



GOVERNMENT OF PAKISTAN
COLLECTORATE OF CUSTOMS APPRAISEMENT (EAST)
CUSTOM HOUSE, KARACHI



C-220/KAPE/DC/PCT/2022

Dated: 20.01.2023

PUBLIC NOTICE NO. 02/2023

SUBJECT: **FINDINGS/RECOMMENDATIONS/ORDER DATED 12.12.2022 OF HONOURABLE FTO PASSED IN COMPLAINT NOS.4730, 4731 & 4733/PWR/CUST/2022-DETERMINATION OF CLASSIFICATION OF 'VEHICLES DECLARED AS HYBRID'**

The Collectorate of Customs Appraisalment, West, Karachi vide letter SI/Misc/2022 Group-VII dated 29.12.2022 conveyed the Findings/Recommendations/Order dated 12.12.2022 of Honourable FTO passed in Complaint Nos.4730, 4731 & 4733/PWR/CUST/2022 whereby it was directed to refer the matter of classification of imported vehicles of the complainant to the Classification Centre.

2. Brief facts as reported are that complainant imported 'Used Nisan Dayz Hibrid Car', 'Used Suzuki Wagon-R Hybrid Car' and 'Used Suzuki Hustler Hybrid Car' and claimed benefit of concessionary rates of duties and taxes under SRO 499(I)/2013 dated 12.06.2013 which was not allowed in the light of Circular dated 05.10.2018 issued by the Collectorate of Customs, Appraisalment-West, Karachi, treating the vehicles as HEV like Mild Hybrid Vehicles. The importers/complainants filed subject complaints which were disposed of by the Honourable FTO vide aforementioned order for referring the matter before the Classification Centre.

3. Hearings in the case were held on 30.12.2022 and 04.01.2023 which were attended by representatives of importers/complainants, the Collectorate of Customs Appraisalment, West, Karachi and the members of the Classification Committee. The Departmental Representatives reiterated their stance placing relying on Circular dated 05.10.2018 that impugned vehicles HEV like Mild/Micro Hybrid Vehicles and were classified and assessed under PCT headings as under:

S.No.	FTO Complaint No.	GD No & Date	Declared Description	Assessed under PCT Code
1	4730/PWR/CUST/2022	KWWB-VB-958-22-08-2022	Used Nisan Dayz Hybrid Car CH # B44W-0119573 Model-2021 650CC BR06-SM21 5AA-B44W	8703.2119
2	4731/PWR/CUST/2022	KWWB-VB-914-22-08-2022	Used Suzuki Wagon-R Hybrid Car CH # MH95S-103211 Model-2022 650CC R06D-WA04C 5AA-MH95S	8703.2119
3	4733/PWR/CUST/2022	KWWB-VB-912-22-08-2022	Used Suzuki Hustler Hybrid Car CH # MR41S-38021 Model-2019 650CC R06A-WA04A DAA-MR41S	8703.2119

4. On the other hand, representative of the importers/complainants contended that Circular dated 05.10.2018 has already been declared illegal/void by different fora. He contended that the imported vehicles have hybrid technology and the same are entitled for benefit of concessionary rates of duties and taxes under SRO 499(I)/2013 dated 12.06.2013. The representative also emphasized that SRO 499(I)/2013 dated 12.06.2013 do not differentiates amongst various types of vehicles and/or contains words such as Hybrid like, Mild Hybrid or Micro Hybrid and only states 'Hybrid Electric Vehicles (HEVs) falling under PCT Code 87.03' and the same has been held by various legal fora, to which being facts, the Classification Committee find no disagreement. The Classification Committee observed that the scope and mandate of Classification Committee under Chapter-II (Classification) of CGO 12/2002 dated 15.06.2002, is limited to the extent of determination of classification of goods and do not have vested authority, powers and mandate to decide the applicability of and interpret any concessionary regime in respect of imported goods which fall under the jurisdiction and domain of the Clearance Collectrates, the Board and the judicial fora. As such, the Classification Committee proceeded to determine the classification of impugned vehicles.

5. The Classification Committee has gone through the arguments and documents put forth and also considered the relevant provisions of law dealing with the HS classification. The classification of goods is to be determined in light of relevant Section and Chapter Notes and Explanatory Notes to the HS Codes. The Committee observed that after promulgation of Finance Act, 2022, the latest Harmonized System 2022 has been adopted w.e.f. 01.07.2022; hence, the impugned vehicles' classification is to be determined accordingly.

