headings 87.11 to 87.13.

8714.10 -Of motorcycles (including mopeds)

8714.93 -- Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket-wheels

8714.94 - - Brakes; including coaster braking hubs and hub brakes, and parts thereof

8714.95 -- Saddles

**8714.96 --Pedals and crank-gear, and parts thereof**

8714.99 -- Other

This heading covers parts and accessories of a kind used with motorcycles (including mopeds), cycles fitted with an auxiliary motor, side-cars, non-motorised cycles, or carriages for disabled persons, provided the parts and accessories fulfill both the following conditions :

- (i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles; and
- (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

Parts and accessories of this heading include:

- (1) Bodies and parts thereof for delivery tricycles, side-cars or carriages for disabled persons (hoods, doors, floors, etc.).
- (2) Chassis and frames, and parts thereof.
- (3) Gearing, gear boxes, clutches and other transmission equipment, and parts thereof, for motorcycles.

- 6.10 In view of the above the goods cleared by the appellant as forged Crank Shaft, counter shafts and Main Shaft classified under HSN heading 7326 appears to be classifiable under HSN 8483 and the goods cleared by the appellant as forged gears appears to be classifiable under HSN 8714. Further, rate of GST payable on goods under HSN 8483 and 8714 is 28% upto 31.12.2018. With effect from 01.01.2019, the GST rate is 18% on HSN Code 8483 and 28% on HSN code 8714. However, the taxable person has paid GST @18% on the Crank Shaft, counter shafts, Main Shaft and gears supplied by them by way of mis-classification of the said goods under HSN heading 7326 as forged goods. From above, it appears that the finished goods cleared by the taxable person have taken essential character of the part i.e. Crank Shaft, counter shafts, Main Shaft and gears which are used solely and essentially in the automobiles (two wheeler), hence it should be classified under HSN 8483 and HSN 8714 instead of HSN 7326. Therefore, it appears that the taxable person has short paid GST amounting to Rs. 3,69,31,646/-(IGST only) by way of mis-classification of goods i.e. forged or stamped but not further worked.
- 6.11. The appellant has deposited the short paid IGST amounting to Rs. 3,69,31,646/- alongwith interest of Rs. 2,59,39,003/- vide various DRCs-03 during investigation.
- 6.12 In view of above, it appeared that the taxable person has short paid IGST amounting to Rs. 3,69,31,646/- by way of mis-classification of goods i.e. forged goods under HSN 7326. The appellant appeared to have contravened the provisions of Section 9, 37, 39 and 59 of the CGST Act, 2017 as they have misclassified their goods and consequently short paid GST. The misclassification & lesser rate of GST have been incorporated in the tax invoices & returns, thereby resulting into filing of improper returns. The fact of said short payment of GST came to the notice of the department when the data analysis of the appellant as available in their returns filed on the portal was done. The appellant has shown the details of the HSN 7326 in their returns filed on the portal and their suppliers are B2B and details of the invoices and HSN wise summary has been uploaded in returns on the portal. Therefore, it appeared that the short paid GST amounting to Rs. 3,69,31,646/- is recoverable along with penalty under section 73(1) and interest under section 50 of the CGST Act, 2017 made applicable in the IGST Matters by the virtue of Section 20 of the IGST Act, 2017.
7. Accordingly, M/s The Hi-Tech Gears Limited, A-589, C-588, SP-146A, RIICO Industrial Area, Bhiwadi, Alwar, Rajasthan were issued show cause as to why:-

(A) The goods i.e. forged Crank Shaft, counter shafts and Main Shaft cleared under HSN heading 7326 should not be classified under HSN heading 8483 and the goods i.e. forged gears cleared under HSN heading 7326 should not be classified under HSN heading 8714 of GST Tariff read with Customs Tariff Act, 1975;

(B) Differential IGST amounting to Rs. 3,69,31,646/- should not be demanded and recovered from them under section 73(1) of the CGST Act, 2017 made applicable in the IGST matter by the virtue of Section 20 of the IGST Act, 2017. As the appellant has already deposited IGST of Rs. 3,69,31,646/- for the period from July 2017 to December 2018 under protest, why the same should not be appropriated into government account;

(C) Interest amounting to Rs. 2,59,39,003/- on delayed paid IGST should not be demanded and recovered from them under Section 73(1) of the CGST Act, 2017 read with Section 50 of CGST Act, 2017 as made applicable in the IGST matters by the virtue of Section 20 of the IGST Act, 2017. As the appellant has already deposited interest of Rs. 2,59,43,003/- for the period from July 2017 to December 2018 under protest, why the same should not be appropriated into government account;

(D) Penalty under Section 73 of the CGST Act, 2017 made applicable in the IGST matter by the virtue of Section 20 of the IGST Act, 2017 should not be imposed upon them for contravention of the Act as mentioned above.

8. The appellant has submitted the reply to said show cause notice, however the demand has been confirmed in toto vide OIO No. Order-in-Original No ALW-GST-Addl. Commr. 25/2023-24 dated 19.12.2023/DRC-07(Ref No.) – ZD081223104925J dated 30.12.2023 alongwith interest. However, penalty has been dropped in terms of Section 73(5) of the CGST Act, 2017.
9. Being not satisfied with the impugned OIO passed by the adjudicating authority, the appellant has filed an appeal against the OIO No. Order-in-Original No ALW-GST-Addl. Commr. 25/2023-24 dated 19.12.2023/DRC-07(RefNo.)– ZD081223104925J dated 30.12.2023 before the Commissioner (Appeal), Central Goods & Service Tax (Appeals), Jaipur on the various grounds as summarized hereunder.
  - 9.1 that THGL has installed its manufacturing facilities at Bhiwadi in Rajasthan and IMT Manesar in Haryana and having itself registered under two different GST of Rajasthan and Haryana. They have obtained technical know-how to make Gears and Transmission Shafts, which are used in Two-Wheeler Motor Vehicles manufactured by Hero Motocorp Limited (HMCL). THGL has also installed in-house Die Manufacturing Shop (DMS) for all these types of components.
  - 9.2 that the transactions relevant for the present Appeal is the supply of the articles i.e. Gear Main Shaft, Crank Shaft, Main Shaft and Gear supplied in unfinished/forged form (here-in-after referred to as forged items) by the Bhiwadi Unit of THGL to its Manesar Unit. The forged items are supplied by the Bhiwadi Unit of THGL to its Manesar Unit by classifying them under Tariff Item 7326, as applicable and charging IGST @ 18%.
  - 9.3 that the said forged items are thereafter machined at the Manesar Unit of THGL to attain the exact shapes and dimensions in conformity with the specifications provided by M/s Hero Motocorp Limited (HMCL). Such final products are then supplied by the Manesar Unit of THGL to HMCL and used in the manufacture of Two-Wheeler Motor Vehicles.

9.4 The process of manufacture of the final products adopted by THGL can be broken down into the following three steps which are discussed in detail in the forthcoming paragraphs:

- i. Hot forging of items from scratch/cold forging of unfinished forged articles received by THGL from its vendors at the Bhiwadi Unit;
- ii. Machining of the forged items at the Manesar Unit;
- iii. Final inspection, proofing and packaging at the Manesar Unit.

**Forging of items:**

Hot-Forged components involve mainly following process:

1. **Billet Cutting:** In this process, the long alloy steel bars are cut into the uniform desired pieces known as billets. The specifications of the billet are pre-defined with respect to the weight & length as per the desired shape of the final products.
2. **Billet Heating:** After cutting the billets, they are taken for heat treatment process where they are heated up to a high temperature of about 1200°C in induction heating furnaces for the purpose of forging into the desired shape of the final products as per the design provided by HMCL.
3. **Hot Forming Process:** In this process, small pieces of heated billets are put in between dies and force is applied on the dies to get the required shapes and size of the part, the process is completed in 2 steps, pre-forming and finish forming.
4. **Trimming:** In this process, the excess outer layer of metal remaining after the hot forming process is removed.
5. **Hardening & Tempering Process:** During the process of forming, since the metal is treated at high temperatures, it loses its hard-metallic properties and becomes fragile. To regain the metallurgical properties and requisite hardness, this process is performed on the hot formed articles wherein they are heated on high temperatures and thereafter, immediately quenched off. These quenched components are heated again to a relatively low temperature and cooled off slowly. This process is performed to relieve the internal stresses and regulate the hardness and toughness, which were lost during hot forming process.
6. **Shot Blasting:** Shot Blasting is the cleaning operation and it removes the scales generated during the process of hot forming, hardening and tempering.
7. **Grinding and ultrasonic inspection:** To get the formed part inspected for cracks, ultrasonic inspection is done and as a preparatory part grinding is getting done for smoothening the surface.


**Cold Forging:**



In the cold-forging process, the following processes are carried out on such unfinished forged items at the Bhiwadi Unit of THGL before being transported to its Manesar Unit for machining:

1. **Phosphating:** In this process, the unfinished forged items are coated with a solution of different lubricating chemicals which creates a layer around it making the surface lubricated, which ultimately helps in the process of Spline Extrusion.
2. **Spline Extrusion:** The component is heated up while slowly being passed through a die. Thus, in this process the length of the unfinished forged items received from the vendor is increased along with spline formation.

