CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 437 of 2012

(Arising out of Order-in-Appeal No. 236/2011 dated 27.12.2011 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. ABB Ltd.
Plot No.5 & 6, II Phase,
Peenya Industrial Area,
Bangalore. — Appellant(s)

VERSUS

The Commissioner of Customs (Appeals)
C.R. Building, P.B. No.5400,
Queens Road,
Bangalore. — Respondent(s)

WITH

Customs Appeal No. 27368 of 2013

(Arising out of Order-in-Original No. 7/2013-Commr. dated 29.04.2013 passed by the Commissioner of Custom, Bangalore.)

M/s. GE India Industrial Private Limited
Plot No.42/1 & 45/14,
Electronic City Phase II
Bangalore. — Appellant(s)

VERSUS

The Commissioner of Customs
C.R. Building, P.B. No.5400,
Queens Road,
Bangalore. — Respondent(s)

AND

Customs Appeal No. 21866 of 2018

(Arising out of Order-in-Appeal No. 307/2018 dated 29.08.2018 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. ABB India Pvt. Ltd.
MGF No.5 & 6,
Peenya Industrial Estate, Phase-II
Bangalore – 560 058.

Appellant(s)

VERSUS

The Commissioner of Customs
BMTC Building, Above BMTC Bus Stand,
Old Airport Road, Domlur,
Bangalore - 560 071.

Respondent(s)

APPEARANCE:

Shri Ravi Raghavan with Ms. Ashwini Nag and Ms. Shambavi Mishra, Advocates for the Appellant.

Shri K. A. Jathin, Deputy Commissioner and Shri Maneesh Akhoury, Assistant Commissioners (ARs) for the Respondent.

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

FINAL ORDER NO. 20865 - 20867 / 2025

DATE OF HEARING: 10.01.2025

DATE OF DECISION: 25.06.2025

PER: R. BHAGYA DEVI

The appellant M/s. ABB Ltd. filed 2 appeals Appeal Nos. C/437/2012 and C/21866/2018 and the appellant M/s. GE India Industrial Pvt. Ltd. filed Appeal No. C/27368/2013. In all these 3 appeals the common dispute is classification of imported relays under CTH 8536 4900 as claimed by the appellant as against the claim of the revenue under CTH 8537 1000. It also involves the question of eligibility of exemption under Notification No. 21/2002-Customs dated 01.03.2002.

2. The learned Counsel submits that the appellant M/s. GE India Industrial Private Ltd. is engaged in the manufacture of

various electronic and electrical equipment and has been importing Relays i.e. numerical relays of various specifications since September 2004 and they are supplied to various customers in India, such as Chhattisgarh State Power Transmission Company Ltd., KSA Energy Control Automation Private Limited, Crompton Greaves, Neyveli Lignite Corporation Limited, etc., which are used in various distribution automation systems for protection of the electrical equipment. It is stated that the impugned Show-Cause Notice No. 5348 dated 11.06.2012 (June 2007 to November 2009) after investigations proposed to reclassify the impugned goods viz., F-650, SELCO T-Line, GE ALPS, GE URL and SIPROTEC 4 7SA522 families of relays under CTI 8537 10 00 as multi-functional electrical apparatus as against CTI 8536 49 00; that the impugned goods were equipment having contact rating of more than 7 amperes for rejecting the Appellant's claim of exemption under Notification Notification No. 21/2002-Cus. dated 01.03.2002; demanded duty of 1,66,16,664/- under the proviso to Section 28(4) of the Customs Act along with interest and imposed penalty under Section 112(a) / Section 114A of the Customs Act 1962. The Commissioner vide Order-in-Original No.7/2013-Commr dated 29.04.2013 held that the impugned goods viz. Relays of various models imported by the Appellant during the relevant period were classifiable under CTI 8537 10 00 and not under CTI 8536 49 00; were not eligible for the benefit of exemption under Sl. No.21/02-Cus.; confirmed the demand of customs duty of Rs.1,47,97,557/- under Section 28(8) of the Customs Act, 1962 along with applicable interest under Section 28AA; imposed penalty equal to the sum of duty demand of Rs.1,47,97,557/- along with applicable interest under Section 114A of the Customs Act,1962.

