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|  | <p>सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण Customs Authority for Advance Rulings नवीन सीमाशुल्क भवन, बेलाई ईस्टेट, मुंबई - ४०० ००१ New Custom House, Ballard Estate, Mumbai - 400 001 E-MAIL: cus-advrulings.mum@gov.in</p> |  |
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F.No. CAAR/CUS/APPL/98/2025 - O/o Commr-CAAR-Mumbai

दिनांक/Date: 03.09.2025

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| Ruling No. & date | CAAR/Mum/ARC/68/2025-26 dated 03.09.2025 |
| Issued by | Shri Prabhat K. Rameshwaram, Customs Authority for Advance Rulings, Mumbai |
| Name and address of the applicant | M/s. Tata Electronics System Solutions Private Limited 43/1-3, 111, 112/1-2, 113, 117/1, 117/3, 118/1-2, 120/1-2, 121/1-3, 122, 123, 124, 177/1 KIADB Industrial Area, Achathnahalli Village, Narsapura Hobli, Kolar Taluk – 563 133 {Email: fin.tax@tataelectronics.co.in } |
| Concerned Commissionerate | The Commissioner of Customs, Airport & Air Cargo Commissionerate, Devanahalli, Bangalore -560 300. {Email: commrapacc-cusblr@nic.in } |

ध्यान दीजिए/ N.B.:

- सीमा शुल्क अधिनियम, 1962 की धारा 28I की उप-धारा (2) के तहत किए गए इस आदेश की एक प्रति संबंधित को निःशुल्क प्रदान की जाती है।
A copy of this order made under sub-section (2) of Section 28-I of the Customs Act, 1962 is granted to the concerned free of charge.
- इस अग्रिम विनिर्णय आदेश के खिलाफ कोई भी अपील ऐसे निर्णय या आदेश के संचार की तारीख से 60 दिनों के भीतर संबंधित क्षेत्राधिकार के उच्च न्यायालय के समक्ष की जाएगी।
Any appeal against this Advance Ruling order shall lie before the **High Court of concerned jurisdiction**, within 60 days from the date of the communication of such ruling or order.
- धारा 28-I के तहत प्राधिकरण द्वारा सुनाया गया अग्रिम विनिर्णय तीन साल तक या कानून या तथ्यों में बदलाव होने तक, जिसके आधार पर अग्रिम विनिर्णय सुनाया गया है, वैध रहेगा, जो भी पहले हो।
The advance ruling pronounced by the Authority under Section 28 - I shall remain valid for three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier.
- जहां प्राधिकरण को पता चलता है कि आवेदक द्वारा अग्रिम विनिर्णय धोखाधड़ी या तथ्यों की गलत बयानी द्वारा प्राप्त किया गया था, उसे शुरू से ही अमान्य घोषित कर दिया जाएगा।
Where the Authority finds that the advance ruling was obtained by the applicant by fraud or misrepresentation of facts, the same shall be declared void *ab initio*.



अग्रिम विनिर्णय / Advance Ruling

M/s. Tata Electronics System Solutions Private Limited (having IEC No. AACCW1483C and hereinafter referred to as 'the applicant', in short) filed an application (CAAR-1) for advance ruling before the Customs Authority for Advance Rulings, Mumbai (CAAR in short). The said application was received in the secretariat of the CAAR, Mumbai on 19.05.2025 along with enclosures in terms of Section 28H (1) of the Customs Act, 1962 (hereinafter referred to as the 'Act' also). The applicant has sought an advance ruling on the applicability of **Notification No. 57/2017-Customs, dated 30th June, 2017 (commonly referred to as the IGCR Notification)** in respect of inputs or parts imported for the manufacture of cellular mobile phones, which get scrapped during the manufacturing process, under the **Manufacture and Other Operations in Warehouse (MOOWR) Scheme**.

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

2.1 Tata Electronics Private Limited [formerly known as M/s. Wistron Infocomm Manufacturing (India) Pvt. Ltd.] (hereinafter referred as to 'Tata Electronics' or 'the Company' or 'the Applicant') holding IEC No. AACCW1483C is a company incorporated in India under the provisions of the Companies Act, 1956 and is also a Company in terms of the Companies Act 2013, having its registered office at 43/1-3, 111, 112/1-2, 113, 117/1, 117/3, 118/1-2, 120/1-2, 121/1-3, 122, 123, 124, 177/1 KIADB Industrial Area, Achathnahalli Village, Narsapura Hobli, Kolar Taluk – 563 133, Karnataka.

2.2 The Applicant is presently engaged in the business of manufacturing of cellular mobile phones (hereinafter referred to as 'cellular mobile phones of 'the final products') at its manufacturing facility at 43/1-3, 111, 112/1-2, 113, 117/1, 117/3, 118/1-2, 120/1-2, 121/1-3, 122, 123, 124, 177/1 KIADB Industrial Area, Achathnahalli Village, Narsapura Hobli, Kolar Taluk – 563 133, Karnataka (hereinafter referred to as the 'said manufacturing unit'). The Applicant states that the said activity is duly mentioned in the object clause of the Memorandum of Association of the Applicant.

2.3 The Applicant states that it has obtained License under Section 58 of the Customs Act, 1962 to deposit the dutiable goods being imported by it and has also obtained permission under Section 65 of the Customs Act, 1962 (hereinafter referred to as the 'said Act') to undertake manufacturing activities under Manufacture and Other Operations in Warehouse Regulations, 2019 (hereinafter referred as to 'MOOWR Regulations').

2.4 For manufacturing of the mobile phones, the Applicant imports various parts, sub-parts, components, modules, assemblies etc. of mobile phones and manufactures the mobile phones. The Applicant also procures certain parts, sub-parts, components, modules, assemblies etc. of mobile phones from other MOOWR registered units who import the sub-parts, raw material etc. and manufactures parts, sub-parts, components, modules, assemblies etc. (under bond to bond transfers or inter-bond sales). The Applicant either exports or domestically supplies the cellular mobile phones so manufactured at its manufactured facility.

2.5 The Applicant states that in relation to the imported inputs and other parts, the Applicant currently is availing the benefit of MOOWR scheme and defers the Customs duties payable on the import of the said inputs and other parts. Further, in a case where the Applicant procures any inputs or other parts from any other MOOWR registered suppliers/vendors, Customs duty is not payable at the time of procurement of said parts, sub-parts, components, modules, assemblies etc. in line with MOOWR scheme and no GST is also payable in terms of Entry 8(a) of Schedule III of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act') which provides that *supply of warehoused goods to any person before clearance for home consumption* shall neither be treated as supply of goods nor supply of services.



2.6 The Applicant states that in case of export of the cellular mobile phones, manufactured in the said manufacturing unit, the Applicant is not required to discharge any Customs duties deferred at the time of import (or procured from other MOOWR registered suppliers) of inputs, parts, sub-parts, components, modules, assemblies etc. However, at the time of sales of the cellular mobile phones in the domestic tariff area (DTA), the Applicant de-bonds the goods and discharges the Customs duties deferred at the time of import (or procured from other MOOWR registered supplier) of inputs, parts, sub-parts, components, modules, assemblies etc.

2.7 The Applicant states that when the inputs, parts, sub-parts, components, modules, assemblies etc., are procured (either import or local purchases), for use in manufacture of cellular mobile phones, the Applicant performs quality check of the said parts, sub-parts, components, modules, assemblies. Post quality check, the Applicant stores the material in the inventory store. Thereafter, the Applicant issues the required materials to the production floor as and when required.

