

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

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 1666 of 2011

*(Arising out of Order-in-Appeal No.15/2011 dated
29.3.2011 passed by the Commissioner of Customs
(Appeals), Bangalore.)*

M/s. ABB Limited

Plot No.5 & 6, II Phase,
Peenya Industrial Area,
P.B. No.5806,
Bangalore – 560 058.

Appellant(s)

Versus

The Commissioner of Customs

P.B. No.5400, Queens Road,
Bangalore – 560 001.

Respondent(s)

WITH

Customs Appeal No.1775 of 2011

*(Arising out of Order-in-Appeal No.13/2011 dated
05.04.2011 passed by the Commissioner of Customs
(Appeals), Bangalore.)*

M/s. ABB Limited

Plot No.5 & 6, II Phase,
Peenya Industrial Area,
P.B. No.5806,
Bangalore – 560 058.

Appellant(s)

Vs.

The Commissioner of Customs

P.B. No.5400, Queens Road,
Bangalore – 560 001.

Respondent(s)

AND

Customs Appeal No.1836 of 2011

*(Arising out of Order-in-Appeal No.17/2011 dated
06.04.2011 passed by the Commissioner of Customs
(Appeals), Bangalore.)*

M/s. ABB Limited

Plot No.5 & 6, II Phase,
Peenya Industrial Area,
P.B. No.5806,
Bangalore – 560 058.

Appellant(s)

Vs.

The Commissioner of Customs

P.B. No.5400, Queens Road,
Bangalore – 560 001.

Respondent(s)

Appearance:

Ms. Shraddha Pandey,
Advocate

For the Appellant

Mr. K. A. Jathin, AR

For the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 21275 to 21277 / 2023

Date of Hearing: 17.11.2023

Date of Decision: 17.11.2023

Per : R. BHAGYA DEVI

Customs Appeal No.1666 and 1775 of 2011

M/s. ABB Limited, the appellants have filed these two appeals against the respective impugned orders as shown below.

Appeal No.	Show-cause Notice	Period	Order-in-Original	Order-in-Appeal
C/1666/2011	14.10.2009	15 th April 2009 to September 2009	No.418/2009 (AC (SIIB) dt.26.12.2009	No.15/2011 dt.05.04.2011
C/1775/2011		September 2009	No.261/2009 (AC (SIIB) dt.30.09.2009	No.13/2011 dt.05.04.2011

Since the issue involved in these two appeals is with regard to the classification of the product 'Frequency Converter' (variable speed drive), they are taken up together for disposal.

2. The Appellants, M/s ABB Limited, are engaged in the manufacture of Automation Products, Distribution Control

Systems, Control and Relay Panels, Air Circuit Breakers (ACBs), Low Voltage Products etc. They imported 'Frequency Converter' (variable speed drive) from M/s. ABB Finland classifying them under Chapter Heading 9032 89 90. The original and the appellate authorities rejected the classification of the imported goods under Chapter Heading 9032 8990 as claimed by the Appellants and re-classified the same under Chapter Heading 8504 4010. Aggrieved by these orders, the appellant is in appeal.

3. Today, when the matter was being heard both sides fairly submit that the issue has already attained finality vide this Tribunal's Final Order No. 21151-21152 /2023 dated 20.10.2023.

4. The issue before us is whether the imported goods "Frequency Converter (Variable Speed Drive)" is classifiable under Chapter Heading 9032 89 90 or under 8504 40 10 of the Customs Tariff Act, 1975. The classification of the said goods has already been decided by this Tribunal's vide Final order No.21151-21152 /2023 dated 20.10.2023 which has fairly been admitted by both sides. Accordingly, following the above decision for the earlier appeals, we hold that the goods are rightly classifiable under Chapter Heading 8504 as against the classification under Chapter Heading 9032 claimed by the appellant.

Customs Appeal No.1836 of 2011

5. This appeal is filed by the appellant against Order-in-Appeal No.17/2011 dated 06.04.2011 passed by the Commissioner of Customs (Appeals), Bangalore. During the period from April 2009 to September 2009, the appellants imported of plugs and sockets wherein the Commissioner (Appeals) in the impugned order had classified the said products under Chapter Heading 8536 69 10/90. The Commissioner (Appeals) had observed that the plugs and sockets are claimed as parts of frequency converter by the appellant, but however, the said items are known and used in the industry for the purpose of making connections to or in any electrical circuits. The invoices are the testimony for the facts that these items have independent existence. It is further submitted that the appellant has not furnished any technical write-up to disprove the above proposition. These items are not only used in frequency converter but are also sold in units for retail sale. The subject items being of general in nature and manufactured to technical parameters has been classified under Chapter heading 8536 in terms of Rule 3(a) of General Rules of Interpretation as against the classification 9032 as claimed by the appellant.

6. The learned counsel on behalf of the appellant submits that since the frequency converter are classifiable under Chapter Tariff Heading 9032, the above said items which are used in manufacture of the frequency converter should also be classified under 9032.

7. The Authorized Representative on behalf of the Revenue referring to the impugned order submits that the goods are presented in the form of plugs and sockets which are rightly classifiable under 8536 in terms of Note 2(a) of Section XVI of the Customs Tariff Act, 1985. As seen above at para 4, this Tribunal has classified the frequency converter under Chapter Heading 8504 as against 9032 as claimed by the appellant. Therefore, the question of classifying the plugs and sockets as parts of frequency converter under chapter heading 9032 does not arise. Since the fact that plugs and sockets are general in nature and having cleared them for retail sale and having not being produced any evidence to prove that these items can only be used in frequency converter, the classification by the Commissioner (Appeals) under Chapter Heading 8536 69 10/90 is to be upheld. Moreover, Chapter 8536 includes lamp holders, plugs and sockets and therefore, as per the Interpretative Rules when there is a specific description, the item has to be classified accordingly. The only contention of the appellant is that the item to be classified under Chapter Heading 9032 as parts of frequency converter, since 9032 is ruled-out, we uphold the classification under 8536 as per Rule 3(a) of the General Interpretative Rules. As per Note 2(a), parts which are included in any of the Headings of Chapter 84 or 85 or in all cases are to be classified in their respective headings. Since, frequency converter is already classified under Chapter 8504, based on

Section 2(a) of Section XVI the goods are rightly classifiable under Chapter Heading 8536 69 10/90.

8. In view of above observations, all the appeals are dismissed.

(Operative portion of the Order was pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

rv