2.1 Similarly in the case of M/s. ABB Ltd., the product imported was Feeder Terminal REF 543 Relays where in the

Commissioner (Appeals) vide Order-in-Appeal No. 236/2011 Cus (B) dated 26.12.2011 and Order-in-Appeal No.307/2018 dated 29.08.2018 classified the products under CTH 8537 as against the claim of the appellant under CTH 8536. It is submitted that the appellant in 2007 had imported 'Machine Terminal (Relays)' vide Bill of Entry No. 891178 dated 22.01.2007 through Air Cargo Complex (ACC), Mumbai and sought clearance of the same under Customs Tariff Item (CTI) 8536 49 00 by claiming the benefit of Basic Customs Duty (BCD) at Nil rate in terms of Sl. No. 244 of the Notification No.21/2002-Cus. dated 01.03.2003 and cleared the same on payment of appropriate duties vide TR-6 challan for the imported goods. Based on the Appellant's letter dated 08.02.2007 that the goods imported vide the aforementioned Bill of Entry were Relays only with multiple protections in one box and a detailed writeup in support of the same Bill of Entry was assessed under CTI 8536 49 00 with the benefit of BCD at Nil under Notification No. 21/2002-Cus. dated 01.03.2002 and the goods were cleared. Subsequently, the department analysed the matter on the basis of the technical literature submitted by the Appellant and was of the view that the goods imported vide the aforementioned Bill of Entry was a dialectical device capable of performing several other functions besides control and protection function. The department sought an opinion from the Indian Institute of Technology (IIT), Mumbai for the goods imported by the Appellant. The opinion of IIT, Mumbai rendered vide letter dated 22.06.2007 stated that the product 'Machine Terminal' was a numerical relay, which did not contain circuit breakers and switches. Thereafter, the Appellant was issued with the show-cause notice dated 11.09.2007 proposing to re-classify the goods under CTH 8537 by denying the benefit of exemption under the Notification No. 21/2002-Cus. dated 01.03.2002. The Appellant submitted a detailed Reply dated 13.11.2007 along with the technical write-ups and evidences in support of the submission that the imported goods

were rightly classifiable under CTI 8536 49 00 as Relays and that they were eligible for the benefit of exemption under the Notification No.21/2002-Cus. dated 01.03.2002. Thereafter, the learned Assistant Commissioner after examining the documents submitted by the Appellant vide Order-in-Original dated 10.12.2007 held that the goods imported were technically relays by character, which were classifiable under CTH 8536 and eligible for the benefit of exemption under the Notification No.21/2002-Cus. dated 01.03.2002 and the same had attained finality. Since the goods imported by M/s. GE India Industrial Pvt. Ltd. and M/s. ABB Ltd. are relays, common arguments have been put forth by the learned counsel with regard to the classification and exemption Notification.

2.2 It is further submitted that the Relay is an electrical device that opens and closes the electrical circuit. It monitors the abnormal conditions in the electrical system, measures the abnormal values and isolates the faulty elements as quickly as possible from the rest of the system. Relays are required to protect the power system from undesirable conditions which may result in instability or blackout, they respond to signals from sensors vis-à-vis the voltage, current, temperature, etc. and operate the contacts based on the pre-determined criteria. Hence, the basic function of a relay is to identify the faulty condition of the equipment being protected by measuring the input quantity, comparing the same with the set point value and isolating the fault to ensure minimum damage to the healthy circuit. Relays are used *inter alia* for protection of high end and complex industrial equipment, without which any damage to the equipment would be critical to the entire production line and advanced relay systems are required to rectify any tentative faults in the power supply to quickly reduce the loss in productivity. While relays were simple devices using electromechanical or electromagnetic or solid-state principles for

their operation, subsequent technological developments in the 1980 resulted in the microprocessor based electronic i.e., numerical relays, such advances in technology led to the development of relays with multiple protection functions that not only isolate the fault in the circuit but also identify the same by giving a disturbance value for helping the customer repair and equipment and minimize the downtime for a production plant, also monitor and record the fault and have a user interface for communication. Numerical relays may, in addition to the traditional protection function, implement several other functions such as disturbance recording, measurement, display, etc., by using components like keyboard, LED display, PCBA with microprocessor, etc., but is still a single apparatus. The technical literature on numerical relays based on several authoritative books define numerical relays i.e., microprocessor based electronic relays are nothing but relays that perform the protection function by utilising additional features that have been developed for effective isolation and identification of faults in electrical systems. Reliance is placed on product catalogues and the Test Reports of the Central Power Research Institute (CPRI).