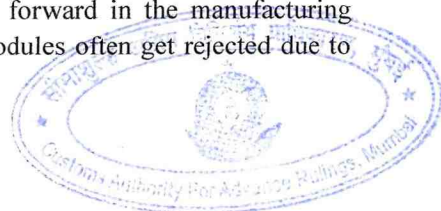
2.8 The Applicant states that on the production floor, the inputs, parts, sub-parts, components, modules, assemblies etc. undergo the detailed manufacturing process and the underlying quality check points (*i.e.* after completing defined manufacturing step/process). Post all the processes, checks and tests, the final product *i.e.* cellular mobile phones get ready for packaging.

2.9 **Manufacturing Process:** The Applicant states that the main manufacturing lines are FATP line (*i.e.* main assembly line), MLB line (motherboard line), AE machine tossing, and RE LAB (repair/rework line) and these are major areas where scrap generation occurs, primarily due to deviations from the standard processes.

2.10 The Applicant states that the entire manufacturing process involves multiple steps at multiple production lines and after completion of each step, the Applicant carries out testing of the product whether it is performing as per the pre-set guidelines. In case of any failure, the Applicant sends back the goods to the previous production steps for rework or corrections. The said process continues till the manufacturing of final good working condition mobile phone.

2.11 The Applicant further states that during the entire above process/steps of manufacturing of mobile phones, various inputs, parts, sub-parts, components, modules, assemblies etc. results into scrap due to multiple reasons which includes quality failure, out of order, test failure, non-repairable etc. In other words, during the manufacturing process of mobile phones, when the inputs, parts, sub-parts, components, modules, assemblies etc. are put to use in manufacture of cellular mobile phones, process scraps are generated due various reasons which *inter alia* includes the followings –

- ✓ **Yield Down:** It refers to a **decrease in production yield**, meaning that the percentage of **good (non-defective) products** coming out of a manufacturing process has dropped. This can be due to various factors such as defects, material issues, machine malfunctions etc.
- ✓ **Repair Dismantling Process:** The units that fail on the line need to undergo dismantling and replacement of the defective or non-conforming parts with the new one. In this regard, it is pertinent to mention that while dismantling, it often leads to further damage, especially to high-cost materials like Battery, RCAM etc. Typically, the units that are re-flown to the main line post dismantling process have higher yield fallouts that in turn lead to scrap.
- ✓ **Machine Toss:** It refers to the automated process where defective or non-conforming parts/products are identified and removed from the production or assembly line by a machine. This ensures that only good-quality items move forward in the manufacturing process. Modules such as Camera & other sub-assembly modules often get rejected due to



inherent machine process variations. When this occurs, the materials can become unusable, leading to generation of process scrap.

- ✓ **Dust & Impurities:** Dust and impurities are major concerns in mobile phone assembly, as they can impact device performance, durability, and quality. The dust on the production shop floor causes the units to fail in cosmetic/ functional test stations and in turn leading to process scrap.

2.12 The Applicant states that the inputs and parts damaged during the manufacturing process are scrapped by the Applicant. The scrap generated during the manufacturing process are sold to the Government authorised e-waste vendors who are empaneled with the Applicant. The e-waste vendor collects the scrap and disposes off as per the authorised Government norms.

2.13 The Applicant states that **Section 65(2)** of the said Act *inter alia* provides that where in the course of any operations permissible in relation to any warehoused goods, there is any waste or refuse, then the following provisions shall apply -

- (a) *if the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods exported: Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into India in that form;*
- (b) *if the whole or any part of the goods resulting from such operations are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.*

2.14 Considering the above statutory provision, presently the Applicant is following the below mentioned practice –

- **Export of resultant goods:** In case of scrap generated wherein the resultant goods is exported outside India, the Applicant is discharging the applicable Customs duties **on the transaction value of the scrapped goods** at full rate of duty.
- **DTA sales of resultant goods:** in case of scrap generated wherein the resultant goods are sold in the Domestic Tariff Area, the Applicant is discharging the Customs duties **on the original value of goods involved in the scrap** (i.e. full value) at full rate of duty.

2.15 The Applicant states that as per the present practice, it has been discharging the duty of Customs at full tariff rate on the waste and refuse generated out of the manufacturing process. The Applicant submits that Section 25 of the said Act contains provisions regarding power to grant exemption from duty. Accordingly, in exercise of the powers conferred by sub-section (1) of Section 25 of the said Act, Central Government vide **Notification No. 57/2017-Customs**, dated 30th June, 2017 (hereinafter referred to as the 'IGCR Notification') provided **concessional rate of Customs duty on import of certain goods**, as mentioned therein, subject to the conditions specified in the IGCR Notification. However, the Applicant is not availing the benefit of any concessional rate of duties of Customs in terms of the IGCR Notification.

2.16 The Applicant states that it imports various goods for use in manufacture of cellular mobile phones and also raw materials, parts/sub-parts, components etc. for the purpose of manufacturing of motor / ringer, display assembly, Printed Circuit Board Assembly (PCBA) of cellular mobile phones, Camera Module, Camera lens, Connectors and all other ancillary parts of cellular mobile phones which in turn shall be used in



manufacturing of cellular mobile phones. The Applicant submits that many of the above goods are specified in the IGCR Notification.

Applicant's interpretation of Law/Facts

3.1 The Applicant is presently engaged in the business of manufacturing of cellular mobile phones (hereinafter referred to as 'cellular mobile phones'). For manufacturing of mobile phones, the Applicant *inter alia* imports various inputs and parts which are used in manufacture of mobile phones. For the present application, the activity pertains to the import of inputs and parts for use in manufacture of cellular mobile phones.

3.2 The Applicant states that it imports various inputs and / or parts for use in manufacture of cellular mobile phones and also raw material, parts/sub-parts, components etc. for the purpose of manufacturing of motor / ringer, display assembly, Printed Circuit Board Assembly (PCBA) of cellular mobile phones, Camera Module, Camera lens, Connectors and all other ancillary parts of cellular mobile phones which in turn shall be used in manufacturing of cellular mobile phones. The Applicant submits that many goods so imported and used in the manufacturing process are specified in the IGCR Notification.

3.3 The only question in respect of which an advance ruling has been sought by the Applicant is whether the benefit of Notification No. 57/2017-Customs dated 30th June 2017 (as amended) shall be available to the Applicant in respect of inputs or parts imported for use in manufacturing of cellular mobile phones which get scrapped during the manufacturing process.

QUESTION: WHETHER BENEFIT OF NOTIFICATION NO. 57/2017-CUSTOMS DATED 30TH JUNE 2017 (AS AMENDED) SHALL BE AVAILABLE IN RESPECT OF INPUTS OR PARTS IMPORTED FOR USE IN MANUFACTURING OF CELLULAR MOBILE PHONE WHICH RESULTS INTO SCRAP DURING THE MANUFACTURING PROCESS?

3.4 The Applicant submits that the import and export of goods into and out of India is regulated by the Customs Act, 1962. Section 12 of the said Act is the charging section which stipulates that duties of customs shall be levied on all goods imported into India or exported out of India at such rates as may be specified under the Customs Tariff Act, 1975 (hereinafter referred to as 'the Tariff Act').

3.5 The Applicant submits that Section 2 of the Tariff Act provides that the rates at which Basic Customs Duty ('BCD') shall be levied under the said Act are specified in two schedules, namely, the First Schedule and the Second Schedule. First Schedule of the Tariff Act deals with the applicable duty structure on import of goods and the Second Schedule deals with the applicable duty structure on export of goods.

3.6 The Applicant submits that **Section 2(23)** of the said Act defines imports as follows-

"(23) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;"

3.7 The Applicant submits that Section 25 of the said Act contains provisions regarding power to grant exemption from duty. **Section 25(1)** of the said Act reads as under:

"(1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon."