6. The Classification Committee considered Explanatory Notes of HS Code 87.03 which are reproduced hereunder:

"Vehicles which have the combination of an internal combustion piston engine and one or more electric motors, are known as "Hybrid Electric Vehicles (HEVs)". For the purpose of mechanical propulsion, these vehicles draw energy from both a consumable fuel and an electrical energy/power storage device (e.g., electric accumulator, capacitor, flywheel/generator). There are various types of Hybrid Electric Vehicles (HEVs), which can be differentiated by their powertrain configuration (such as, parallel hybrids, series hybrids, power-split or series-parallel hybrids) and degree of hybridization (i.e., full hybrids, mild hybrids and plug-in hybrids).

Plug-in Hybrid Electric Vehicles (PHEVs) are those which can recharge their electric accumulators by plugging them into an electrical power grid outlet or charging station.

Vehicles propelled by one or more electric motors powered by electric accumulator packs are known as "Electric Vehicles (EVs)".

However, vehicles with an electric power source, such as an integrated alternator/starter, that is used only for non-propulsion functions are not classified as

HEVs. These power sources can be used for running stop-start systems and may have regenerative braking and charge management systems. Such vehicles may be referred to as having "hybrid technology" or being a "micro hybrid", but do not have an electric motor for propulsion."

7. The Classification Committee observed that as per above Explanatory Note reproduced above, vehicles with an electric power source, such as an integrated alternator/starter, that is used only for non-propulsion functions are not classified as HEVs. These power sources can be used for running stop-start systems and may have regenerative braking and charge management systems. Such vehicles may be referred to as having "hybrid technology" or being a "micro hybrid", **but do not have an electric motor for propulsion**. Thus, the vehicles having electric motor for propulsion are to be classified as Hybrid vehicles. The Committee considered the Examination Reports fed in the GDs which are reproduced as under:

S.No.	GD No & Date	Declared Description	Examination Report
1	KWWB-VB-958-22-08-2022	Used Nisan Dayz Hybrid Car CH # B44W-0119573 Model- 2021 650CC BR06-SM21 5AA- B44W	GD No. KWWB-VB-958-22-08-2022. Inspected at Motor Shed West Wharf. Description:- Used Nisan Dayz Car Chassis No.44W-0119573, Model Year 2021, Capacity: Not Shown, Engine: BR06, Meter Reading 6365 KM..... Qty: 01 Unit, Group may check all aspects in the light of Chassis Series at the time of assessment (Images are attached)
2	KWWB-VB-914-22-08-2022	Used Suzuki Wagon-R Hybrid Car CH # MH95S-103211 Model-2022 650CC R06D- WA04C 5AA-MH95S	GD No. KWWB-VB-914-22-08-2022. Inspected at Motor Shed West Wharf. Description:- Used Suzuki Wagon-R Car Chassis No.MH95S-103211 Model Year: 2022, Capacity: Not shown, Engine: R06D.... Qty: 01 Unit, Group may check all aspects in the light of Chassis Series at the time of assessment (Images are attached)
3	KWWB-VB-912-22-08-2022	Used Suzuki Hustler Hybrid Car CH # MR41S-380921 Model- 2019 650CC R06A-WA04A DAA-MR41S	GD No. KWWB-VB-912-22-08-2022. Inspected at Motor Shed West Wharf. Description:- Used Suzuki Hustler Car. Chassis No. MR41S-380921, Model Year: 2019, Capacity: Not shown, Engine: R06A...Qty: 01 Unit. Group may check all aspects in the light of Chassis Series at the time of assessment (Images are attached)

8. The Classification Committee observed that the above examination reports were found to be deficient in categorically specifying about any hybrid system functionality and the facts as whether or not these vehicles have electric motors for propulsion as per Explanatory Note to HS Code 87.03 as stated above. As these vehicles were lying at the port and their examination and confirmation of attributes was warranted to ascertain the physical facts, therefore, the Collectorate of Customs Appraisalment, West, Karachi was requested to holistically examine the matter and affirm the physical attributes of the vehicle and furnish report with respect to Explanatory Note to HS Code 87.03. The relevant portion of Report furnished by the Clearance Collectorate is as under:

"The has been examined in the light of examination of the impugned vehicles conducted by this Collectorate, Explanatory Notes to the heading 8703 and judicial orders of the various fora and report there-on is as under:

- i. According to Explanatory Notes to the heading 8703 "Vehicles which have the combination of an internal combustion piston engine and one or more electric motors, are known as "Hybrid Electric Vehicles (HEVs)". For the purpose of mechanical propulsion, these vehicles draw energy from both a consumable fuel and an electrical energy/power storage device (e.g., electric accumulator, capacitor, flywheel/generator).