2.3 Further learned counsel relying on the Section Notes and the Chapter Notes submitted that Section XVI of the First Schedule to the Customs Tariff Act, 1975 covers *inter alia* 'Machinery and mechanical appliances; electrical equipment; parts thereof'. Chapters 84 and 85 fall under the scope of Section XVI. Note 3 to Section XVI *inter alia* states that unless context otherwise requires, multi-functional machines are to be classified in the following manner:

> "Machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as being that function which performs the principal function".

Note 5 to Section XVI states that the expression "machine" means any machine, machinery, plant, equipment, apparatus or appliance cited in the Headings of Chapter 84 or 85. The classification of multi-function machines according to the principal function is also reiterated in the HSN Explanatory Notes to Section XVI. Referring to Chapter 85.36, it is argued that the subheading descriptions under CTH 8536 cover *inter alia* fuses, automatic circuit breakers, relays, other switches, lamp-holders and other apparatus. Under the single dash subheading for '- Relays', CTH 8536 41 00 covers '--For a voltage not exceeding 60 V' and CTH 8536 49 00 covers '--Other'. It follows from the above that Relays, which are electrical apparatus for protecting electrical circuits for a voltage not exceeding 60V are classifiable under CTH 8536 41 00 and those Relays that operate for a voltage between 60V and 1000V are classifiable under CTH 8536 49 00. It is submitted that the impugned goods are nothing but relays, which are electrical apparatus for protecting the electrical circuits of various equipment, and hence, fall squarely under the ambit of CTH 8536 and more specifically under CTH 8536 49 00. In this regard, reliance is also placed on Rule 1 of the General Interpretative Rules (GIR), which states that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. In terms of Rule 1 of the GIR, the impugned goods viz., relays are covered under CTH 8536 49 00 by the subheading description itself and hence, the impugned order deserves to be set aside on this ground alone. Further, it is submitted that the impugned goods are classifiable under the said entry by application of Rule 3(a) of the GIR i.e., by applying the most specific description in the headings. There are different kinds of relays which can be distinguished by the following parameters:

> **Electrical means of control used:** electromagnet relays, permanent magnet relays, thermos-electric relays, induction

relays, electro-static relays, photoelectric relays, electronic relays, etc.

The pre-determined conditions on which they operate: maximum current relays, maximum or minimum voltage relays, differential relays, fast acting cut-out relays, time delay relays, etc.

2.4 Reliance is placed on the following decisions:

- **M/s. OEN India Ltd. v. Commissioner of Customs, Cochin, Final Order No. 20889/2024 dated 05.09.2024, CESTAT Bangalore.**
- **M/s. Bharti Airtel Ltd. v. Commissioner of Customs, 2024 (3) TMI 809 – CESTAT Bangalore.**
- **Asea Brown Boveri Inc. v. Deputy Minister of National Revenue, AP-93-383**,
- **Associated Millers v. Collector of Customs,1990 (50) ELT 633 (Tri. – Del), affirmed by the Hon'ble Supreme Court in 1991 (53) ELT A32;**
- **Amazon Wholesale v. CAAR, 2023 (12) TMI 757 – Delhi High Court;**
- **Xerox India Ltd. v. CC, 2010 (260) E.L.T. 161 (SC)**
- **Logic India Trading Co. v. Commissioner of Customs, 2016 (337) E.L.T. 65 (Tri.-Bang.)**

2.5 Additional reliance is placed on the following circulars issued by the Central Board of Excise & Customs (CBEC), wherein the classification of a multi-functional machine has been clarified to be under a certain heading of Section XVI as per its principal function in terms of Note 3 to Section XVI and these circulars are binding on the Department. Reliance in this regard is placed on ***CCE v. Ratan Melting & Wire Industries, 2008 (231) E.L.T. 22 (SC)***.

a. Circular No. 45/1998-Cus. dated 30.06.1998
b. Circular No. 51/2004-Cus. dated 01.10.2004
c. Circular No. 17/2007-Cus. dated 19.04.2007
d. Circular No. 20/2013-Cus. dated 14.05.2013
e. Circular No. 36/2013-Cus. dated 05.09.2013