3.8 The Applicant further submits that in exercise of the powers conferred by sub-section (1) of Section 25 of the Customs Act, Central Government vide Notification No. 57/2017-Customs, dated 30th June, 2017 ('IGCR Notification') provided exemption from duty of Customs on import of certain goods, as mentioned therein, subject to the conditions specified in the said notification.

3.9 The Applicant submits that vide Notification No. 74/2022-Customs (N.T.), dated, 9th September 2022 the Central Government in supersession of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 notified the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 (hereinafter referred to as the 'IGCR Rules 2022').

In this regard, it is pertinent to note that **Rule 13 of the IGCR Rules, 2022** provides that *references in any rule, notification, circular, instruction, standing order, trade notice or other order pursuant to the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 and any provision thereof or to the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 and any corresponding provisions thereof or to the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 and any corresponding provisions thereof shall be construed as reference to the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022.*

Hence, the reference of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 in the Annexure of the IGCR Notification should be read as *Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022.*

3.10 The Applicant submits that **Rule 5** of the IGCR Rules, 2022 provides for the procedure to be followed. The procedure specified in Rule 5 is furnished below for ease of reference:

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

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

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

3.11 The Applicant submits that if the benefit of IGCR Notification is granted to the Applicant, it will duly comply with the procedure laid down in Rule 5 of the IGCR Rules, 2022.

3.12 The Applicant submits that it is evident from the various relevant entries of the IGCR Notification, that exemption from duty of Customs have been provided on import of inputs or parts for use in manufacture of cellular mobile phone and also to the inputs or part for use in manufacture of the component of cellular mobile phones.

3.13 The Applicant submits that it is manufacturing cellular mobile phones as well as various components / assemblies of the cellular mobile phones which in turn shall be used in manufacture of the cellular mobile phones by the Applicant. A reference in this regard can be drawn to the object clause of the Memorandum of Association of the Applicant which specifies the main objects of the Applicant and the activities that it is authorized to carry out.

3.14 The Applicant submits that considering the Applicant is only engaged in manufacturing of cellular mobile phones and various components / assemblies / sub-assemblies of the cellular mobile phones, the Applicant submits that it imports inputs and parts only for the purpose of use in the manufacturing of cellular mobile phones and the component of the cellular mobile phones which in turn shall be used for



manufacturing of mobile phones. The Applicant will not import any inputs or parts for any purpose other than manufacturing of cellular mobile phones the component of the cellular mobile phones.

3.15 The Applicant submits that in view of above, in relation to the inputs and parts to be imported by the Applicant for the purpose of use in manufacturing of cellular mobile phone and the component of the cellular mobile phones, the Applicant understands that exemption under various relevant entries of Notification No. 57/2017 Customs, dated 30th June, 2017, should be available irrespective of the classification under Tariff Act of the such inputs and parts.

NO BAR ON AVAILING BENEFITS UNDER IGCR RULES FOR A UNIT OPERATING UNDER SECTION 65 OF THE CUSTOMS ACT, 1962

3.16 The Applicant reiterates that it has obtained license under **Section 65** of the Customs Act as a MOOWR unit and availing the corresponding permissible benefits. Simultaneously, the Applicant wants to avail the benefit of Notification No 57/2017-Customs, issued under Section 25(1) of the Customs Act.

3.17 The Applicant submits that, as stated earlier, **Section 65(2)** of the said Act required the Applicant to discharge customs duty on the waste or scrape generated during the manufacturing process. However, Section 65 of the said Act does not provide for any such restriction from availing other benefits allowed under the said Act while discharging the duty obligations under Section 65(2) of the said Act.

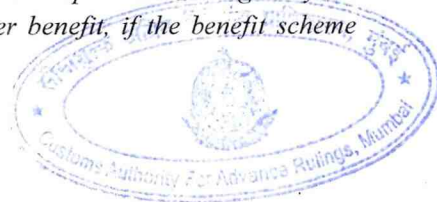
3.18 The Applicant further submits that in exercise of powers conferred by Section 65 of the said Act and in supersession of the Manufacture and Other Operations in Warehouse Regulations, 2019, except as respects things done or omitted to be done before such supersession, the Central Board of Indirect Taxes and Customs notified regulations namely the Manufacture and Other Operations in Warehouse (no. 2) Regulations, 2019 (hereinafter referred to as MOOWR Regulations, 2019) vide Notification No 69/2019-Customs (N.T.), dated 01.10.2019.

3.19 The Applicant submits that **Regulation 14 of the MOOWR Regulations, 2019** provides relevant provisions for removal of resultant goods for home consumption. As per the proviso to the said Regulation, a bill of entry for home consumption is required to be filed in respect of the warehoused goods contained insomuch of the resultant goods and the import duty, interest, fine and penalties payable, if any, in respect of such goods have to be paid. However, this Clause also does not provide for any restriction from availing other benefits allowed under the said Act while discharging the duty obligations for removal of resultant goods for home consumption.

3.20 In this regard, the Applicant further submits that a detailed **FAQ** has been issued by CBIC on **Manufacture and Other Operations in Customs Warehouse**, vide **F.No. F.No.484/03/2015-LC (Pt)**, updated on 27.10.2020. In the said FAQ, the doubt on the availment of IGCR benefit for the warehoused goods taken for manufacturing simultaneously with the duty deferment under MOOWR and being cleared to DTA or removed to SEZ or to another MOOWR unit have been properly addressed. Question No 17 of the said FAQ is relevant in this regard which is reproduced below:

"17. Can all export benefits under FTP and Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (IGCR) be taken in Bonded warehouse simultaneously?"

Response: The eligibility to export benefits under FTP or IGCR would depend upon the respective scheme. If the scheme allows, unit operating under Section 65 has no impact on the eligibility. In other words, a unit operating under Section 65 can avail any other benefit, if the benefit scheme allows."



3.21 In this regard, the Applicant further submits that the issue of availment of IGCR exemption along with duty deferment under MOOWR simultaneously has further been clarified vide Circular No 26/2024-Customs, dated 21.11.2024. The relevant extract of the said Circular is reproduced below:

"3.3 It is once again re-iterated that, the MOOWR unit may avail IGCR exemption along with duty deferment under MOOWR simultaneously, provided that the importer undertakes to comply with the additional conditions prescribed in the Concessional Notification and IGCR Rules therein including time-limit etc., in addition to MOOWR stipulations for those goods while supplying goods from its premises."

3.22 Based on the aforesaid relevant statutory provisions along with the FAQ and Circular, the Applicant is of the understanding that there is no restriction on availment of IGCR benefit for the warehoused goods taken for manufacturing simultaneously with the duty deferment under MOOWR and the Applicant is eligible to discharge customs duty at concessional rate, as per Notification No 57/2017-Customs, on the waste or scrap generated during the manufacturing of cellular mobile phones.

3.23 In this regard, the Applicant finds it pertinent to mention that the Hon'ble Customs Authority of Advance Ruling (CAAR), Delhi, on an identical issue has already allowed the simultaneous availment of IGCR along with MOOWR in the matter of **Samsun Noida Display Private Limited** vide Ruling No. CAAR/ Del/ 22/ 2024/928-933 dated June 04, 2024, reported in 2025 (1) TMI 995 - AUTHORITY FOR ADVANCE RULINGS CUSTOMS, NEW DELHI.

3.24 The Applicant states that as discussed above, it imports inputs and parts for use in manufacturing of cellular mobile phones. Further the inputs and parts imported by the Applicant are put on the assembly line where these are put through various assembling processes for the purpose of manufacturing of cellular mobile phones. In this regard, it is pertinent to note that the process of manufacturing cellular mobile phone is subject to a certain amount of process loss in the normal course of assembling of the parts of the cellular mobile phones. Said process loss leads to generation of process scrap which are not reusable and treated as e-waste only.

