

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

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 2581 of 2011

(Arising out of Order-in-Appeal No.39/2011/CUS(B) dated 23.05.2011 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. Bharti Airtel Ltd

Sy. No.132 & 133, Village &
Gram Panchayat Kandlakoya,
Medachal Mandal,
Rangareddy Dist.
Hyderabad.

Appellant(s)

Versus

The Commissioner of Customs

Air Cargo Complex Division,
Menzies Aviation Bobba,
Air Cargo Terminal,
Devanahalli,
Bangalore.

Respondent(s)

APPEARANCE:

Ms. Shraddha Paney, Advocate for the Appellant

Shri K. A. Jathin, Authorised Representative for the Respondent

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER
(TECHNICAL)**

Final Order No. 20148 /2024

Date of Hearing: 16.11.2023

Date of Decision: 15.03.2024

Per : R. BHAGYA DEVI

M/s. Bharti Airtel, the appellant imported and cleared Battery Fuse Units (BFU) under Chapter Heading 8529 9090 declaring them as parts of Base Transmission Station (BTS) for telecom use and cleared the same by claiming the exemption under Sl.No.16 of Notification No.25 /2005 Cus; dated 01.03.2005. The technical literature produced by the appellant showed that the battery fuse unit's main functions are as follows:

- Supplies priority power to transmission equipment. Power transmission equipment can be distributed even if a battery is not present. The relay can select the power source with the control signal from the SM.
- Supplies priority power to the EC output. The EC output is protected from reverse currents by a diode. Power to the EC output can be distributed even if a battery is not present. The relay can select the power source with the control signal from the SM.
- Communicates on the Environmental and Power Control (EPC) bus (opto cable) with the Distribution Switch Unit (DXU). If the EPC bus is not present, the BFU operates as its default values. The battery voltage, current and temperature are monitored and alarms are sent on the EPC bus.
- Disconnects the batteries, if the voltage is too low or the temperature is too high. Reconnects the batteries when the temperature returns to normal.
- Sends a "Battery temperature sensor fault" message to the DXU when the battery temperature is faulty.
- Disconnects battery backup manually or by control signals on the EPC bus.

Based on the above description of the products, the original authority classified the items under Chapter Heading 8536 and accordingly, the benefit of the Notification has been denied since the notification extends the benefit only to the goods classified under chapter heading 8529090 as part of BTS. The Commissioner (Appeals) based on the technical literature agreed with the classification under 8536 and upheld the order of the original authority and dismissed the appeal filed by the appellant and hence the appeal before us.

2. The learned counsel on behalf of the appellant submits that the Battery Fuse Units (BFU) are part of the Base Transmission Station used in telecommunication and hence, are

rightly classifiable under Chapter Heading 8529. It is submitted that BFU could be seen only in consonance with BTS and are designed with the certain specifications exclusively for the purpose of BTS and it is not a general purpose item. Therefore, it is rightly classifiable under Chapter Heading 8529 and not under Chapter Heading 8536 and accordingly, they are eligible for the benefit of the Notification referred above.

2.1 They relied on the decision of **M/s. Vodafone Idea Ltd. versus Principal Commissioner of Customs (Import): 2022-VIL-696 CESTAT-DEL-CUS**; dated 20. 9. 2022 wherein the Tribunal held that the 'Router Line Cards' becomes functional only when plugged into the said slots in the Router Chassis. The line cards sources intelligence from control and processor module of the Router. These line cards cannot perform its function on a stand-alone basis in the imported condition. Accordingly, it was held that 'Router Line Cards' merits classification as 'parts'. Similarly, the BFU imported by them do not have individual function of its own but can only work as parts of the transmission device; therefore, they have to be necessarily classified under Chapter Heading 8529 as 'parts' of the transmission station.

2.2 Learned counsel relying on the HSN Notes, has submitted that individual function means as follows:

- Mechanical devices, with or without motors or other driving force, whose function can be performed distinctly from and independently of any other machine or appliance.
- Mechanical devices which cannot perform their functions unless they are mounted on another machine or appliance, or are incorporated in a more complex entity, provided that this function
 - Is distinct from that which is performed by the machine or appliance were they are to be mounted

or by the entity wherein they are to be incorporated;
and

- Does not play an integral and inseparable part in the operation of such machine or appliance or entity.

2.3 The learned counsel, hence, claims that in the instant case, the BFU cannot perform the function of automated process control independently of the BTS and therefore, rightly classifiable under Chapter Heading 8529.

3. The Authorised Representative on behalf of the Revenue heavily relying on the technical literature provided by the appellant and by the Chapter Notes and Chapter Headings submits that they are rightly classifiable under Chapter Heading 8536 and the authorities below were correct in denying the benefit of the Notification.

4. Heard both sides. The limited issue to be decided is (i) whether the Battery Fuse Units (BFU) imported by the appellant is to be classified under Chapter Heading 8529 as claimed by the appellants or under Chapter Heading 8536 as urged by the Revenue; and (ii) depending upon the classification, whether the question of denying the benefit of the Notification is justified.