9.5 On completion of aforementioned hot-forging/cold-forging sub-processes, the forged items are supplied to the Manesar Unit of THGL wherein following machining activities are undertaken by THGL (the process/activities are provided category-wise in tabular form):

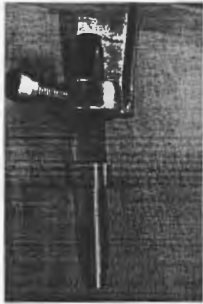
**Gear:**




S. No.	Name of process	Nature as well as purpose of the process	Representative image of the process
1.	Finish Turning 1 & 2 (Based on faces)	The forged item so supplied by the Bhiwadi Unit is in raw form. In order to make it usable as a gear, it is required to be cut and shaped in the desired size.	
2.	Deburring	It is undertaken to remove the burrs generated while undertaking earlier processes. Deburring the gear is a mandatory requirement before any assembly in vehicle. If not done, it will cause its premature failure and gear will not be able to perform the desired function.	 <p>Photograph P1</p>
3.	Broaching	In this process, splines are cut in the internal diameter of a gear. It is required for assembly of splined gear with the splined shaft.	



4.	Hobbing	<p>This is the process in which teeth are carved on the outer surface of the gear. Such teeth in the gear are used to interact with and transfer of torque to other gears in the gear assembly for power transmission from engine to wheels.</p>	 <p>Photograph P2</p>
5.	Case Carburizing	<p>It is a heat treatment process in which the outer surface (upto 5 to 6 mm) of the gear is heated. It is required for enhanced durability and increase the life of any part which are meant for transmission or any relative motion.</p>	
6.	Shot Blasting	<p>In this process, the scales generated during heat treatment/oxidation are removed. It is required for cleaning gear from scales, loose dirt, chips etc for better transmission of power.</p>	
7.	Laser Marking	<p>In this process, batch code is marked for identification purposes. It is helpful in case of identification of batch of the gears, in case if any gear fails on testing/on road.</p>	 <p>Photograph P3</p>
8.	Honning / Hard Turning	<p>In this process, the gear is fixed on a rapid turning machine in order to carve the internal diameter of the gear in the requisite shape and size.</p>	

9.	Final Inspection	Final inspection of the gear is undertaken with regarding to functionality. On completion of this process, the gear is sent for packing.	
10.	Packing & Dispatch	The gear is packed by THGL of Manesar unit and dispatched to HMCL.	

**Gear Main Shaft:**


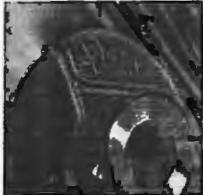
S. No.	Name of process	Nature of process and purpose	Representative image of the process
1.	Finish Turning 1 & 2 (Based on faces)	Since the forged item supplied by the Bhiwadi unit is in raw form, it is cut and shaped in the desired size which is thereafter used in further processes.	 <p>Photograph P4</p>
2.	Deburring	It is undertaken to remove the burrs generated while undertaking earlier processes. Deburring the gear main shaft is a mandatory requirement before any assembly in vehicle. If not done, it will cause premature failure and the gear main shaft will not be able to perform its requisite function.	


3.	Cylindrical grinding	This process is to ensure that the gear main shaft has attained the precise shape and smooth surface with minimum roughness to be prepared for the process of hobbing.	 <p>Photograph P5</p>
4.	Hobbing	In this process, the teeth of gear main shaft are carved. Such teeth in the gear shaft are used to interact with and transfer of torque to other shafts and gears in the gear assembly for power transmission from engine to wheels.	 <p>Photograph P6</p>
5.	Spine Rolling	The process is to generate multiple slots (spline) on the outer diameter of the gear main shaft. The splines on the outer surface of the said shaft are essential for assembling a gear and a shaft for the rotatory mechanics of the gear system to work.	
6.	Gun Drilling	In this process, a precise hole is drilled through the length of the gear main shaft which is required to circulate lubrication on the parts which are assembled on a shaft	 <p>Photograph P7</p>
7.	Case Carburizing	In this process, the outer surface of the gear main shaft is hardened up to some depth	

		which is required for enhanced durability and increase the life of any part which are meant for transmission or any relative motion	
8.	Shot Blasting	This process is to remove the scales generated during Heat treatment.	 <p><b>Photograph P8</b></p>
9.	Laser Marking	In this process, batch code is marked for identification purposes. It is helpful in case of identification of batch of the gear main shaft, in case if any gear main shaft fails on testing/on road.	
10.	Straightening	The process is to straighten the gear main shaft which bents during heat treatment process in order to carry out further processes on such shaft.	
11.	Annealing	In this process, the hardened portion of the gear main shaft is softened in order to prevent them breaking during tightening and cooling.	
12.	Grinding	In this process, the outer surface of the gear main shaft is grinded in order to achieve the precise shape and size of the shaft which is required for	


		assembly in the vehicle.	<b>Photograph P9</b>
13.	Final Inspection	Final inspection of the parts is undertaken with regarding to functionality. On completion of this process, the gear main shaft is sent for packing.	
14.	Packing & Dispatch	The gear main shaft is packed by THGL and dispatched to HMCL.	


**Crank Shaft:**

S. No.	Name of process	Nature of process and purpose	Representative image of the process
1.	Finish Turning 1 & 2 (Based on faces)	Since the forged item supplied by the Bhiwadi Unit is in raw form, it is cut and shaped in the desired size which is thereafter used in further processes.	 <p><b>Photograph P10</b></p>
2.	U-Drilling	In this process, a hole is drilling in the centre of the shaft which is required for assembly of the shaft with crank pin and con rod (connecting rod).	 <p><b>Photograph P11</b></p>
3.	Deburring	It is undertaken to remove the burrs generated while undertaking earlier processes. Deburring the crank shaft is a	

		mandatory requirement before any assembly in vehicle. If not done, it will cause premature failure and the shaft will not be able to perform its requisite function.	
4.	Keyway Milling and facing	In this process, slots are milled in the shaft by fitting a key which is used for assembling the shaft in the engine of the vehicle.	 <p>Photograph P12</p>
5.	Cylindrical grinding	This process is to ensure that the shaft has attained the precise shape and smooth surface with minimum roughness to be prepared for the process of spline rolling	
6.	Drilling	The process is to make holes in the crank shaft which are required for circulation of the lubricant in engine	
7.	Final Inspection	Final inspection of the crank shaft is undertaken with regarding to functionality. On completion of this process, the product is sent for packing.	
8.	Packing & Dispatch	The crank shaft is packed by THGL and dispatched to HMCL.	

**Injector Clamp:**

S. No.	Name of process	Nature of process	Representative image of the process
1.	Facing & boring	This operation is performed to machine the top face and to grind the internal diameter in centre which are further used as reference for next operations.	
2.	Broaching	The profiles are cut in internal diameter of the clamp which is required for assembling with the fuel injector.	 <p>Photograph P13</p>
3.	Milling and Drilling	In this process, holes are drilled, and profiling is done at both the ends of the clamp which is required for the injector clamp to perform its function of clamping the fuel injector in the vehicle assembly.	
4.	Deburring	It is undertaken to remove the burrs generated while undertaking earlier processes. Deburring the injector clamp is a mandatory requirement before any assembly in vehicle. If not done, it will cause premature failure and the injector clamp will not be able to perform its requisite function.	

8.	Thru Hardening	In this process, the clamp is heat-treated for hardening the clamp which is required for enhanced durability and increase the life of any part which are meant for clamping, holding or any positioning in the vehicle.	
9.	Shot Blasting	The process is to remove the scales generated during heat treatment.	 <p data-bbox="997 1079 1166 1108"><b>Photograph P14</b></p>
10.	Laser Marking	In this process, batch code is marked for identification purposes. It is helpful in case of identification of batch of the injector clamp, in case if any injector clamp fails on testing/on road	
11.	Phosphating	The process is to coat the component with phosphating layer which is required for corrosion prevention in humid conditions.	
12.	Final Inspection	Final inspection of the injector clamp is undertaken with regarding to functionality. On completion of this process, the final product is sent for packing.	

13.	Packing & Dispatch	The final injector clamp is packed by THGL and dispatched to HMCL.	
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9.5 that after all these processes the final component gets ready and thereafter supplied to HMCL and only after these processes a product manufactured by the company can be used as a gear/transmission shaft. It is again submitted that without these processes there is a mere forged/pre-formed billet which is of no desired use.

9.6 that, THGL Bhiwadi Plant is dispatching such Forged components (before machining process) under HSN Code 73261910 and 73261990 by applying 18% of IGST based on the understanding that these components are not suitable for end use as per desired operations in the present forged state and are therefore Classified in "Other Articles of iron and Steel" only under Heading 7326.

The Explanatory Notes to Heading 7326 makes it clear that some further processes may be allowed after forging to be classifiable under this heading.