3.25 As stated earlier, the Applicant submits that due to yield down, repair dismantling process, machine toss, dust & impurities, the manufacturing process generates various process scrap. The inputs and parts damaged during the manufacturing process and resulting into process scrap, are scrapped by the Applicant. The said process scrap, generated during the manufacturing process, are sold to the Government authorised e-waste vendors. The e-waste vendor collects the scrap and disposes off as per the authorised Government norms.

3.26 The Applicant states that in the instant case the question is in relation to the inputs and parts which are damaged during the manufacturing process and are subsequently scrapped by the Applicant. In specific, the question is whether the benefit provided in relation to inputs and parts for use in manufacture of cellular mobile phone shall also be available in respect of inputs or parts which were imported for use in manufacture of cellular mobile phone but get damaged in the manufacturing process and thereby do not form part of a finished cellular mobile phone.

3.27 The Applicant states that the IGCR Notification provides the benefit of concessional rate of duty on import of inputs and parts for use in manufacture of cellular mobile phones and also for use in manufacturing of various components of cellular mobile phones. Hence, the only doubt is whether the inputs and parts which are imported for the purpose and with the intention to use in manufacture of cellular mobile phones but get damaged / scrapped during the manufacturing process and do not form part of the finished cellular mobile phone can be said to be imported for use in manufacture of cellular mobile phone or in manufacture of components of the cellular mobile phones, as the case may be.



3.28 The Applicant submits that the benefit under the IGCR Notification is available in respect of inputs and **parts 'for use' in the manufacture** of cellular mobile phone and not in respect of inputs and **parts 'used' in the manufacture** of cellular mobile phone.

3.29 The Applicant submits that the term '**for use in manufacture**' indicates that benefit under the IGCR Notification is available in respect of all inputs and parts which have been actually used for manufacturing the cellular mobile phone even if they may not form part of the final product as the term used in the notification is '**for use in manufacture**' and not '**used in the manufacture**'.

3.30 The Applicant submits that every manufacturing process generates some normal loss which is unavoidable considering the nature of the manufacturing process. The inputs which get consumed during the manufacturing process whether by way of forming part of the final output or by way of the inherent process loss are used in the manufacturing process. Similarly in the instant case also, the manufacturing process of cellular mobile phones (including various inputs, parts, sub-parts, components, modules, assemblies etc.) results into process scrap due to multiple reasons which includes quality failure, out of order, test failure, non-repairable etc. In other words, during the manufacturing process of mobile phones, when the inputs, parts, sub-parts, components, modules, assemblies etc. are put to use in manufacture of cellular mobile phones, process scraps are generated due various reasons which *inter alia* includes Yield Down, Repair Dismantling Process, Machine Toss, Dust & Impurities etc.

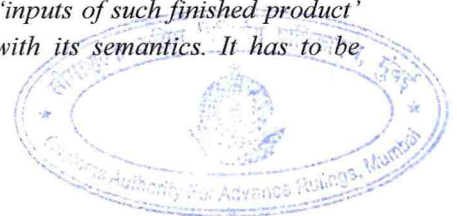
3.31 The Applicant submits that from the process flow chart it is very much apparent that in the instant case the imported inputs and other parts are being used in manufacture of cellular mobile phones and other components which in turn produces process scrap in the normal course of manufacturing process. Further it can also not be denied that the process scraps which are being generated in the manufacturing of the cellular mobile phones are integrally connected with the manufacturing of the final cellular mobile phones only. Now, the issue is whether the inputs which are getting scrapped in the instant manufacturing process can be said to have been used in the manufacturing of the cellular mobile phones and other parts of the same.

3.32 The Applicant submits that the phrase 'for use in manufacture' has not been defined under the Customs Act, however, various High Courts have time and again analysed what amounts to 'inputs being used in the manufacture of goods'.

3.33 In this regards, the Applicant submits that various Courts have time and again held that if any process is integrally connected with the ultimate production of goods so much so that but for the said process, manufacture of goods would be commercially inexpedient, goods used as inputs in that process would fall within the ambit of the expression 'used in the manufacture of goods' and such inputs will be considered as being part of the final manufactured product irrespective of the fact that they are physically not present in it. Reliance is placed upon the decision of Hon'ble Supreme Court in the case of **J.K. Cotton Spinning & Weaving Mills Co. Ltd. v. Sales Tax Officer, Kanpur**, reported in **1964 (10) TMI 2**.

3.34 The Applicant further submits that similar view was also upheld by the Hon'ble Madras High Court in the case of **M/s. Rupa & Co. Limited, Tirupur v. Customs, Excise and Service Tax Appellate Tribunal**, Commissioner of Central Excise, reported in **2015 (9) TMI 293**, wherein the Hon'ble High Court allowed the CENVAT credit against the entire inputs used by the assessee even when there was 5% manufacturing process loss. The Hon'ble High Court observed as under:

"13. To say that what is contained in finished product is only a quantity of all the inputs of the same weight as that of the finished product would presuppose that all manufacturing processes would never have an inherent loss in the process of manufacture. The expression 'inputs of such finished product' contained in finished products' cannot be looked at theoretically with its semantics. It has to be



understood in the context of what a manufacturing process is. If there is no dispute about the fact that every manufacturing process would automatically result in some kind of a loss such as evaporation, creation of by products, etc., the total quantity of inputs that went into the making of the finished product represents the inputs of such products in entirety."

3.35 The Applicant submits that in the instant case, the process scraps are the outcome of inputs used in manufacturing of the cellular mobile phones in the normal course of business. Further, the process scraps are integral part of the manufacturing process only. Hence, the Applicant is of the considered understanding that the inputs contained in the final products and the inputs getting scrapped during the manufacturing process should be at par irrespective whether the said inputs are physically contained in the final product or not.

3.36 The Applicant submits that based on the aforesaid judicial decisions it is very much apparent that exemption available to inputs and parts for use in manufacturing of a goods (i.e. actually present in the final product) should also be available in respect of inputs and parts which get scrapped during the manufacturing process, as these are used in the manufacturing of the goods.

3.37 The Applicant further submits that the Hon'ble Supreme Court in the case of **BPL Display Devices Ltd. v. Commissioner of Central Excise, Ghaziabad**, reported in **2004 (10) TMI 92** held that benefit of the Notifications could not be denied in respect of goods which were intended for use for manufacture of the final product but could not be so used due shortage or leakage. In this case, the Hon'ble Apex Court allowed the benefit even in respect of inputs which were damaged in transit considering that the benefit of the Notifications could not be denied in respect of goods which were intended for use for manufacture of the final product but could not be so used due shortage or leakage. In this regard, the Hon'ble Apex Court further held that –

"We are of the view that no material distinction can be drawn between the loss on account of leakage and loss on account of damage. The words for use' used in similar exemption Notifications have also been construed by this Court earlier in the State of Haryana v. Dalmia Dadri Cement Ltd. [1987 (11) TMI 94 -SUPREME COURT OF INDIA] to mean 'intended for use'. According to this decision the object of grant of exemption was only to debar those importer/manufacturers from the benefit of the Notifications who had diverted the products imported for other purposes and had no intention to use the same for manufacture of the specified items at any stage."