4.1 The technical literature (supra) placed by the appellant before the authorities is not under dispute. Before the Tribunal, they have produced the technical literature and based on the technical literature, it is seen that *"The Battery Fuse Unit (BFU) connects the radio equipment to the battery backup system. Three LEDs on the front panel indicate operational status. If the mains is out longer than the available backup time, the BFU automatically disconnects the Radio Base Station (RBS) cabinet from the batteries to avoid destructive excess discharging. When the mains returns, the BFU reconnects the batteries instantly. The BFU also measures battery voltage and*

current. Battery temperature sensors are also connected to the BFU.” From the above, it is clear that the BFU is an independent functional unit.

4.2 Now, let’s examine the rival Entries 8529 and 8536.

8529: PARTS SUITABLE FOR USE OR PRINCIPALLY WITH THE APPARATUS OF HEADING 8525 TO 8528

8529.10- Aerials and aerial reflectors of all kinds; parts suitable for use therewith:

8529.90- others (Claimed by the appellant)

This Chapter also states that “Subject to the general provisions regarding the classification of parts, this heading covers parts of the apparatus of the preceding headings. The range of parts classified here includes: aerials of all kinds and aerial reflectors, transmission and reception rotor systems for radio broadcast or television broadcast receiving aerials consisting essentially of an electric motor mounted on the aerial mast to rotate it and separate control box to aim and position the aerial.”

Cases and cabinet specialised to receive the apparatus of headings 8525 to 8528

Aerial filters and separators

Frames (chassis)

Chapter Heading 8536 reads as follows:

8536: ELECTRICAL APPARATUS FOR SWITCHING OR PROTECTING ELECTRICAL CIRCUITS, OR FOR MAKING CONNECTIONS TO OR IN ELECTRICAL CIRCUITS (FOR EXAMPLE, SWITCHES, RELAYS, FUSES, SURGE SUPPRESSOR, PLUGS, SOCKETS, LAMP- HOLDERS AND OTHER CONNECTORS, JUNCTION BOXES) FOR A VOLTAGE NOT EXCEEDING 1000 VOLTS; CONNECTORS FOR OPTICAL FIBRES, OPTICAL BUNDLE OR CABLES.”

8536.10- Fuses:

8536.20- Automatic circuit Breakers (Claimed by the Respondent)

4.3 The description of ‘Parts’ given under Customs Tariff Heading (CTH) 8529.90 clearly spells out the specific parts to be

classified therein while the impugned product Circuit Breaker nowhere finds place in these parts as part of transmission parts and the CTH 8536 specifically includes the automatic circuit breaker. Based on the technical literature, the learned Commissioner (Appeals) observed that:

“5. The notable factors which emerge from the technical write-up is that the impugned goods monitors and controls the battery. The main function is to provide power to the transmission equipments and ensure safety of the electrical circuit. The constituents which are inbuilt in the said device are contactors, circuit breakers, shunt, EC supply, supervision module and interfaces. At this juncture, it is pertinent to mention that the contactor is electrically controlled switch used for switching a power circuit. It can also be construed to be to a relay, except with the higher current ratings. The circuit breaker which is an essential ingredient is automatically operated electrical switch designed to protect electrical circuit from damage caused by overload or short circuit. The other consequent, shunt permits electric current to pass around another point in the circuit or to divert or bypass the flow of current. Interface can be construed to describe a group of related functionalities for a desired application. The next issue which is clear from the technical write-up is that the impugned goods firstly provide protection to the battery under varied circumstances of fluctuations in temperature and voltage. This is achieved by virtue of connectivity or disconnection of an electric current. Thus, it can be seen that the character and the utility of the impugned good is to self-detect a fault condition relating to connectivity of electric current and avoid damage to the connected circuits.”

There is no dispute on the above observations of the Commissioner (Appeals) by the appellant and their only

argument is that it is a 'Part' of the transmission equipment which the technical literature placed before us does not does not in any way provide any information to indicate that the same is an integral part of the communication system as claimed by the appellant. Therefore, we completely agree with the above observations of the Commissioner (Appeals) and the Chapter Headings supra. We find that the impugned goods are rightly classifiable under CTH 8536 as 'Automatic Circuit Breakers' and not as 'Part' of the transmission system.

5. Now, the next question is the eligibility of the benefit of the Notification No.25/2005-Cus; dated 01.03.2005. The relevant clause of the notification reads as follows:

**Notification New Delhi dated the 1st March, 2005
No.25 /2005-Customs 10 Phalguna, 1926(Saka)**

G.S.R. (E).-In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts following the goods of the description specified in column (3) of the Table below and falling within the heading, subheading or tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as are specified in the corresponding entry in column (2) of the said Table, when imported into India, from the whole of the duty of customs leviable thereon under the said First Schedule, namely:-

16. 8529 90 90 Parts (including populated PCBs) of the following goods namely :-

- (i) digital still image video cameras;
- (ii) transmission apparatus other than apparatus for radio-Broadcasting or television;
- (iii) transmission apparatus incorporating reception apparatus; or
- (iv) portable receivers for calling, alerting or paging.

5.1 The appellant claimed exemption Notification for the goods classifying the same under CTH 8529 9090 as 'Parts' of transmission apparatus incorporating reception apparatus. Since we have held that the goods are 'Automatic Circuit Breakers' rightly classifiable under Chapter Heading 8536, the question of extending the benefit of the Notification as 'Parts' of the transmission apparatus does not arise. Hence, we hold that the impugned goods rightly classifiable under chapter heading 8536 and they are not eligible for the benefit of the above Notification.

6. We uphold the impugned order and the appeal is dismissed.

(Order pronounced in Open Court on 15.03.2024.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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