The Explanatory Notes read as under: -

*Removal of burrs, runouts and other stamping defects by rough burring, grinding, hammering, chiseling or filing; removal of annealing by acid dipping; simple sand-blasting; roughing or rough bleaching and other operations intended exclusively to detect flaws in the metal; application of rough coatings of graphite, oil, tar, red lead or similar products, clearly intended to protect the subjects against rust or other types of oxidation; stamping, punching, printing,*

9.7 that to determine the classification of the forged items supplied by the Bhiwadi Unit of THGL to its Manesar Unit, it is pertinent to understand the scope of the applicable legal provisions and Notifications issued under GST, the relevant entries in the Customs Tariff Act, 1975 (hereinafter referred to as the "Customs Tariff") as well as the HSN Explanatory Notes and to analyze their application on the facts of the present case.

**Provisions under GST:**

A.1 Under the GST Law, applicable rate of GST on supply of goods is determined as per the Notifications issued by the Central Government in this regard [Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 for IGST and Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 for CGST]. The Notifications specify the GST rates for different goods based on their classification under specific tariff item / sub-heading / heading / Chapter and description of the goods. The relevant entries related to forged items in the Notification No. 01/2017-IT along with the corresponding entries in the Customs Tariff and the HSN Explanatory Notes to the same are discussed in the forthcoming paragraphs for the purpose of convenience.

**Chapter 73:**

- A.2 Since the forged items are solely composed of iron and steel, it is pertinent to refer to the entries in the Notification No. 1/2017-IT which provides for the articles of the said family on the basis of composition.

**Chapter Heading 7326:**

**Schedule III – 9%:**

Sr. No.	Chapter/ Heading/ Sub-Heading/ Tariff item	Description of Goods
180.	7326	Other articles of iron or steel

**Application of Customs Tariff Act:**

- A.3 Explanation (iii) to Notification No. 1/2017-IT provides that the "Tariff Item", "Sub-Heading", "Heading" and "Chapter" in the Notification shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff.
- A.4 Further, Explanation (iv) to Notification No. 1/2017-CT (Rate) dated 28.06.2017 provides that the rules for the interpretation of the First Schedule to the Customs Tariff, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

**Relevant entries in the Customs Tariff:**

- A.5 Chapter Heading 7326 of the First Schedule to Customs Tariff, *inter alia*, provides for classification of forged articles of iron and steel. The relevant entry in this regard is as follows:

Tariff items	Description of Goods
7326	<b>OTHER ARTICLES OF IRON OR STEEL</b>
	- Forged or stamped, but not further worked
	...
732619	-- Other
73261910	-- For automobiles and earth moving equipments
73261990	-- Other

**Reference to Harmonized System of Nomenclature (HSN):**

- A.6 Since the description of Sr. No. 180 of Schedule-III of Notification No. 1/2017-CTR is the same as that of Heading 7326 of the Customs Tariff, reference can be made to HSN Explanatory Notes of Chapter Heading 7326 in order to understand the scope of Chapter Heading 7326. The extract of the relevant portion of the HSN is reproduced below for quick reference:

**"Chapter 73  
Articles of iron or steel**

**GENERAL**

*This Chapter covers a certain number of specific articles in headings 73.01 to 73.24, and in headings 73.25 and 73.26 a*

group of articles not specified or included in Chapter 82 or 83 and not falling in other Chapters of the Nomenclature, of iron (including cast iron as defined in Note 1 to this Chapter) or steel.

...  
**73.26 Other articles of iron or steel (+).**

...  
This heading covers all iron or steel articles obtained by forging or punching, by cutting or stamping or by other processes such as forging, assembling, welding, turning, milling or perforating **other than** articles included in the preceding headings of this Chapter or covered by Note 1 to Section XV or included in **Chapter 82 or 83** or more specifically covered elsewhere in the Nomenclature.

...  
This heading **does not cover** forgings which are products falling in other headings of the Nomenclature (e.g., **recognisable parts of machinery or mechanical appliances**) or unfinished forgings which require further working but have the essential character of such finished products.

...  
**Subheading Explanatory Note.**  
**Subheadings 7326.11 and 7326.19**

After forging or stamping, the products of these subheadings may have been subjected to the following working or surface treatments:

*Removal of burrs, runouts and other stamping defects by rough burning, grinding, hammering, chiselling or filing; removal of annealing by acid dipping; simple sand-blasting; roughing or rough bleaching and other operations intended exclusively to detect flaws in the metal; application of rough coatings of graphite, oil, tar, red lead or similar products, clearly intended to protect the subjects against rust or other types of oxidation; stamping, punching, printing, etc., with simple inscriptions, such as trademarks."*

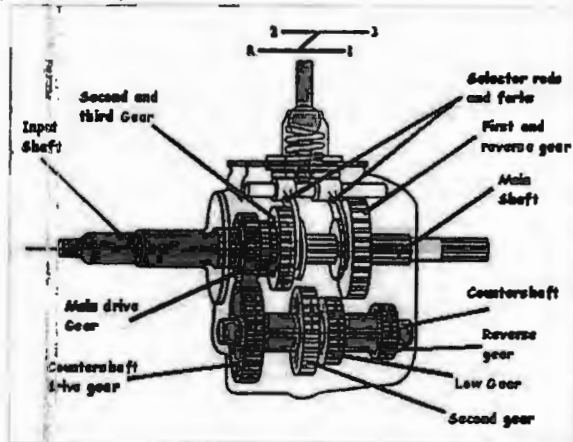
- A.7 From the above, it becomes clear that Chapter Heading 7326 covers the articles of iron and steel which are forged, cut or stamped. Further, the General Explanatory Notes to Chapter 73 provides that the Chapter covers articles which are not specified or included in Chapter 82 or 83 of the Customs Tariff.
- A.8 In this regard, it is stated that neither Chapter 82 nor Chapter 83 specifically provides for either of gears, gear shafts, crank shafts or injector clamps or includes the same in any of the respective subheadings.
- A.9 Further, it becomes clear that the said Chapter Heading does not contain goods falling under any other heading in the Customs Tariff or unfinished forgings which have attained the essential character of such finished goods that are classifiable elsewhere in the Customs Tariff. On application of the explanation under Notification 1/2017-CTR, if the forged items satisfy the

requirement under Heading 7326, they will fall under Sr. No. 180 of Schedule III of the said Notification.

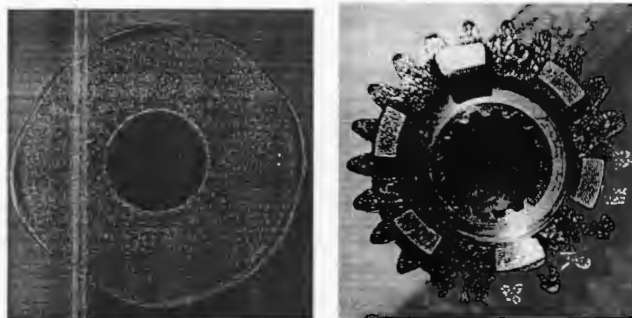
- A.10 Further, Rule 2(a) of the General Rules of Interpretation provides that any reference in a Chapter Heading of the Customs Tariff to an article shall be taken to include a reference to that article incomplete or unfinished, **provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article.**
- A.11 In this respect, it is essential to understand what would comprise the "essential character" of any given article or product. In this respect, reference can be made to the decision of the Larger Bench of the Hon'ble Tribunal in the case of *M/s. Jaypee Forgers v. Collector of Central Excise, Bombay, 1996 (83) E.L.T. 49 (Tribunal)*, wherein it was held that the factors that determine the essential character vary between different kinds of goods and the same may be determined on the basis of the nature of the goods in question or the use for which the goods are intended. It was further held that for goods that require precision in terms of composition and shape, the criteria may be different than for primary goods.
- A.12 Reference at this juncture is also drawn to the decision of the Hon'ble Delhi High Court in the case of *Metal Forgings Pvt. Ltd. and Anr. v. Union of India and Ors., 1985 (20) ELT 280 (Del)*, wherein it was held that a forged product has distinguishable identity in itself whereas forged products which are machined, polished, holed etc. and made fit for being used as machine parts assume a different name, character and usage. It was further held that such forged products as are machined/drilled/polished assume an altogether different character from what it was when forged and so as to make them identifiable or usable as machine parts.
- A.13 The said decision was approved by the Hon'ble Court in the Letters Patent Appeal filed in the case of *Metal Forgings Pvt. Ltd. v. Union of India and Ors., 1987 (32) ELT 15 (Del)*. The appeal filed against the afore-referred order was dismissed by the Hon'ble Supreme Court in the case of *Metal Forgings Pvt. Ltd. v. U.O.I. - 1998 (102) E.L.T. A224 (S.C)*.
- A.14 In view of the above, it becomes clear that the processes of machining, drilling, polishing, refining, etc. provide a product an entirely separately identifiable character.
- A.15 In the present case, the forged items supplied by the Bhiwadi Unit of THGL to its Manesar Unit undergo various technical processes such as the following without which the forged items cannot be used as the functional final products:
- i. **Gear:**
    - Essentially, gears are round, toothed devices enabling the conversion of engine speed into torque. Gears are either mounted to, or are a part of, a gear shaft. Many of the more common gears will have a hole in the center, known as a bore, through which the gear shaft is fitted. When the gear shaft is rotated, the gear also rotates. A

gear system is a network of interconnected gears that enables the automobile to travel at varying speeds.