3.38 The Applicant further submits that in the case of **Steel Authority of India Ltd. v. Collector of Central Excise**, reported in **1996 (7) TMI 147**, the Hon'ble Supreme Court dealt with the question whether exemption available to raw naphtha intended for use in the manufacture of fertiliser would be available in respect of raw naphtha consumed for the gases vented out during the interim stages of manufacture due to unavailability of power. While deciding the issue, the Hon'ble Apex Court held as under:

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

3.39 The Applicant submits that the Hon'ble Supreme Court in the case of **Multimetals Ltd. v. Assistant Collector, Central Excise**, reported in **1991 (12) TMI 58 - SUPREME COURT**, dealt with the question whether the duty referable to that portion which is lost also should get rebate while assessing for excise duty on the pipes and tubes of copper and copper alloys held as under:



“Rebate is to be equivalent to the duty already paid on copper and copper alloys in its crude form, that is to say on the input. The idea seems to be that to the extent of the duty paid on the raw material used exemption has to be given and that has no reference to what ultimately found part of the finished product. It is the duty paid on the input material that is relevant and not the duty referable to the ultimate component of the final product. So far as the manufacturer is concerned he has used copper and copper alloys of a particular quantity in the manufacture of pipes and tubes. The ‘manufacturing loss’ forms part of the raw material ‘used’ in the manufacture though not reflected in the final product. The relief, as we understand the Notification, that has to be given to the manufacturer was in respect of the duty already paid on the raw material used in the manufacture of the final product. That is the relief has to be given to the extent of the duty paid on the input material and not with reference to the quantity which ultimately forms part of the final product.”

3.40 In view of the aforesaid judicial decision, the Applicant submits that it has been settled beyond doubt that exemption shall be available to the inputs which are scrapped during the manufacturing process even though the said inputs do not form part of the finished goods. Hence, the Applicant shall be eligible to avail the benefit under Notification No. 57/2017-Customs, dated 30th June, 2017 even in respect of inputs and parts which are damaged during the manufacturing process and are subsequently scrapped by the Applicant.

Port of Import and reply from concerned jurisdictional Commissionerate

4.1 The applicant in their CAAR-1 indicated that they intend to import the subject goods i.e. inputs or parts for the manufacture the mobile phones at the jurisdiction of Office of the Commissioner of Customs, Air Cargo Complex, Devanahalli, Bangalore. The application was forwarded to the Office of the concerned Commissionerate for their comments on 29.05.2025 & 17.06.2025.

4.2 The concerned Commissionerate vide their letter dated 19.07.2025 has submitted as follows:

- The Applicant has obtained License No. 03/2020 dated 21.05.2020 issued under the provisions of Section 58 of the Customs Act, 1962 to deposit the dutiable goods being imported by it and has also obtained permission under Section 65 of the Customs Act, 1962 (hereinafter referred to as the 'said Act') to undertake manufacturing activities under Manufacture and Other Operations in Warehouse Regulations, 2019 (hereinafter referred to as 'MOOWR Regulations').
- It is submitted that CBIC vide Circular no. 34/2019 dated 01.10.2019 has clarified the “Procedure to be followed in cases of manufacturing or other operations undertaken in bonded warehouses under section 65 of the Customs Act.” As per para 9 of the above said circular *“The waste generated during the course of manufacture of the resultant product may be cleared for home consumption as per clause (b) to sub-section (2) of section 65 of the Customs Act on payment of applicable duties of customs and GST.”*

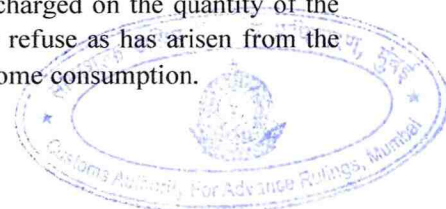
- For ease of reference Section 65(2) is produced below:

Section 65(2) Where in the course of any operations permissible in relation to any warehoused goods under sub-section (1), there is any waste or refuse, the following provision shall apply:

- (a) if the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods exported:

Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into India in that form;

- (b) if the whole or any part of the goods resulting from such operations are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.



- From the above subsection (a) it may be seen that the import duty is not required to be paid for the waste or refuse generated from the manufacturing activity for exported goods provided such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into India in that form.

However, subsection (b) mandates that import duty is required to be paid for the waste or refuse generated from the manufacturing activity for goods cleared from the warehouse for **home consumption**.

- Further, as per Notification No. 57/2017, the importer is required to comply with condition no. 1 of Notification No. 57/2017 dated 30.06.2017 for claiming benefit S.No. 1, 1A, 5A, 5B, 5C, 5D, 6A, 6B, 6BA, 6C, 6D, 6E, 6F, 6G, 6H, 6I, 6J, 7, 8 and 13B i.e. the importer should follow the procedures set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Further it is submitted that CBIC has issued IGCR Rules, 2022 in suppression to IGCR Rules 2017 and clarified vide Rule 13 of IGCR Rules, 2022 that any reference in notification, rules, etc. to the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 and any corresponding provisions thereof shall be construed as reference to the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022. Therefore, the Condition 1 of Notification 057/2017 should be read as the importer should follow the procedures set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2022.
- It is submitted that the IGCR Rules 2022 has already clarified the procedure to be followed for defective goods vide Rule 10. As per Rule 10(1), importer has two options with respect to defective goods i.e. either to re-export or clear the same for home-consumption. In this regard, relevant portion from Rule 10 of IGCR Rules 2022 are reproduced below:

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

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

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

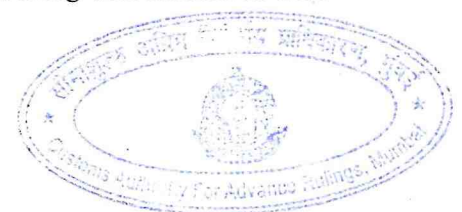
***Provided that,** the said period of six months can be further extended by the jurisdictional Commissioner for a period not exceeding three months, if sufficient reason is shown that the causes for not conforming to the time period were beyond the importer's control*

(2) Any re-export of the unutilised or defective goods referred to in sub rule (1) shall be recorded by the importer in the quarterly statement by providing the details of necessary export documents:

***Provided that** the value of such goods for re-export shall not be less than the value of the said goods at the time of import.*

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

- It may be seen from Rule 10(3) of IGCR Rules, 2022 that duty has to be paid on defective or unutilised imported goods. As per the applicant, the waste he is clearing in to DTA are inputs or parts he imported which turned out to be defective. So as per Rule 10(3) of IGCR Rules 2022, whenever defective goods are cleared for home consumption, duty has to be paid along with interest. In other



words, the benefit of concessional duty which importer enjoy for input goods used in the manufacturing of goods for home consumption is not available for the defective input goods. In view of the above, **the benefit of Notification 057/2017** where precondition for claiming the notification is that the importer should follow the procedures set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2022 **is not available for the defective/waste/refuse generated during the manufacturing of the goods cleared for home consumption.**

- In light of the above, it is submitted wherever the waste or refuse is generated because of activities for manufacturing domestic consumption the benefit of Notification 057/2017 is not available and the importer is required to clear the inputs without the benefit of Notification 057/2017 read with IGCR Rules 2022. Further, wherever the waste or refuse is generated because of activities for manufacturing exported goods the import duty on such waste or refuse is not required to be paid if such waste or refuse is either destroyed or duty is paid on the scrap value of the goods.

Details of Hearing

5.1 A hearing was held on 10.07.2025 at 12.30 PM. Shri Pulak Saha and Shri Manmohan Mundhra, authorized representatives on behalf of the applicant appeared for the hearing and reiterated the contention submitted with the application. They submitted that benefit of Notification No. 57/2017-Customs dated 30.06.2017 (as amended) is available in respect of import of inputs or parts imported for use in manufacturing of cellular mobile phones, which get scrapped during the manufacturing process, while doing manufacturing activities under MOOWR regulation 2019.