2.6 Further the learned Counsel submits that the issue of classification of the impugned goods has been settled in favour of the Appellant M/s. GE India Industrial Pvt. Ltd. vide previous Order-in-Original No. 245/2009 dated 16.09.2009 confirmed the classification of the F-650 family of the impugned goods under CTI 8536 49 99 as claimed by the Appellant under CTH 8536. The order had relied on the technical literature and held that the principal function of the same was that of protection as a relay and concluded that goods that have contact rating of more than 7 amperes would not be eligible for the benefit of exemption under Notification No. 21/02-Cus. Thus, this order had attained finality as neither the Appellant nor the Department have filed an appeal against the same and hence, it cannot be reopened. Reliance is placed on the decision of the Hon'ble Apex Court in **CCE Mumbai v. Bigen Industries Limited, 2006 (197) E.L.T. 305 (S.C.).** Further, the import documents viz. foreign supplier's invoice, the description of the impugned goods in the Purchase Orders / Bills of Materials, etc; all classified them as protective relays, as per commercial parlance test also the impugned goods are to be classified as relays under CTH 8536. Reliance is placed on following decisions:

- **Indo-International Industries v. Commissioner of Sales Tax, UP, 1981 (3) TMI 77 - Supreme Court.**,
- **Commissioner of Central Excise v. Madhan Agro Industries (I) Pvt. Ltd.,**
- **M/S Aishwarya Industries and Others, 2018 (4) TMI 721 - Supreme Court**

2.7 The reclassification of the impugned goods under CTH 8537 10 00 on the grounds that they are multi-functional apparatus performing numerical control functions is contested on the ground that CTH 8537 covers 'Boards, Panels, Consoles, Desks, Cabinets and other Bases, equipped with two or more apparatus of Heading 8535 or 8536 for electric control or the

distribution of electricity, including those incorporating Instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of Heading 8517'. From this, it is evident that goods have to satisfy the following conditions for falling under CTH 8537:

i. The goods are boards, panels, consoles, desks, cabinets and other bases;
ii. The goods are equipped with two or more apparatus of heading 8535 or 8536;
iii. The goods are for electric control or distribution of electricity.

Further, the HSN Explanatory under CTH 8537 states that the goods under heading 8537 consist of an assembly of apparatus of the kind referred to in the two preceding headings (e.g., switches and fuses) on a board, panel, console, etc. or mounted in a cabinet, desk, etc. The impugned goods are numerical relays that have evolved due to technological advancements to possess additional features such as metering, monitoring, control, etc., that can be programmed with logic. Mere presence of a microprocessor in the impugned goods does not mean that the same are numerical controllers or programmable controllers that are used for specific functions.

2.8 With regard to exemption, it is submitted that the impugned order held that the question of eligibility of benefit under the said Notification did not arise vis-à-vis contact rating as it had already been found that the impugned goods were not relays of CTH 8536 but multi-functional apparatus of CTH 8537. It is submitted that Sl. No. 244 of Notification No. 21/02-Cus. (during the relevant period) provided exemption from duty to all goods specified in List 26 and classified under Chapters 84, 85 or 90, so irrespective of the subheading, they are eligible for the benefit of the said Notification. The Appellant had duly accepted the duty liability and paid the Customs duties exempted at the time of import under Notification No. 21/2002-Cus. for the F-650

family of impugned goods without MOD feature, and for the URL-C family of relays, which had a contact rating of more than 7 amperes. Further, the Appellant submitted that neither the show-cause notice nor the impugned order have disputed the contact rating of the impugned goods viz., SELCO T-Line Generator control, GE ALPS, SIPROTECH 4 7SA522 and others. The Appellant submitted that in terms of the above, all models of the impugned goods, except the F-650 family without MOD feature and the URL-C, have a contact rating of less than 7 amperes during their continuous carry. This has not been disputed in the impugned order, hence, the benefit of the exemption cannot be denied. Reliance is placed on the decision of the Hon'ble Supreme Court in **Commissioner of Customs v. Peperly + Fuchs (India) Pvt. Ltd.: 2015 (325) E.L.T. 212 (S.C.)**