- Thus, the primary function of a gear is to rotate at the requisite speed to provide the required torque for the movement of the vehicle. Such rotation is only possible due to the bore and the teeth of the gear through which the gear is in turn connected to the gear shaft. An illustrative image of the gear assembly is reproduced below for the purpose of ready reference:



- The process of broaching and hard turning is essential for the gear to be able to connect and working in tandem with a gear shaft which provides the primary source of torque to the gear system.
- Similarly, the process of hobbing or teeth formation is essential for the primary gear to provide torque to the other gears in order to rotate and the vehicle to move.
- A representative image of a primary forged gear supplied by the Bhiwadi Unit of THGL and the finished gear after broaching, and hobbing are reproduced below for the purpose of ready reference:



Photograph P15

Bhiwadi Unit

Manesar Unit

- Thus, without the processes of splining, hobbling and hard turning, the forged gear cannot be used to perform the functions of a gear in its true sense as the rotational mechanics are a function of the teeth of the gear which are only carved in the Manesar Unit of THGL.

ii. **Gear Main Shaft:**

- In general terms, the Gear Shaft is the axle of the system, supplying the rotation that permits one gear to engage with and turn another. The procedure is always known as gear reduction and is vital to transmitting horsepower from the engine to the drive controller. The transformation of the engine speed into the torque is what supplies the driving load powering, for instance, the wheels of an automobile.
- The shaft and gears functions in tandem for the ultimate goal of the engine performing at a constant speed, whereas the auto wheels can be operated slower or faster, or even in reverse, employing the identical engine rotational speed and direction.
- The processes of finish turning, splining and hobbling in a gear shaft is essential for the shaft to assemble with the gear and provide the necessary torque to the gear to rotate which in turn leads to the movement of the wheels of the vehicle.
- Further, the process of gun drilling is essential to carve the hole in the shaft which provides lubrication to the components connected to the shaft for smooth and efficient functioning of the gear assembly.
- A representative image of a primary forged gear shaft supplied by the Bhiwadi Unit of THGL and the finished gear after broaching, gun drilling and hobbling are reproduced below for the purpose of ready reference:



Photograph P16  
Bhiwadi Unit



(Photograph P7)  
Manesar Unit



- Thus, without the afore-stated processes of finish turning, splining, hobbling and gun drilling, the forged shaft cannot be used to perform the functions of a gear shaft as the rotational mechanics of the gear shaft are a function of the splines and teeth of the shaft of the gear which are only carved in the Manesar Unit of THGL.

iii. **Crank Shaft:**

- A crankshaft is a mechanical equipment that transforms the reciprocating movement of the piston into rotary motion. A crankshaft connects with the piston through a connecting rod.
- The main objective of this connecting rod is to receive reciprocating motion by the piston and delivers it to the crankshaft. As the crankshaft gets motion by the connecting rod, it transforms this motion into rotary motion and rotates the flywheel, which further moves the vehicle wheels. An illustrative image of a crank assembly is provided below for the purpose of ready reference:



- The process of U-Drilling, facing, centering and keyway milling are essential for the crank shaft to assemble with the crank assembly. As stated above, the crankshaft sets into rotatory motion by the connecting rod and in turn connects the flywheel. Thus, without the said processes the forged crankshaft will not be able to perform its primary function as the backbone of the engine and set the wheels of the vehicle into motion.
- A representative image of a primary forged crank shaft supplied by the Bhivadi Unit of THGL and the finished gear after U-Drilling, facing, centering and keyway milling are reproduced below for the purpose of ready reference:



Photograph P17 (colly.)

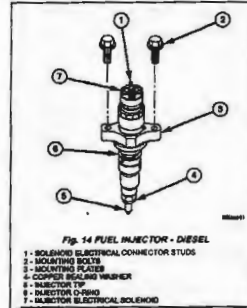
Bhivadi Unit

Manesar Unit

#### iv. Injector Clamp:

- The injector clamp is a hold down clamp that is used for screwing the fuel injector in the vehicle so that there is no leakage of fuel in the compressor of the vehicle. The injector clamp is screwed at the top of the fuel injector to perform its function of clamping the fuel injector

and preventing any leakage. An illustrative image is provided below for the purpose of reference:



- Thus, the primary function of the clamp is holding the diesel injector in place and prevent any sort of leakage.
- The processes of broaching, milling and drilling are essential for the clamp to assemble with the fuel injector and perform its only function of holding the injector in place preventing any leakage without which the forged clamp is just a piece of forged iron without any use case.
- A representative image of a primary forged crank shaft supplied by the Bhiwadi unit of the Appellant and the finished gear after U-Drilling, facing, centering and keyway milling are reproduced below for the purpose of ready reference:



Photograph P18 (colly.)

Bhiwadi Unit

Manesar Unit

A.16 On the basis of the above discussion, it can be said that the processes performed at the Manesar Unit of THGL provide the forged items received

from the Bhiwadi Unit the character of finished shafts, gears, injector clamp etc. It is time and again contended in the impugned Show Cause Notice and the consequential order that even after forging a lot of processes are carried out by THGL on the goods under consideration in the present impugned Show Cause Notice and consequential order, to which it is humbly submitted that all the processes that are carried out by THGL on the goods after forging process are small processes which does not change the character of the use case of the goods. The said processes merely turn the goods in the transportable form by removing various burs and extra items including hardening process. In the absence of these processes the component is so brittle that it can break by a very small force. Therefore, all these processes are part of the forging process only.

- A.17 Machining process is not at all done at THGL's Bhiwadi Plant, which is essential to give the component its character of gear of shaft. In the absence of machining process, no gear of shaft could work. Therefore, it is only the machining process which gives the goods its essential character as intended. The Department also follows the same view as per Circular No. 225/59/96-CX, dated 01.07.1996. The machining process only gives the goods toothed wheel status and thereafter only the goods can be used as gears. Therefore, the essential character test as required under Rule 2(a) of the Interpretive rules passes only after machining process. Before it is merely a pre-formed forged billet which can be used for its intended purpose and does not have the essential character of the final product.
- A.18 Reference in this regard can further be made to the decision of the Hon'ble Tribunal in the case of *Ajay Forgings Pvt. Ltd. v. Collector of Central Excise, 1997 (91) ELT 337 (Tri-Del)* wherein it was held that the forged items which had not been machined did not attain the essential character of the parts of the motor vehicles and could be classified as such.
- A.19 Reference in this regard is further made to the decision of the Hon'ble Supreme Court in the case of *Tata Iron & Steel Co. Ltd. v. U.O.I., 1988 (35) E.L.T. 605 (SC)*, wherein issue in dispute was that of classification of goods forged for railways. The goods were supplied to the railways in rough machined condition under which excess steel or manufacturing defects were removed and these goods were subsequently precision machined by the Railways themselves at their workshop before being put to use. The Hon'ble Supreme Court in that case had held that since the precision machining was done at Railway's workshop, the forged articles supplied by the appellant can only be classified as rough machined and not as the final goods.
- A.20 As already briefed by THGL, the nature and state of the forged items received at the Manesar Unit of THGL is simply the primary outer shape of a shaft, gear and injector clamp. However, the same do not attain the character of the finished products i.e., gear, gear main shaft, crank shaft and injector clamp that could be used in the vehicle assembly and thus retain the forged nature and characteristic and cannot be classified as the finished products. **Thus, Rule 2(a) of the General Rules of Interpretation is not applicable in the present case as the forged items received from the Bhiwadi unit of the Appellant have not attained the essential character of the final finished products to be identifiable and classifiable as the same.**

**Common/Trade Parlance:**

- A.21 It is a settled principle of law that the manner in which the people dealing with a product/item understand the same is an important method to determine the classification of that relevant product/item. Reference in this regard can be made to the decision of the larger bench of the Hon'ble Tribunal in the case of ***Brindavan Beverages Pvt. Ltd. v. Commr. Of Cus., C. Ex. & S.T., Meerut, 2019 (29) G.S.T.L. 418 (Tri. - LB)***, wherein it has been held that in situations where the relevant goods are not defined in the Tariff, then such goods have to be viewed with the prism of the people that are conversant with the product, understand it and buy and sell the product, which is known as the common parlance test.
- A.22 In the present case, the forged items supplied by the Bhiwadi Unit of THGL are not marketable as the finished forms of the products as the same have not undergone the essential functions such as hobbling, drilling, centering, key-way slot cutting, splining etc., which are essential for the forged items to assume the shape of the final finished products and perform the requisite functions. Further, the precision finishing, polishing and phosphating are essential for the products to function as actual parts of any vehicle as the products are not used in standalone fashion but in various assemblies which are also have precise dimensions for efficient functioning of the vehicle.
- A.23 Reference in this regard can be made to the decision of the Larger Bench of the Hon'ble Tribunal in the case of ***M/s. Jaypee Forges (supra)***, wherein it was held that forged gears, shafts etc. manufactured by the Appellant could not be treated as good cleared as the finished products by the dealers and vendors. The said decision was affirmed by the Hon'ble Supreme Court in the case of ***Collector of Central Excise v. Jaypee Forges, 2003 (158) E.L.T. 560 (S.C.)***, wherein it was specifically held that Rule 2(a) of the General Rules of Interpretation would have no application in this case.