In support of their claim, they also referred to an identical matter wherein the Customs Authority for Advance Rulings, Delhi had issued a ruling in favour of the assessee vide Ruling No. CAAR/DEL/22/2024/928-933 dated 04.06.2024, in the case of Samsung Noida Display Private Limited.

No body appeared on behalf of the department in this matter.

Discussion and findings

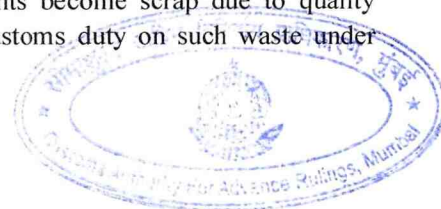
6.1 I have considered all the materials placed before me in respect of the subject goods. I have gone through the comments/responses received from concerned Commissionerate and submissions made by the applicant during the personal hearing. I proceed to pronounce a ruling on the basis of information available on record as well as existing legal framework.

6.2 The applicant has sought an advance ruling on the applicability of Notification No. 57/2017-Customs, dated 30th June, 2017 in respect of inputs or parts imported for the manufacture of cellular mobile phones, **which get scrapped** during the manufacturing process, under the Manufacture and Other Operations in Warehouse (MOOWR) Scheme. In exercise of the powers conferred under sub-section (1) of Section 25 of the Customs Act, 1962, the Central Government issued Notification No. 57/2017-Customs (IGCR Notification), providing concessional rates of customs duty on the import of certain goods specified therein, subject to fulfillment of the conditions prescribed in the notification.

At the outset, I find that the issue raised in the question in the Form CAAR-1 is squarely covered under Section 28H(2) of the Customs Act, 1962, being a matter related to applicability of a notification issued under sub-section (1) of section 25, having a bearing on the rate of duty.

6.3.1 The Applicant submits that they import and procure various parts, components, modules, and assemblies of mobile phones under the MOOWR, 2019 scheme for manufacturing cellular mobile phones. Inputs may also be sourced from other MOOWR-registered units through bond-to-bond transfers. Finished mobile phones are either exported or supplied in the DTA, with customs duties deferred at the time of import being discharged upon DTA clearance.

During the manufacturing process, certain inputs and components become scrap due to quality failures, damage, or test rejections. The Applicant currently pays full customs duty on such waste under Section 65(2) of the Customs Act, 1962.



The Applicant refers to Notification No. 57/2017-Customs, which grants concessional duty on inputs used in manufacturing mobile phones or their components, and submits that there is no restriction under Section 65 from availing such benefits. That position is supported by the CBIC FAQs (dated 27.10.2020) and Circular No. 26/2024-Customs, which clarify that IGCR benefits can be availed alongside MOOWR duty deferment.

Therefore, the Applicant contends that the concessional duty under the **IGCR Notification** should be applicable to inputs or parts that are scrapped during the manufacturing process, concurrently with the duty deferment benefit available under the **MOOWR Scheme**, subject to compliance with the prescribed conditions.

6.3.2 Based on the submissions made by the Applicant, it is understood that the applicant has obtained license under Section 65 of the Customs Act as a MOOWR unit and availing the corresponding permissible benefits. Simultaneously, the Applicant wants to avail the benefit of Notification No 57/2017-Customs, issued under Section 25(1) of the Customs Act.

The MOOWR Scheme is a facility notified by the Central Board of Indirect Taxes and Customs (CBIC) under the Customs Act, 1962, which allows manufacturers to import goods such as raw materials, components, and capital goods with **deferment of customs duty**. Under this scheme, customs duty is deferred while the goods are stored or used in a bonded warehouse, and is payable only when the finished goods are cleared for sale in the Domestic Tariff Area (DTA). If the final products are exported, no customs duty is payable at all. The scheme imposes no export obligation, permits both domestic and imported inputs, and allows bond-to-bond transfers between MOOWR units.

In exercise of powers conferred by Section 65 of the said act, the Central Board of Indirect Taxes and Customs notified regulations namely the Manufacture and Other Operations in Warehouse (no. 2) Regulations, 2019 (MOOWR Regulations, 2019) vide Notification No 69/2019-Customs (N.T.), dated 01.10.2019.

There is **no provision under these regulations** that imposes any restriction on the availment of **other benefits provided under the Customs Act**, while discharging duty obligations on the removal of resultant goods for **home consumption**.

6.3.3 The **IGCRD Scheme** refers to the "**Imports of Goods at Concessional Rate of Duty**" scheme, which is governed by the *Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022*, commonly known as the **IGCR Rules, 2022**. This scheme enables eligible manufacturers and specified users to import goods at a reduced or nil rate of customs duty, subject to compliance with certain prescribed conditions.

The IGCR Rules, 2022 were notified by the Central Government through Notification No. 74/2022-Customs (N.T.) dated 9th September 2022, which superseded the earlier Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Consequently, any reference to the 2017 Rules in exemption notifications, including their annexures, shall now be construed as a reference to the IGCR Rules, 2022.

These Rules primarily lay down the procedural framework for availing concessional customs duty, including requirements such as prior intimation to the jurisdictional customs officer, maintenance of usage records, and filing of quarterly returns to ensure compliance with the end-use conditions. Importantly, the IGCR Rules, 2022 do not explicitly prohibit the simultaneous availment of other benefits under the Customs Act, 1962, provided that the conditions of each applicable scheme or notification are independently met.

In this context, the Central Government, exercising its powers under Section 25(1) of the Customs Act, 1962, has issued Notification No. 57/2017-Customs dated 30.06.2017, **which provides exemption or concessional basic customs duty on the import of specified goods used in the manufacture of mobile phones and their parts or sub-parts**. The benefit under this notification is subject to compliance with the IGCR Rules, 2022, thereby ensuring that the imported goods are used strictly for the intended manufacturing purpose.



6.3.4 Reference is invited to FAQ issued by the CBIC vide F. No. 484/03/2015-LC (Pt), updated on 27.10.2020, on "Manufacture and Other Operations in Customs Warehouse", wherein clarification have been issued on various queries, including the applicability of benefits under the IGCR scheme for goods warehoused for manufacturing purposes. Specifically, Query No. 17 of the FAQ addresses whether benefits under the Foreign Trade Policy (FTP) and the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (IGCR) can be availed simultaneously in a bonded warehouse. The clarification provided is as follows:

"17. Can all export benefits under FTP and Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (IGCR) be taken in Bonded warehouse simultaneously?"

Response: The eligibility to export benefits under FTP or IGCR would depend upon the respective scheme. If the scheme allows, unit operating under Section 65 has no impact on the eligibility. In other words, a unit operating under Section 65 can avail any other benefit, if the benefit scheme allows."

This clarification reinforces that a unit operating under the *Manufacture and Other Operations in Warehouse Regulations* (MOOWR), i.e., under Section 65, is not inherently disqualified from availing benefits under the IGCR schemes. The determining factor is whether the individual scheme allows such concurrent benefits.