However, vehicles with an electric power source, such as an integrated alternator/starter, that is used only for non-propulsion functions are not classified as HEVs. These power sources can be used for running stop-start systems and may have regenerative braking and charge management systems. Such vehicles may be referred to as having "hybrid technology" or being a "micro hybrid", but do not have an electric motor for propulsion".

The said explanation from the Explanatory Notes clearly transpires that impugned vehicles can not be classified as HEVs (Hybrid Electric Vehicles) on account of the fact that electric motors available in the impugned vehicles are not meant for propulsion rather the same are used for non-propulsion purposes such as running stop-start systems.

9. The Classification Committee also considered the Classification Opinion of the WCO taken at 69th Session in March, 2022, which reads as follow:

"Page XVII/11.

Insert the following Classification Opinion:

"8703.22

1. Vehicle called a "mild hybrid" with a 1.5-litre turbocharged four-cylinder spark-ignition engine producing 135 kW and 280 Nm of torque. It is equipped with a starter / generator that can boost the engine's output by an additional 10 kW and 160 Nm of torque. This starter / generator allows for smoother engine start-stop operation and energy recovery during coasting. This vehicle does not have an exclusive electric driving mode.

This vehicle cannot be charged by plugging to an external source of electric power.

Application of GIRs 1 and 6."

(Doc. NC2930Ec/P/20)

10. The Classification Committee observed that as per report and insignia, these vehicles have been manufactured and are equipped with features of Hybrid Technology to achieve a number of desirables like running stop-start systems and charge management systems, etcetera. However, on physical examination of functionality and attributes, these vehicles have been categorically reported to not have an electric motor for propulsion.

11. In light of the above mentioned facts, Classification Committee is of the view that the impugned vehicles are appropriately classifiable under PCT heading 8703.2119, in terms of Rule 1 of the General Rules of Interpretation.

12. The above classification determination is specific to the product whose details/specifications have been given above. Further, the ruling is based on the documents and information provided by the Collectorate/importer and shall be treated as annulled if it is found

at any subsequent stage that the same was obtained by providing incorrect, false, misleading or incomplete information.

13. This Public Notice is issued in terms of Chapter-II (Classification) of CGO 12/2002 dated 15.06.2002.

(Mushtaq Ali Shahani)
Additional Collector of Customs/
Chairman Classification Committee

Copy for information to:

1. The Member Customs (Policy / Operations), Federal Board of Revenue, Islamabad.
2. The Member (Customs Legal & Accounting), Federal Board of Revenue, Islamabad.
3. The Member (FATE), Federal Board of Revenue, Islamabad with the request to publish this ruling on FBR website.
4. The Chief Collector of Customs (Appraisalment) South, Custom House, Karachi.
5. The Chief Collector of Customs (Enforcement) South, Custom House, Karachi.
6. The Chief Collector of Customs (Appraisalment) Central, Custom House, Lahore.
7. The Chief Collector of Customs (Enforcement) Central, Custom House, Lahore.
8. The Chief Collector of Customs (North), Custom House, Islamabad.
9. The Chief Collector of Customs (Balochistan), Custom House, Quetta.
10. The Collectorate of Customs, Appraisalment (East/West/PMBQ), Karachi.
11. The Director, Reforms and Automation (R&A), Custom House, Karachi with the request to incorporate this ruling in WeBoC.
12. The Project Director, WeBoCGlo, Custom House, Karachi for necessary action.
13. Mr. Ikhtlaq Ahmed, Director, Federal Tax Ombudsman Secretariat, Islamabad.
14. Mr. Rehman Gul s/o Noor Ahmed, through Attorney Abdul Hassan Chokshi, of M/s Hamza Traders, Room No.3, Poonawala, View Bohri Road, Near TCS Office, Opposite Custom House, Karachi.
15. Muhammad Rauf s/o Shah Gul, through Attorney Abdul Hassan Chokshi, of M/s Hamza Traders, Room No.3, Poonawala, View Bohri Road, Near TCS Office, Opposite Custom House, Karachi.
16. Sher Rahman s/o Tallizar, through Attorney Abdul Hassan Chokshi, of M/s Hamza Traders, Room No.3, Poonawala, View Bohri Road, Near TCS Office, Opposite Custom House, Karachi.
17. The Federation of Pakistan Chambers of Commerce and Industry, Karachi.
18. The Karachi Chamber of Commerce & Industry, Karachi.
19. The Karachi Customs Agents Association, Karachi.
20. Notice Board.

(Mushtaq Ali Shahani)
Additional Collector of Customs/
Chairman Classification Committee