**Chapter Heading 8483:**

**Schedule III – 9%:**

<b>Sr. No.</b>	<b>Chapter/ Heading/ Sub-Heading/ Tariff item:</b>	<b>Description of Goods</b>
369A.	8483	Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)

**Relevant entries in the Customs Tariff:**

A.24 Chapter Heading 8483 of the First Schedule to Customs Tariff, *inter alia*, provides for classification of transmissions shafts, gear boxes, torque converters. The relevant entry in this regard is as follows:

8483	TRANSMISSION SHAFTS (INCLUDING CAM SHAFTS AND CRANK SHAFTS) AND CRANKS ; BEARING HOUSINGS AND PLAIN SHAFT BEARINGS ; GEARS AND GEARING; BALL OR ROLLER SCREWS ; GEAR BOXES AND OTHER SPEED CHANGERS, INCLUDING TORQUE CONVERTERS; FLYWHEELS AND PULLEYS, INCLUDING PULLEY BLOCKS ; CLUTCHES AND SHAFT COUPLINGS (INCLUDING UNIVERSAL JOINTS)
1106	- <i>Transmission shafts (including cam shafts and crank shafts) and cranks :</i>
84831010	--- Crank shafts for sewing machines
84831091	--- Other
84831092	--- Crank shaft for engines of heading 8407
84831099	--- Crank shaft for engines of heading 8407
	--- Other
84832000	- Bearing housings, incorporating ball or roller bearings
84833000	- Bearing housings, not incorporating ball or roller bearings; plain shaft bearings
84834000	- Gears and gearing, other than toothed wheels, chain sprockets and other transmission elements presented separately; ball or roller screws; gear boxes and other speed changers, including torque converters

Reference to HSN:

A.25 Since the description of Sr. No. 369A of Schedule-III of Notification No. 1/2017-CTR is same as that of Heading 8483 of the Customs Tariff, reference is being made to HSN Explanatory notes of Chapter Heading 8483 in order to understand the scope of Chapter Heading 8483. The extract of the relevant portion of the HSN Explanatory Notes is reproduced below for quick reference:

**"84.83- Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints).**

...  
The goods covered by this heading are mainly:

(i) Certain mechanical parts which are used in the transmission of power from an external power unit to one or more machines.

(ii) Certain internal parts of a machine, used to transmit power to the various parts of the same machine.

**(A) TRANSMISSION SHAFTS (INCLUDING CAM SHAFTS AND CRANK SHAFTS) AND CRANKS**

These usually transmit a rotary motive power. They include:

(1) **Main shafts or driving shafts** driven directly by the motor.

(2) **Counter shafts**, for Coupling to the main shaft by belts and pulleys or by cogs, etc.; they are used to take the drive from the main shaft to a number of machines, or to different parts of a machine.

(3) **Articulated shafts**, consisting of two or more shafts connected by ball and socket joints, etc.

(4) **Flexible shafts** which transmit the motion of a driving unit to, e.g., hand tools, measuring instruments (revolution counters, speedometers, etc.).

(5) **Cranks and crank shafts**. These may be either made in one piece or assembled from several parts. They receive a reciprocating motion (e.g., from a piston engine) and convert it into rotary movement, or vice versa.

(6) **Cam shafts and eccentric shafts.**

...  
**(C) GEARS AND GEARING INCLUDING FRICTION GEARS AND CHAIN SPROCKETS**

The **basic gear** is the toothed wheel, cylinder, cone, rack or worm, etc. In an assembly of such gears, the teeth of one engage with the teeth of another so that the rotary movement of the first is transmitted to the next, and so on. According to the relative number of teeth in the separate units, the rotary movement may be transmitted at the same rate, or at a faster or slower rate,

according to the type of gear and the angle at which it meshes with the next, the direction of transmission may be changed, or a rotary movement converted into a linear movement or vice versa (as with a rack and pinion).

The group covers all types of gears including simple cog wheels, bevel gears, conical gears, helical gears, worms, rack and pinion gears, differential gears, etc., and assemblies of such gears. It also covers toothed and similar wheels for use with transmission chains.

The heading also excludes:

(a) Pieces roughly shaped by forging, of heading 72.07.

(b) Transmission equipment of the kinds described above (gear boxes, transmission shafts, clutches,

*differentials, etc.), but which are designed for use solely or principally with vehicles or aircraft (Section XVII); It should, however, be noted that this exclusion does not apply to internal parts of vehicle or aircraft engines - these parts remain classified in this heading. Thus a crank shaft or a cam shaft remains in this heading even if it is specialised for a motor car engine; but motor car transmission (propeller) shafts, gear boxes and differentials fall in heading 87.08.*

*It should further be noted that transmission equipment of the type described in this heading remains classified here even if it is specially designed for ships."*

- A.26 In view of the above, it is clear that Chapter Heading 8483 of the Customs Tariff *inter alia* covers transmission shafts, crank shafts and gears.
- A.27 However, from the above discussion, it becomes clear that for the forged items to attain the characteristics of the finished shafts, gears etc., further machining processes have to be done. Such processes are undertaken at the Manesar Unit of THGL and it is only after such processes are done on the forged items that they become identifiable as gears, shafts etc. which can be classifiable as such.
- A.28 Reference in this regard can be drawn to the description of a gear provided in the explanatory notes reproduced above, wherein gears have been described as toothed wheels etc. which engage with each other so that the rotatory movement is transferred from one gear to the next gear for transmission in the vehicle. As stated above, the teeth, which are the most functional part of the gears are carved in the Manesar Unit of THGL. Thus, the forged gear received from the Bhiwadi Unit of THGL does not satisfy the basic definition of a gear and cannot be classifiable as such.
- A.29 Similarly, as explained in the Explanatory notes reproduced above, shafts are used for transferring the rotatory power to the engine. Such transfer of rotatory power can only take place if the shaft is assembled with the gear in the case of gear shaft and with the connecting rod and the flywheel in the case of a crank shaft. As stated above, the splines and teeth in the gear shaft which are used to assemble the same with the gears are only carved in the Manesar unit of the Appellant. Thus, the forged gear shaft received from the Bhiwadi unit is not capable of transferring the rotatory force to the gear and cannot be classified as functional mechanical part to be classifiable under Chapter Heading 8483.
- A.30 Similarly, it is only possible for the crank shaft to transfer rotatory power to the flywheel if it does not receive such power from the connecting rod. The forged crank shaft supplied by the Bhiwadi Unit cannot be connected to a connecting rod without the processes of U-Drilling and keyway milling both of which are done at the Manesar Unit of THGL.
- A.31 Thus, the forged shafts supplied by the Bhiwadi Unit do not satisfy the description of shafts provided under the Explanatory Notes to Chapter Heading 8483 and cannot be classified as such.

A.32 In this regard, reliance is placed on the decision of the Hon'ble in the case of ***M/s. Tisco Ltd. v. Commissioner of Central Excise, Jamshedpur, 2001 (131) E.L.T. 253 (Tri. - Kolkata)***, wherein the issue was regarding the classification of forged products such as rings and blanks which were forged for further machining. In this regard, the Tribunal held that such products are classifiable under Chapter Heading 7326 and not 8483 as the products have not attained the characteristics of the finished article to classifiable under Chapter Heading 8483. The afore-referred decision of the Hon'ble Tribunal has been affirmed by the Hon'ble Supreme Court in the case of ***Collector of Central Excise v. TISCO Ltd. - 2003 (156) E.L.T. A210 (S.C.)***.

A.33 In view of the above, it can be said that to be identifiable and classifiable as the finished products, namely gears, shaft, crank shafts, etc., the products need to attain the essential characteristic of the final products. Since the items in the state in which they are supplied by the THGL's Bhiwadi Unit to Manesar Unit are just rough outline forges not usable as the finished items, it cannot be said they have attained the essential character of the finished items. As stated above, the forged items received from the Bhiwadi Unit of THGL do not satisfy the definition of the functional gears or shafts and cannot be classified as the finished product as they fail to perform the basic function of a gear or shaft as described in the Explanatory notes to Chapter Heading 8483.