6.3.5 Further, the CBIC, vide Circular No. 26/2024-Customs dated 21st November 2024, has issued clarifications regarding the applicability of concessional duty under the IGCR Rules, 2022 for units operating under the Manufacture and Other Operations in Warehouse Regulations (MOOWR). This circular reaffirms that units operating under the MOOWR scheme are eligible to simultaneously avail benefits under both the IGCR Rules, 2022 and the MOOWR scheme, subject to compliance with the prescribed conditions. These conditions include adherence to specified time limits, submission of necessary documentation, and fulfillment of the procedural requirements under both schemes. The relevant portion of the circular is reproduced below:

2. Representations have been received in the Board regarding the issues related to the applicability of concessional duty under IGCR Rules, 2022 for MOOWR Scheme. The issues have been examined and the same are clarified as below:

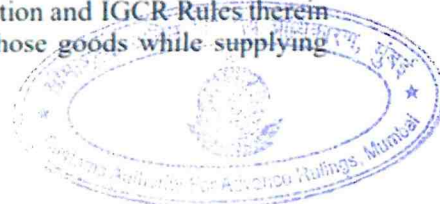
Simultaneous availment of IGCR along with MOOWR:

3.1 Doubts have been raised on the availment of IGCR benefit for the warehoused goods taken for manufacturing simultaneously with the duty deferment under MOOWR and being cleared to DTA or removed to SEZ or to another MOOWR unit.

3.2 In this regard, this aspect has already been clarified under Question 17 of FAQs^[1] on MOOWR which is reproduced as follows:

"The eligibility to export benefits under FTP or IGCR would depend upon the respective scheme. If the scheme allows, units operating under Section 65 has no impact on the eligibility. In other words, a unit operating under Section 65 can avail any other benefit, if the scheme allows."

3.3 It is once again re-iterated that, the MOOWR unit may avail IGCR exemption along with duty deferment under MOOWR simultaneously, provided that the importer undertakes to comply with the additional conditions prescribed in the Concessional Notification and IGCR Rules therein including time-limit etc., in addition to MOOWR stipulations for those goods while supplying goods from its premises.



This clarification provides further certainty that MOOWR units are not restricted from availing IGCR benefits and may leverage both schemes concurrently, so long as the requirements of each are satisfied in full.

From the legal position referred above, it becomes clear that MOOWR unit is eligible to simultaneously avail benefits under both the IGCR and the MOOWR scheme, subject to compliance with the prescribed conditions under the MOOWR Scheme as well as IGCR Rules, 2022.

6.3.6 The issue under consideration is whether the benefit of **Notification No. 57/2017-Customs dated 30th June 2017** (as amended) is available in respect of inputs or parts imported for use in the manufacture of cellular mobile phones that subsequently get **scrapped** during the manufacturing process in a unit operating under the **Manufacture and Other Operations in Warehouse (MOOWR)** scheme.

In this regard, it is pertinent to note that **Section 65 of the Customs Act, 1962** provides the legal foundation for the MOOWR scheme. This scheme permits manufacturing and other related operations to be undertaken within a customs-bonded warehouse, thereby allowing deferment of customs duty on imported inputs and capital goods used in such operations.

Further, **sub-section (2) of Section 65** of the Customs Act stipulates the treatment of **waste or refuse** generated during such operations. The relevant provisions are as follows:

- (a) *if the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods exported:*

Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into India in that form;

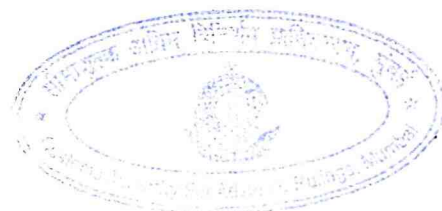
- (b) *if the whole or any part of the goods resulting from such operations are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption*

Based on the above provisions, it is evident that if the finished goods manufactured using imported inputs are exported, and the scrap or refuse generated during the manufacturing process that is directly linked to the exported goods, is either destroyed or cleared on payment of applicable duty, then the entire process remains duty-neutral. However, if the finished goods are cleared for home consumption, customs duty becomes payable not only on the finished goods but also on the portion of the imported inputs contained in the waste or refuse generated during their manufacture.

6.3.7 Under the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 importers are generally required to utilize imported goods within six months of import and have the option to re-export or clear them for home consumption if they are unutilized or defective. If the goods are not used for the intended purpose, the importer is responsible for ensuring proper disposal, which may involve re-export or clearance for home consumption.

Under the **Customs (Import of Goods at Concessional Rate of Duty or IGCR) Rules, 2022**, Rule 10 provides the provisions related to disposal of unutilized or defective goods. The relevant provision is as follows:

10. *Re-export or clearance of unutilised or defective goods. -(1) The importer who has availed the benefit of a notification shall use the goods imported in accordance with the conditions mentioned in the concerned notification within the period and with respect to unutilised or defective goods, so*



imported, the importer shall have an option to either re-export or clear the same for home consumption, within the said period, namely-

(i) within the period specified in the notification;

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

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

(2) Any re-export of the unutilised or defective goods referred to in sub rule (1) shall be recorded by the importer in the monthly statement by providing the details of necessary export documents:

Provided that the value of such goods for re-export shall not be less than the value of the said goods at the time of import.

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

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

6.3.8 In the present case, the applicant is currently availing the benefit under the **MOOWR Scheme** on inputs or parts imported for the manufacture of mobile phones, and now seeks to extend the benefit of the IGCRD Rules to the waste generated during such manufacturing.

As discussed above, the benefits under the MOOWR and IGCR schemes can be availed simultaneously, provided the conditions prescribed under each scheme are duly complied with. The disposal of waste generated within a MOOWR unit is, however, governed specifically by Section 65(2) of the Customs Act, 1962. Therefore, any waste or refuse arising in the course of manufacturing in a MOOWR unit must be disposed of strictly in accordance with the provisions of Section 65(2).

Furthermore, the applicant intends to claim the benefit of IGCR along with MOOWR Scheme, **has to comply all the conditions of MOOWR regulation and additionally conditions prescribed under the IGCR Regulations, 2022.**

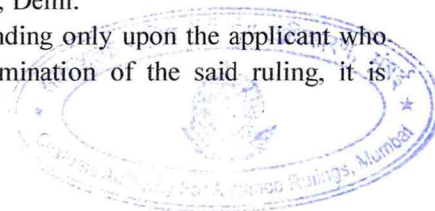
Thus, it is clear that the waste generated during the manufacture of mobiles phones under MOOWR scheme and IGCRD Scheme, the procedure for disposal of such waste has to be complied as per guidelines prescribed under Section 65(2) of the Customs Act, 1962 which read as MOOWR Regulation.

6.3.9 In light of the above, it is clear that if the manufactured goods are exported, then the duty on imported inputs is remitted, if the waste/refuse generated under MOOWR scheme and IGCRD Scheme must either be destroyed under the customs supervision or cleared for home consumption after paying duty as per Clause (a) of Section 65 of the Customs Act, 1962. Further, if the manufactured goods are cleared for home consumption, customs duty becomes payable not only on the finished goods but also on the portion of the imported inputs contained in the waste or refuse generated during their manufacture as per Clause (b) of Section 65 of the Customs Act, 1962.

Accordingly, waste or scrap generated during the manufacture of mobile phones under the MOOWR Scheme, even when the IGCRD benefit is simultaneously availed, **is not eligible for exemption from customs duty if cleared for home consumption.**

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

In this regard, it is pertinent to note that an advance ruling is binding only upon the applicant who sought it and the jurisdictional authorities concerned. Further, on examination of the said ruling, it is



observed that the same was rendered in the context of availment of the IGCRD Scheme on inputs or parts used in the manufacture of display assemblies which were scrapped during the manufacturing process. By contrast, the present case relates to the availment of IGCRD benefits on inputs or parts used in the manufacture of mobile phones within a MOOWR unit which get scrapped during the manufacturing process. The issues and factual matrix are, therefore, materially different from those considered in the Samsung ruling. Accordingly, I do not find the said ruling relevant or applicable for consideration in the present matter.