2.9 With regard to limitation, it is submitted that the entire demand in the impugned order is wholly time-barred as there is no question of short-payment of any duties by reason of collusion or wilful misstatement or suppression of facts and it is a settled position of law that a mere claim of classification or availing the benefit under an exemption Notification are matters of legal interpretation and no *mens rea* can be attached to the appellant; hence does not amount to wilful misstatement or suppression of facts. It is further stated that they have been importing the impugned goods since 2004 and clearing the same under CTH 8536 by availing the benefit of the exemption which the department was aware of the practice adopted, thus, no allegation of suppression or misdeclaration can be sustained against the Appellant. Since penalty under Section 114A of the Customs Act, 1962 is directly linked to the demand of duty or interest under the extended period of limitation under Section 28(4) of the Customs Act, 1962, cannot be sustained. Reliance is placed on following decisions:

- **Densons Pultretaknik v. Commissioner of Central Excise, 2003 (155) E.L.T. 211 (SC)**,
- **Coastal Energy Pvt. Ltd. v. Commr. of Cus., C. Ex. & S.T., Guntur, 2014 (310) E.L.T. 97 (Tri. - Bang.),** affirmed in **2016 (340) ELT A204 (Supreme Court).**
- **R. Venkatachalam v. Commr. of Central Excise, Chennai, 2000 (115) E.L.T. 192 (Tribunal)**, maintained in **2000 (118) ELT A242 (Supreme Court).**
- **Northern Plastic Ltd. v. CCE, 1998 (101) ELT 549 (SC),**
- **M/s. Samsung India Electronics Pvt. Ltd. v. Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi, 2023 (12) TMI 1155-CESTAT NEW DELHI,** maintained in **2024 (7) TMI 1220 - SC ORDER**

3. The Learned Authorized Representative for the Revenue submitted that the appellant at the time of import declared the impugned products as 'Feeder Terminal Relays' classifiable under CTH 8536 49 00 by claiming the benefit of the Notification No.21/2002-Cus. dated 01.03.2002. However, on examination based on the catalogues, technical literature and the purchase documents of the goods, it was found that these products are multifunctional equipment performing various functions. Since, CTH 8536 covers only relays, the impugned product with various multiple functions was not to be classified under CTH 8536, hence the dispute. The Notification No. 21/2002-Cus. dated 01.03.2002 (Sl.No.244) is also meant for those relays of contact rating up to 7 amp, and the impugned goods which cannot be considered as relays, the benefit of the Notification No. 21/2002-Cus. dated 01.03.2002 meant for relays was also denied. It is also submitted that the test report dated 24.12.2009 issued by Electrical Research and Development Association, Vadodara relied upon by the appellant did not show the contact rating of the said equipment which is the criteria for determining the eligibility of the said Notification. Based on the decision of the

Hon'ble Supreme Court in the case of **Commissioner of Customs (Import) Mumbai Vs. Dilip Kumar and Co. 2018 (361) ELT 577 (S.C.)**, it is stated that any exemption Notification has to be strictly interpreted and in the present case, the benefit is rightly denied as the conditions of the Notification are not satisfied. He also relies on the decision in the case of **Tej Control Systems Pvt. Ltd. Vs. Commissioner of Customs, Mumbai 2017 (348) ELT 557 (Tri. -Mumbai)**.

4. Heard both sides. The issue to be decided is whether the products imported by both the appellants M/s. GE India Industrial Private Limited and M/s. ABB Ltd. during the relevant period are to be classified under CTH 8536 49 00 as claimed by the appellant or under CTH 8537 as alleged by the Revenue, also whether the impugned products are eligible for the benefit of Notification No. 21/2002-Cus. dated 01.03.2002 (Sl. No. 244, List 26 - Sl. No. 12).

4.1 In Appeal No. C/437/2012, the appellant M/s. ABB vide Bill of Entry No. 284316 dated 08.12.2009 described the impugned products has REF543 Feeder Terminal Relays (5AMPS) classifying the products under CTH 8536 which was disputed and confirmed by the Original Authority under CTH 8537 vide Order-in-Original No. 78/2011 dated 31.03.2011 which was upheld by the Commissioner (Appeals) vide Order-in-Appeal No. 236/2011 dated 27.12.2011. Similarly, in Appeal No. C/21866/2018, the appellant M/s. ABB Ltd. vide Bill of Entry No. 374849 dated 30.03.2010 similar products were imported classifying under CTH 8536 which was rejected and confirmed under CTH 8537 vide Order-in-Original No. 285/2015-Addl. Commr. dated 16.03.2016 and upheld by the Commissioner (Appeals) vide Order-in-Appeal No. 307/2018 dated 29.08.2018.