**Chapter Heading 8714:**

A.34 As mentioned above, THGL manufactures the final products for the specific purpose of being used by HMCL in their Two-Wheeler Vehicles. Thus, it is pertinent to refer to the relevant entries in the Notification No. 1/2017-CTR which provide for parts of such vehicles. The relevant extract of Notification No. 1/2017-CTR which provides for food preparations of flour is reproduced below:

**Schedule-IV - 18%**

174	8714	<i>Parts and accessories of vehicles of heading 8711</i>
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**Relevant entries in the Customs Tariff:**

A.35 Chapter Heading 8714 of the First Schedule to Customs Tariff provides for classification of parts and accessories of vehicles of Chapter Heading 8711 to 8713. The relevant entry in this regard is as follows:

<b>8714</b>	<b>PARTS AND ACCESSORIES OF VEHICLES OF HEADINGS 8711 TO 8713</b>
<b>871410</b>	<b>- Of motorcycles (including mopeds):</b>
<b>87141010</b>	<b>--- Saddles</b>
<b>87141090</b>	<b>--- Other</b>

**Reference to HSN:**

A.36 Sr. No. 174 of Schedule-IV of Notification No. 1/2017-IT provides for the parts and accessories of 8711 whereas the Chapter Heading 8714 of the Customs Tariff provides for the parts and accessories of Heading 8711 to 8713. However, since the final products in question in the present case are to be used in Two-Wheeler Motor Vehicles which are classifiable under Chapter Heading 8711, the HSN Explanatory notes of Chapter Heading 8714 can be referred to. The extract of the relevant portion of the HSN is reproduced below for quick reference:

*"This heading covers parts and accessories of a kind used with motorcycles (including mopeds), cycles fitted with an auxiliary motor, side-cars, non-motorised cycles, or carriages for disabled persons, provided the parts and accessories fulfil both the following conditions:*

*(i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles;*

*and (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).*

*Parts and accessories of this heading include :*

*(1) Bodies and parts thereof for delivery tricycles, side-cars or carriages for disabled persons (hoods, doors, floors, etc.).*

*(2) Chassis and frames, and parts thereof.*

*(3) Gearing, gear boxes, clutches and other transmission equipment, and parts thereof, for motorcycles.*

*(4) Wheels and parts thereof (hubs, rims, spokes, etc.).*

*(5) Free-wheel sprocket-wheels.*

*(6) Derailleurs and other gear mechanisms, and parts thereof.*

*(7) Crank-gear and parts thereof (crank-wheels, cranks, axles, etc.), pedals and parts thereof (axles, etc.); toe-clips.*

*(8) Kickstarters, levers and other control gear."*

A.37 From combined reading of above provisions, it is clear that Heading 8714, *inter alia*, covers articles that are identifiable as being suitable for use solely or principally with article of Chapter Heading 8711.

A.38 It can be understood that the products go through the following three stages to become an article being suitable for use in any commercial vehicles:

- i. **Forging:** This is the primary phase where the billets of iron and steel are forged to attain the rough shape of a shaft, gear, clamp, etc.;
- ii. **Machining:** This is the phase where the products are then made subject to machining processes such as hobbing, splining, keyway slot cutting and drilling for them to be able to function as the actual products;

iii. **Precision machining:** This is the last phase where the machined products are further worked, phosphated and polished to attain the precise size and dimensions for them to be efficiently used as parts of vehicles.

- A.39 It can be said that the forged items become suitable to be used as part in vehicles only after the third stage. However, they attain the essential character of the final products after the second stage when the products attain actual usable form and are not merely rough outlines of the products.
- A.40 In the present case, the forged items that are supplied by the Bhiwadi Unit of THGL to its Manesar Unit have only undergone the first stage of processing and are not suitable for use as the actual products itself and far from being suitable to use in any Two-Wheeler Vehicles classifiable under Chapter Heading 8711. Thus, the forged items are not classifiable under Chapter Heading 8714 as they have not attained the nature and characteristics to be classifiable as part of vehicles.

**Common/Trade Parlance:**

- A.41 In the present case, since the goods supplied by the Bhiwadi Unit of THGL have not attained the form of the actual finished goods that can be bought and sold in the open market as shafts, gears, etc. suitable to be used in motor vehicles, the same cannot be classifiable as parts of the motor vehicles.
- A.42 Reference in this regard is made to the decisions of the Hon'ble Tribunal in the case of *Jaypee Forges (supra)* and *BCL Forgings (supra)* wherein it was held that the forged items cannot be bought and sold in the open market as parts of automobiles.
- A.43 Thus, in view of above it can be stated that the products supplied by the Bhiwadi Unit of THGL to the Manesar Unit of THGL are classifiable under forged articles of iron and steel under Chapter Heading 7326 of the Customs Tariff and as corollary of the same under Sr. No. 180 of Schedule III of Notification No. 1/2017-CTR.
- A.44 Further reference is invited to CBEC Circular No. 225/59/96-CX, dated 01.07.1996 wherein it was held as follows:-

**2. CEGAT in its Order No. E. 103 to 105/93 B.1, dated 20th May, 1993 in the case of M/s. Shivaji Works Ltd. v. C.C.E., Aurangabad [1994 (69) E.L.T. 674 (T)] has held that the Heading 73.25 would include all castings from the stage of their emergence from the castings mould to the stage of being proof machined.**

**3. It would thus appear that castings coming out of the castings moulds up to the stage of proof machining and requiring further machining before being used as machine parts would be appropriately classifiable under Chapter 73.**

**However, those castings which do not require any machining after their emergence from casting moulds viz. precision castings and/or are, as such, ready to be used as machine parts would be regarded as articles having essential character of machine parts and would be classified under Chapters 84, 85, 86, 87 etc.**

**4. The above instructions would apply mutatis to forgings which have not undergone any further process after fettlings.**

The above circular makes it clear that it is only the goods which do not require further machining are as such classifiable under Heading 84, 85, 87, otherwise if they require any further machining then they are correctly classifiable under Heading 73.26. Therefore, THGL has correctly classified the goods.

A.45 Thus, the forged items supplied by THGL are chargeable to IGST at the rate of 18%. Thus, at the time of making supplies of them, the Bhiwadi Unit of THGL has correctly charged 18% IGST.

9.8 The appellant has also contended the OIO on the issue of interest and imposition of penalty.

10. Personal Hearing in this case was held on 20.3.2025, wherein Shri Ranjan Metha Advocate, Authorized Representatives, on behalf of the appellant, appeared in person and reiterated the grounds of appeal as submitted in the appeal memorandum and during the personal hearing. He has nothing to more add.

11. I have gone through the case records and the submission made by the appellant in appeal memo. It is observed that the demand has been raised and confirmed for short payment of tax i.e. 18% instead of 28% due to wrong classification of Transmission shafts (including cam shafts and crank shafts), cranks and gears under HSN tariff heading 7326 as forged item instead of classification of said goods Transmission shafts (including cam shafts and crank shafts) and crank under HSN 8483 and Gear under HSN 8714. The appellant has strongly contended the said demand on the ground that they have supplied the forged items which is rightly classifiable under HSN 7326 as the said forged item is not recognizable as Transmission shafts (including cam shafts and crank shafts), cranks and gears. It was contended that the said forged items cannot be used as Transmission shafts (including cam shafts and crank shafts), cranks and gears due to the reason that the said items were not fully manufactured and certain machining process are further required for manufacture of Transmission shafts (including cam shafts and crank shafts), cranks and gears.

12. In the instant case, I find that M/s. The Hi-Tech Gears Limited, Bhiwadi i.e. appellant has having two unit. One unit i.e. appellant is situated in Bhiwadi, Rajasthan and other unit is situated in Manesar, Haryana. The dispute is with regards to the goods transferred/supplied by the appellant unit's at Bhiwadi to their Manesar unit. The department is of the view that the forged items have taken essential character of Transmission shafts (including cam shafts and crank shafts), crank and Gear, therefore classifiable under heading 8483 and 8714. Whereas, the appellant is of the view that the said forged item cannot be used for its intended purpose and therefore classifiable under HSN 7326.

13. Thus, in the instant case, the main issue is whether the forged items recognized by the department as Transmission shafts (including cam shafts and crank shafts) and crank are classifiable under HSN 8483 and Gear under HSN 8714 or under HSN 7326 as made/claimed by the appellant.

14. Having regards to fact and circumstances of the case, it is pertinent to go through manufacturing process undertaken in Bhiwadi Unit (Appellant) and Manesar Unit as well as the item manufactured and supplied from Appellants unit i.e. Bhiwadi and its sister concern at Manesar. The process of manufacture and the resultant product (shown as images) are detailed hereunder:

#### 14.1 Manufacturing Process

##### Bhiwadi Unit (Appellant)

Hot-Forged components involve mainly following process:

1. **Billet Cutting:** In this process, the long alloy steel bars are cut into the uniform desired pieces known as billets. The specifications of the billet are pre-defined with respect to the weight & length as per the desired shape of the final products.
2. **Billet Heating:** After cutting the billets, they are taken for heat treatment process where they are heated up to a high temperature of about 1200°C in induction heating furnaces for the purpose of forging into the desired shape of the final products as per the design provided by HMCL.
3. **Hot Forming Process:** In this process, small pieces of heated billets are put in between dies and force is applied on the dies to get the required shapes and size of the part, the process is completed in 2 steps, pre-forming and finish forming.
4. **Trimming:** In this process, the excess outer layer of metal remaining after the hot forming process is removed.
5. **Hardening & Tempering Process:** During the process of forming, since the metal is treated at high temperatures, it loses its hard-metallic properties and becomes fragile. To regain the metallurgical properties and requisite hardness, this process is performed on the hot formed articles wherein they are heated on high temperatures and thereafter, immediately quenched off. These quenched components are heated again to a relatively low temperature and cooled off slowly. This process is performed to relieve the internal stresses and regulate the hardness and toughness, which were lost during hot forming process.
6. **Shot Blasting:** Shot Blasting is the cleaning operation and it removes the scales generated during the process of hot forming, hardening and tempering.
7. **Grinding and ultrasonic Inspection:** To get the formed part inspected for cracks, ultrasonic inspection is done and as a preparatory part grinding is getting done for smoothening the surface.