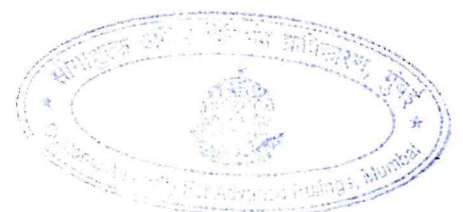
6.5 The applicant has relied upon the decision of Hon'ble Supreme Court in the case of *J.K. Cotton Spinning & Weaving Mills Co. Ltd. v. Sales Tax Officer, Kanpur*, reported in 1964 (10) TMI 2, wherein it was held that if any process is integrally connected with the ultimate production of goods so much so that but for the said process, manufacture of goods would be commercially inexpedient, goods used as inputs in that process would fall within the ambit of the expression 'used in the manufacture of goods' and such inputs will be considered as being part of the final manufactured product irrespective of the fact that they are physically not present in it.

The Applicant further submits that similar view was also upheld by the Hon'ble Madras High Court in the case of *M/s. Rupa & Co. Limited, Tirupur v. Customs, Excise and Service Tax Appellate Tribunal, Commissioner of Central Excise*, reported in 2015 (9) TMI 293, wherein the Hon'ble High Court allowed the CENVAT credit against the entire inputs used by the assessee even when there was 5% manufacturing process loss.

The reliance placed by the applicant on the decisions of the Hon'ble Supreme Court in *J.K. Cotton Spinning & Weaving Mills Co. Ltd. v. Sales Tax Officer, Kanpur* [1964 (10) TMI 2] and the Hon'ble Madras High Court in *M/s. Rupa & Co. Ltd. v. CESTAT* [2015 (9) TMI 293] is misplaced, as both cases were rendered in the context of sales tax law and the CENVAT Credit regime, where the issue was whether inputs integrally connected with the manufacturing process, though not physically present in the final product or partly lost during processing, could still be treated as "used in the manufacture of goods" for the purpose of allowing tax benefits. In contrast, the present matter is governed by Section 65(2) of the Customs Act, 1962 and Notification No. 57/2017-Customs read with the IGCR Rules, 2022, which contain explicit provisions regarding the treatment of waste or refuse generated in a MOOWR unit.

6.5.2 The reliance placed by the applicant on the decision of the Hon'ble Supreme Court in *BPL Display Devices Ltd. v. CCE, Ghaziabad* [2004 (10) TMI 92] is also inapplicable, as this case dealt with the interpretation of exemption notifications in situations where inputs, though intended for use in the manufacture of final products, could not be so used due to unavoidable factors such as shortage, leakage, or damage in transit, and the Courts held that the expression "for use" should be read as "intended for use." This decision was intended to protect bona fide manufacturers from being denied exemption where inputs never reached the stage of manufacture due to such incidental losses. In the present case, however, the issue is not of inputs lost or damaged before or during use, but of waste or refuse generated as an inevitable outcome of the manufacturing process itself, for which the Customs Act, 1962 lays down a specific statutory framework under Section 65(2).

6.5.3 The reliance placed on the judgment of the Hon'ble Supreme Court in *Steel Authority of India Ltd. v. CCE* [1996 (7) TMI 147] is further irrelevant to this case, as the issue in that case was whether exemption on raw naphtha could be denied when, due to unforeseen circumstances beyond the control of the assessee, the intermediate reformed gas had to be vented out and did not ultimately result in the manufacture of fertiliser, despite the assessee having the clear intention to use the input for the notified purpose. The Court allowed the benefit as the loss arose from supervening circumstances (power fluctuations) and not from the manufacturing process itself. In contrast, in the present case, the issue pertains to **waste or refuse inherently generated as a part of the manufacturing process in a MOOWR unit**, for which Section 65(2) of the



Customs Act, 1962 provides a specific statutory mechanism requiring either destruction or payment of duty if cleared for home consumption.

6.5.4 The reliance placed on the judgment of the Hon'ble Supreme Court in *Multimetals Ltd. v. Assistant Collector, Central Excise* [1991 (12) TMI 58] is also not applicable here, as the issue therein related to the grant of rebate of excise duty paid on input materials, namely copper and copper alloys, used in the manufacture of pipes and tubes, where the Court held that rebate could not be denied merely because a portion of the inputs was lost as "manufacturing loss," since such loss still constituted inputs "used" in the manufacturing process. That decision was rendered in the context of an excise duty rebate notification, where the legislative intent was to provide relief to the manufacturer to the extent of duty already paid on inputs, regardless of whether the entirety of the input material was present in the final product. In the present case, however, the issue falls squarely under Section 65(2) of the Customs Act, 1962 read with the MOOWR/IGCR framework, which contains **specific statutory provisions governing the treatment of waste or refuse generated in a bonded warehouse.**

6.5.5 The applicant has relied upon the different case laws. I have carefully examined the above case laws cited by the applicant and find that the said decisions were rendered in matters arising under different statutory contexts and on facts distinguishable from the present case.

I also placed reliance upon the decision of the Hon'ble Supreme Court in the matter of *Bhavnagar university Vs. Palitana Sugar Mills Pvt. Ltd.* 2003(2) SCC 111, wherein the court observed that:

"It is well settled that a little reference in facts or additional facts may make a lot of difference in the precedential value of a decision."

The applicant has relied upon the different case laws but the background and the issues involved in the case laws are in different perspectives and are not squarely applicable in this case at hand. Accordingly, the cited case laws are not relevant to the issues under consideration and are not applicable to the instant matter.

6.6 The Hon'ble Supreme Court vide its judgment in case of Civil Appeal No. 3327 of 2007 as reported in 2018 (361) EL.T. 577 (S.C.) (*Commissioner of Cus. (Import), Mumbai vs. Dilip Kumar & Company*) has ordered as verbatim:

"41. After thoroughly examining the various precedents some of which were cited before us and after giving our anxious consideration, we would be more than justified to conclude and also compelled to hold that every taxing statute including, charging, computation and exemption clause (at the threshold stage) should be interpreted strictly. Further, in case of ambiguity in a charging provisions, the benefit must necessarily go in favour of subject/assessee, but the same is not true for an exemption notification wherein the benefit of ambiguity must be strictly interpreted in favour of the Revenue/State.

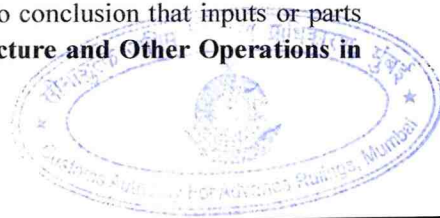
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52. To sum up, we answer the reference holding as under-

(1) Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification,

(2) When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue."

7. In view of the above facts and circumstances of the case, I reach to conclusion that inputs or parts imported for the manufacture of cellular mobile phones under the **Manufacture and Other Operations in**



Warehouse (MOOWR) Scheme, are eligible to avail the benefit of exemption under **Notification No. 57/2017-Customs, dated 30th June, 2017 (IGCR Notification)**, simultaneously with duty deferment under the MOOWR Scheme, subject to strict compliance with the additional conditions prescribed in the Concessional Notification and the **Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (IGCR Rules)** therein including time-limit etc., in addition to fulfilling the requirements of the MOOWR Scheme.

Further, the disposal of waste or refuse generated during the manufacturing process in a MOOWR unit availing benefits under both the MOOWR Scheme and the IGCRD Scheme shall be governed strictly in accordance with the provisions of Section 65(2) of the Customs Act, 1962 read with the MOOWR Regulations.

8. I rule accordingly.

Prabhat K. Rameshwaram
31/9/25

(Prabhat K. Rameshwaram)
Customs Authority for Advance Rulings,
Mumbai.



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

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(Vivek Dwivedi)

Dy. Commissioner & Secretary
Customs Authority for Advance Rulings,
Mumbai