4.2 The learned Commissioner (Appeals) in the impugned orders observes that *'the relay is an electrical device that opens and closes under the control of another electrical circuit. It monitors abnormal conditions in the electrical systems, measures the abnormal values, isolates the faulty elements as quickly as possible. It is a protective device which isolates abnormal part from rest of the systems and ensures continuity of healthy part of electrical system. Whereas, the Intelligent Electronic Devices (IEDs) are microprocessor-based device with the capability to exchange data and control signals with another device over a communication link'*. Therefore, since the product performs multiple functions, the question of classifying them as relays under CTH 8536 was ruled-out and Revenue classified them under CTH 8537 of the Customs Tariff and denied the benefit of Notification No. 21/2002-Cus. dated 01.03.2002.

4.3 In appeal No. C/27368/2013, the appellant M/s. GE India Industrial Pvt. Ltd., had filed four Bills of Entry describing the products as F-650-Feeder/Bay Protection System. The Commissioner in the impugned Order-in-Original No. 7/2013 dated 29.04.2013 observing that the product catalogue for F-650 described the products as "F-650-Feeder Protection and Bay Control System-cost effective solution for protection automation and control of distribution feeders' and the product Selco TLINE described the product as 'generator control, protection and monitoring, synchronizing and load/power control', held that "the products F-650, UR and SELCO TLINE are electrical protection, control, monitoring and metering systems. The functions are so integrated that the system as a whole carries out this function without the differentiation as to which part performs which function. Thus, the products are multifunctional equipment. Further, none of the product catalogues claim that the goods are relays with additional features of other functions". Thus, the Revenue's reasoning for classifying the impugned products under

CTH 8537 in all the above three appeals is that the products cannot be considered as relays since they perform multiple functions and can only be described as Numerical Control Operators falling under Chapter Heading 8537 and hence, the question of the benefit of Notification which is meant for relays falling under CTH 8536 does not arise.

4.4 Now let's examine the relevant Chapter Headings 8536 and 8537.

Chapter 85

Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles

Notes

9.- For the purpose of heading 85.36, "connectors for optical fibres, optical fibre bundles or cables" means connectors that simply mechanically align optical fibres end to end in a digital line system. They perform no other function, such as the amplification, regeneration or modification of a signal.

10.- Heading 85.37 does not include cordless infrared devices for the remote control of television receivers or other electrical equipment (heading 85.43).

This Chapter covers:

(6) Certain electrical goods not generally used independently, but designed to play a particular role as components, in electrical equipment, e.g., capacitors (heading 85.32), switches, fuses, junction boxes, etc. (heading 85.35 or 85.36), lamps (heading 85.39), thermionic, etc., valves and tubes (heading 85.40), diodes, transistors and similar semiconductor devices (heading 85.41), electrical carbons (heading 85.45).

85.36- Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders and other connectors, junction boxes), for

a voltage not exceeding 1,000 volts; connectors for optical fibres, optical fibre bundles or cables.

8536.10 - Fuses
8536.20 - Automatic circuit breakers
8536.30 - Other apparatus for protecting electrical circuits
- Relays:
8536.41 - - For a voltage not exceeding 60 V
8536.49 - - Other
8536.50 - Other switches

This heading covers electrical apparatus for a voltage not exceeding 1,000 volts generally used for dwellings or industrial equipment. However, heading 85.35 covers the apparatus described below for a voltage exceeding 1,000 volts. This heading also covers connectors for optical fibres, optical fibre bundles or cables.

The heading includes:

(I) APPARATUS FOR SWITCHING ELECTRICAL CIRCUITS

(C) Relays are electrical devices by means of which the circuit is automatically controlled by a change in the same or another circuit. They are used, for example, in telecommunication apparatus, road or rail signalling apparatus, for the control or protection of machine-tools, etc.