##### Cold Forging:

In the cold-forging process, the following processes are carried out on such unfinished forged items at the Bhiwadi Unit of THGL before being transported to its Manesar Unit for machining:

1. **Phosphating:** In this process, the unfinished forged items are coated with a solution of different lubricating chemicals which creates a layer around it making the surface lubricated, which ultimately helps in the process of Spline Extrusion.
2. **Spline Extrusion:** The component is heated up while slowly being passed through a die. Thus, in this process the length of the unfinished forged items received from the vendor is increased along with spline formation.

**Manesar Unit (Sister Concern or Recipient of forged items)**

Following Machining activities are performed at the Components, based on specific product use & requirement, at the Manesar Plant: -

- a. Facing & Centering
- b. Finish Turning 1 & 2 (Based on faces)
- c. U- Drilling
- d. Deburring
- e. Keyway Milling / Cylindrical Grinding
- f. Hobbing
- g. Spline Rolling
- h. Gun Drilling
- i. Case Carburizing
- j. Shot Blasting
- k. Laser Marking
- l. Straightening
- m. Annealing
- n. Grinding
- o. Final Inspection
- p. Packing & Dispatch

**14.2 Resultant Product**

**- Primary forged gear and the Finished gear**



**Photograph P15**

**Bhiwadi Unit**

**Manesar Unit.**

- **Forged Gear Shaft and Finished Gear:**



Photograph P16  
Bhiwadi Unit



(Photograph P7)  
Manesar Unit



- **Forged Crank Shaft and Finished Gear:**



Photograph P17 (colly.)  
Bhiwadi Unit



Manesar Unit

- **Injector Clamp:**



Bhiwadi Unit



Manesar Unit

Photograph P18 (colly.)

15. After going through the manufacturing process and resultant products at Appellant's unit at Bhiwadi and her sister concern at Manesar, it is to be examined whether the resultant products at Appellant unit is classifiable under chapter heading 7326 as forged items or as Transmission shafts, crank under HSN 8483 and Gear under HSN 8714 as per department version. In this regards the HSN Entry and Notes of said chapter heading is reproduced hereunder:

(A) HSN 7326

<i>Tariff items</i>	<i>Description of Goods</i>
7326	<b>OTHER ARTICLES OF IRON OR STEEL</b>
	- <i>Forged or stamped, but not further worked</i>
	...
732619	-- <i>Other</i>
73261910	--- <i>For automobiles and earth moving equipments</i>
73261990	--- <i>Other</i>

The scope of Chapter Heading 7326 has been extracted of the relevant portion of the HSN is reproduced below for quick reference:

**"Chapter 73  
Articles of iron or steel**

**GENERAL**

*This Chapter covers a certain number of specific articles in headings 73.01 to 73.24, and in headings 73.25 and 73.26 a group of articles not specified or included in Chapter 82 or 83*

and not falling in other Chapters of the Nomenclature, of iron (including cast iron as defined in Note 1 to this Chapter) or steel.

...  
**73.26: Other articles of iron or steel (+).**  
...

This heading covers all iron or steel articles obtained by forging or punching, by cutting or stamping or by other processes such as folding, assembling, welding, turning, milling or perforating other than articles included in the preceding headings of this Chapter or covered by Note 1 to Section XV or included in Chapter 82 or 83 or more specifically covered elsewhere in the Nomenclature.

...  
This heading does not cover forgings which are products falling in other headings of the Nomenclature (e.g., recognisable parts of machinery or mechanical appliances) or unfinished forgings which require further working but have the essential character of such finished products.  
...

**Subheading Explanatory Note.**  
**Subheadings 7326.11 and 7326.19**

After forging or stamping, the products of these subheadings may have been subjected to the following working or surface treatments:

Removal of burrs, runouts and other stamping defects by rough burring, grinding, hammering, chiselling or filing; removal of annealing by acid dipping; simple sand-blasting; roughing or rough bleaching and other operations intended exclusively to detect flaws in the metal; application of rough coatings of graphite, oil, tar, red lead or similar products, clearly intended to protect the subjects against rust or other types of oxidation; stamping, punching, printing, etc., with simple inscriptions, such as trademarks."

Rule 2(a) of the General Rules of Interpretation provides that any reference in a Chapter Heading of the Customs Tariff to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article.

(B-) HSN 8483

8483	TRANSMISSION SHAFTS (INCLUDING CAM SHAFTS AND CRANK SHAFTS) AND CRANKS ; BEARING HOUSINGS AND PLAIN SHAFT BEARINGS ; GEARS AND GEARING; BALL OR ROLLER SCREWS ; GEAR BOXES AND OTHER
------	--

<b>SPEED CHANGERS, INCLUDING TORQUE CONVERTERS; FLYWHEELS AND PULLEYS, INCLUDING PULLEY BLOCKS ; CLUTCHES AND SHAFT COUPLINGS (INCLUDING UNIVERSAL JOINTS)</b>	
1107	<b>Transmission shafts (including cam shafts and crank shafts) and cranks :</b>
84831010	--- Crank shafts for sewing machines
84831091	--- Other
84831092	--- Crank shaft for engines of heading 8407
84831099	--- Crank shaft for engines of heading 8407
	--- Other
84832000	- Bearing housings, incorporating ball or roller bearings
84833000	Bearing housings, not incorporating ball or roller bearings; plain shaft bearings
84834000	- Gears and gearing, other than toothed wheels, chain sprockets and other transmission elements presented separately; ball or roller screws; gear boxes and other speed changers, including torque converters

**Reference to HSN:**

The scope of Chapter Heading 7326 has been extracted of the relevant portion of the HSN is reproduced below for quick reference:

**"84.83- Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints).**

The goods covered by this heading are mainly:

(i) Certain mechanical parts which are used in the transmission of power from an external power unit to one or more machines.

(ii) Certain internal parts of a machine, used to transmit power to the various parts of the same machine.

**(A) TRANSMISSION SHAFTS (INCLUDING CAM SHAFTS AND CRANK SHAFTS) AND CRANKS**

These usually transmit a rotary motive power. They include:

(1) **Main shafts or driving shafts** driven directly by the motor.

(5) **Crank and crank shafts.** These may be either made in one piece or assembled from several parts.

They receive a reciprocating motion (e.g., from a piston engine) and convert it into rotary movement, or vice versa.

(6) **Cam shafts and eccentric shafts.**

**(C) GEARS AND GEARING INCLUDING FRICTION  
GEARS  
AND CHAIN SPROCKETS**

The **basic gear** is the toothed wheel, cylinder, cone, rack or worm, etc. In an assembly of such gears, the teeth of one engage with the teeth of another so that the rotary movement of the first is transmitted to the next, and so on. According to the relative number of teeth in the separate units, the rotary movement may be transmitted at the same rate, or at a faster or slower rate;

according to the type of gear and the angle at which it meshes with the next, the direction of transmission may be changed, or a rotary movement converted into a linear movement or vice versa (as with a rack and pinion).

The group covers all types of gears including simple cog wheels, bevel gears, conical gears, helical gears, worms, rack and pinion gears, differential gears, etc., and assemblies of such gears. It also covers toothed and similar wheels for use with transmission chains.

The heading also **excludes** :

(a) Pieces roughly shaped by forging, of heading **72.07**;

(b) Transmission equipment of the kinds described above (gear boxes, transmission shafts, clutches, differentials, etc.), but which are designed for use solely or principally with vehicles or aircraft (**Section XVII**). It should, however, be noted that this exclusion does not apply to internal parts of vehicle or aircraft engines - these parts remain classified in this heading.

Thus a crank shaft or a cam shaft remains in this heading even if it is specialised for a motor car engine; but motor car transmission (propeller) shafts, gear boxes and differentials fall in heading **87.08**.

It should further be noted that transmission equipment of the type described in this heading remains classified here even if it is specially designed for ships."

Thus, this Chapter Heading 8483 of the Customs Tariff *inter alia* covers transmission shafts, crank shafts and gears.

(C) HSN 8714

8714	PARTS AND ACCESSORIES OF VEHICLES OF HEADINGS 8711 TO 8713
871410	- Of motorcycles (including mopeds):
87141010	--- Saddles
87141090	--- Other

The extract of the relevant portion of the HSN is reproduced below for quick reference:

*"This heading covers parts and accessories of a kind used with motorcycles (including mopeds), cycles fitted with an auxiliary motor, side-cars, non-motorised cycles or carriages for disabled persons, provided the parts and accessories fulfil both the following conditions:*

*(i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles; and (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).*

*Parts and accessories of this heading include :*

*(3) Gearing, gear boxes, clutches and other transmission equipment, and parts thereof, for motorcycles.*

*(4) Wheels and parts thereof (hubs, rims, spokes, etc.).*

*(7) Crank-gear and parts thereof (crank-wheels, cranks, axles, etc.), pedals and parts thereof (axles, etc.); ice-clips.*

16. On perusal of HSN 7326, 8483 and 8714, I find that that the said HSN covers:

**16.1 HSN 7326:**

16.1.1 it is apparent that HSN 7326 covers the all iron or steel articles obtained by forging or punching, by cutting or stamping or by other processes such as folding, assembling, welding, turning, milling or perforating **other than** articles included in the preceding headings of this Chapter or covered by Note 1 to Section XV or included in **Chapter 82 or 83** or more specifically covered elsewhere in the Nomenclature. This heading **does not cover** forgings which are products falling in other headings of the Nomenclature (e.g., **recognisable parts of machinery or mechanical appliances**) or unfinished forgings which require further working but have the essential character of such finished products.

16.1.2 Further on perusal of "Sub-heading Explanatory Note of 7326.11 and 7326.19, it appears that process of forging or stamping also covers the working or surface treatment process i.e. "Removal of burrs, runouts and other stamping defects by rough burring, grinding, hammering, chiselling or filing; removal of annealing by acid dipping; simple sand-blasting; roughing or rough bleaching and other

operations intended exclusively to detect flaws in the metal; application of rough coatings of graphite, oil, tar, red lead or similar products, clearly intended to protect the subjects against rust or other types of oxidation; stamping, punching, printing, etc., with simple inscriptions, such as trademarks."

#### 16.2 HSN 8483:

16.2.1 This Chapter Heading 8483 *inter alia* covers transmission shafts, crank shafts and gears. However, this HSN does not cover the (a) Pieces roughly shaped by forging, of heading 72.07 (b) Transmission equipment of the kinds described above (gear boxes, transmission shafts, clutches, differentials, etc.), but which are designed for use solely or principally with **vehicles or aircraft (Section XVII)**; It should, however, be noted that this exclusion does not apply to internal parts of vehicle or aircraft engines - these parts remain classified in this heading. Thus a crank shaft or a cam shaft remains in this heading even if it is specialised for a motor car engine; but motor car transmission (propeller) shafts, gear boxes and differentials fall in heading 87.08. Accordingly, the department has held the classification of Transmission shafts (including cam shafts and crank shafts), cranks under this heading.

#### 16.3 HSN 8714:

16.3.1 This heading covers parts and accessories (i.e. Gearing, gear boxes, clutches, Crank Gear and parts thereof) of a kind used with motorcycles (including mopeds) clearly identifiable as being suitable for use solely or principally with the above-mentioned vehicles. Accordingly, the department has held the classification of 'Gear' under this heading.

17. As regards the department contention that the forged items have taken essential character of Transmission shafts (including cam shafts and crank shafts), crank and Gear, therefore, classifiable under heading 8483 and 8714, I find that as per exclusion clause of chapter 7326, it is mentioned that the said heading does not cover forgings which are products falling in other headings of the Nomenclature (e.g., **recognisable parts of machinery or mechanical appliances**) or unfinished forgings which require further working but have the essential character of such finished products.

17.1 Now the question arises whether the said Transmission shafts (including cam shafts and crank shafts), crank and Gear are clearly recognizable as specific parts and have taken essential character of such Transmission shafts (including cam shafts and crank shafts), crank and Gear. In this respect, it is essential to understand what would comprise the "essential character" of any given article or product. In this respect, the factors that determine the essential character vary between different kinds of goods and the same may be determined on the basis of the nature of the goods in question or the use for which the goods are intended. The goods that require precision in terms of composition and shape, the criteria may be different than for primary goods. CBEC vide Circular No. 225/59/96-CX, dated 01.07.1996 has clarified that castings coming out of the castings moulds up to the stage of proof machining and requiring further machining before being used as machine parts would be appropriately classifiable under Chapter 73. However, those castings which do not require any

machining after their emergence from casting moulds viz. precision castings and/or are, as such, ready to be used as machine parts would be regarded as articles having essential character of machine parts and would be classified under Chapters 84, 85, 86, 87 etc. **The above circular clarifies that it is only the goods which do not require further machining are as such classifiable under Heading 84, 85, 87, otherwise if they require any further machining then they are correctly classifiable under Heading 73.26.**

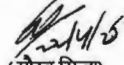
17.2 Further on going through the nature of process carried out in appellant unit at Bhiwadi and her sister concern at Manesar, I find that in the appellant's unit the following process are undertaken:

- Billet Cutting from Alloy Steel Bar and Billet Heating
- Pre-Forming and Finish Forming
- Trimming
- Heat Treatment i.e., Hardening
- Tempering Process
- Shot Blasting and Grinding
- Inspection

17.3 On going through the said process undertaken in appellant's unit, it is noticed that the said process is identical/similar to the process mentioned under explanatory notes to **Subheadings 7326.11 and 7326.19**. Further, explanatory notes chapter 7326 not only covers the process of forging or stamping but also covers the process of *"Removal of burrs, runouts and other stamping defects by rough burring, grinding, hammering, chiselling or filing; removal of annealing by acid dipping; simple sand-blasting; roughing or rough bleaching and other operations intended exclusively to detect flaws in the metal; application of rough coatings of graphite, oil, tar, red lead or similar products, clearly intended to protect the subjects against rust or other types of oxidation; stamping, punching, printing, etc., with simple inscriptions, such as trademarks."* From the above, it is apparent that all the process carried out by the appellant in its unit is covered under chapter heading 7326 though the same are being carried out after forging out of the product.

17.4 I have also gone through the process undertaken at Manesar unit i.e. Facing & Centering, Finish Turning 1 & 2 (Based on faces), U- Drilling, Deburring, Keyway Milling / Cylindrical Grinding, Hobbing, Spline Rolling, Gun Drilling, Case Carburizing, Shot Blasting, Laser Marking, Straightening, Annealing, Grinding, Final Inspection and Packing & Dispatch. From the above process, it is apparent that some of the processes are part of process as per explanatory notes to chapter 7326 and the remaining are required to manufacture of final product. Thus after final manufacturing of final product i.e Transmission shafts (including cam shafts and crank shafts), crank and Gear, the same are classifiable under HSN 8483 and 8714. I also find from the definition of 'Basic Gear' that **basic gear** is the toothed wheel, cylinder, cone, rack or worm, etc. In an assembly of such gears, the teeth of one engage with the teeth of another so that the rotary movement of the first is transmitted to the next, and so on. Thus, in the instant case, Gear is clearly classifiable under HSN 7326 being forged item as the process for making tooth, cylinder, cone rack etc. are being not undertaken in appellant unit. Further, under HSN 8714, the product ready to use is classifiable and therefore the forged Gear is not classifiable under HSN 8714.

- 17.5 Further, from the images of the resultant products submitted by the appellant which shows lot of difference between the forged items classifiable under chapter heading 7326 and the manufactured product classifiable under chapter heading 8483 and 8714. From the images, I find that the said items are clearly recognizable as forged item and does not have essential shape to classify the same under finished goods. Further, without taking further processing i.e. machining and other process, the said items cannot be used for intended purpose.
- 17.6 I also find that the investigation has failed to verify the process undertaken and products manufactured at Manesar Unit. Further, in this case there is no charge that the goods have not cleared to Manesar unit but directly supplied to Hero Motocorps. Thus, it is an admitted fact that the goods shown in the 'Images' (forged) has been supplied to Manesar unit. Further there is nothing in the investigation which shows that the goods were parts of automobiles and can be used as automobile parts.
- 17.7 From, the above process undertaken at appellant unit at Bhiwadi and her sister concern at Manesar, and the images submitted by the appellant, I find that products i.e. Transmission shafts (including cam shafts and crank shafts), crank and Gear are clearly classifiable under HSN 7326 as forged items.
- 17.8 My above views is also supported with the decision of the Larger Bench of the Hon'ble Tribunal in the case of *M/s. Jaypee Forgers v. Collector of Central Excise, Bombay, 1996 (83) E.L.T. 49 (Tribunal)* and the *CBEC vide Circular No. 225/59/96-CX, dated 01.07.1996.*
18. In view of above, I find that there is no infirmity in classification of forged products under HSN 7326, therefore, the demand confirmed alongwith interest under the impugned order is not sustainable and liable to be dropped.
19. Accordingly, I set aside the impugned OIO passed by adjudicating authority and allow the appeal filed by the appellant.

  
(गौरव सिन्हा)  
आयुक्त(अपील्स)

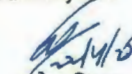
स्पीड पोस्ट  
M/s The Hi-Tech Gears Limited,  
A-589, C-588, SP-146A,  
RIICO INDUSTRIAL AREA,  
BHIWADI, Alwar,  
Rajasthan, 301019  
GST No. 08AAACH0156K1ZP

प्रतिलिपि

1. मुख्य आयुक्त, केन्द्रीय वस्तु एवं सेवाकर जयपुर जोन, जयपुर (राजस्थान)
2. प्रधान आयुक्त, केन्द्रीय वस्तु एवं सेवाकर आयुक्तालय, Alwar, राजस्थान
3. उप, सहायक आयुक्त/केन्द्रीय वस्तु एवं सेवाकर संभाग -C, Bhiwadi
4. अधीक्षक, केन्द्रीय वस्तु एवं सेवाकर रेंज XI संभाग -C, Bhiwadi
5. गार्ड फ़ाइल

अधीक्षक(अपील्स)

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आयुक्त(अपील्स)

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अधीक्षक(अपील्स)