The various types can be distinguished by, for example:

(1) The electrical means of control used: electromagnetic relays, permanent magnet relays, thermo-electric relays, induction relays, electro-static relays, photoelectric relays, electronic relays, etc.

(2) The predetermined conditions on which they operate: maximum current relays, maximum or minimum voltage relays, differential relays, fast acting cut-out relays, time delay relays, etc.

Contactors, which are also considered as relays, are devices for making and breaking electrical circuits, which automatically reset without a mechanical locking device or hand operation. They are generally operated and maintained in an active state by an electric current.

(IV) CONNECTORS FOR OPTICAL FIBRES, OPTICAL FIBRE BUNDLES OR CABLES

For the purpose of heading 85.36, "connectors for optical fibres, optical fibre bundles or cables" means connectors that simply mechanically align optical fibres end to end in a digital line system. They perform no other function, such as the amplification, regeneration or modification of a signal. Connectors for optical fibres, without cables, remain classified in this heading but those connectors for optical fibres with cables are excluded (heading 85.44 or 90.01).

85.37 - Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 85.35 or 85.36, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of heading 85.17.

8537.10 -For a voltage not exceeding l,000V
8537.20 - For a voltage exceeding 1,000 V

These consist of an assembly of apparatus of the kind referred to in the two preceding headings (e.g., switches and fuses) on a board, panel, console, etc., or mounted in a cabinet, desk, etc. They usually also incorporate meters, and sometimes also subsidiary apparatus such as transformers, valves, voltage regulators, rheostats or luminous circuit diagrams.

The goods of this heading vary from small switchboards with only a few switches, fuses, etc. (e.g., for lighting installations**) to complex control panels for machine-tools, rolling mills, power stations, radio stations, etc., including assemblies of several of the articles cited in the text of this heading.**

The heading also covers:

(1) Numerical control panels with built-in automatic data processing machine, which are generally used to control machine-tools.
(2) Programmed switchboards to control apparatus; these permit variations in the choice of operations to be followed. They are normally used in domestic electrical appliances, such as washing machines and dish washers.

(3) "Programmable controllers" which are digital apparatus using a programmable memory for the storage of instructions for implementing specific functions such as logic, sequencing, timing, counting and arithmetic, to control, through digital or analog input/output modules, various types of machines.

The heading excludes:

(a) Telephone switchboards (heading 85.17).

(b) Simple switch assemblies, such as those consisting of two switches and a connector (heading 85.35 or 85.36).

4.4 From the above, we find that Relays falling under CTH 8536 are used in telecommunication apparatus, road or rail signaling apparatus, for the control or protection of machine-tools, etc., and includes various kinds of Relays such as electromagnetic relays, permanent magnet relays, thermo-electric relays, induction relays, electro-static relays, photoelectric relays, electronic relays, etc. and also includes contractors. While 8537 speaks of boards, panels, consoles, desk, etc., equipped with two or more apparatus of 8535 or 8536 which is meant for electric control or distribution of electricity and it states that the goods of this Heading vary from small switchboards with only a few switches, fuses, etc. (e.g., for lighting installations) **to complex control panels for machine-tools, rolling mills, power stations, radio stations, etc., including assemblies of several of the articles cited in the text of this heading and** includes Numerical control panels which are used to control machine-tools and "Programmable controllers" for storage of instructions for implementing specific functions such as logic, sequencing, timing, counting and arithmetic, to control, through digital or analog input/output modules, various types of machines. Thus, it is very clear that while CTH 8536 includes simplicitor relays CTH 8537 includes complex controls with multiple functions.

4.5 In these appeals, based on the catalogues produced by the appellant on which classification has been decided by the Revenue, the description of the products reads as follows:

> "Feeder Terminals REF 543/REF54 Series imported by M/s. ABB are found to be performing various functions in addition to the function of protection such as non-directional and directional over current and earth fault protection, residual voltage, over voltage and under voltage protection, thermal over load protection etc., They also perform the function of measurement of phase current, phase to phase or phase to earth voltages, neutral current, it also monitors conditions such as gas pressure, 3 phase gas pressure and operate time used for motors. It is also found they contain advanced metering and communication protocol ports, allowing the equipment to become a focal point in a SCADA (supervisory control and data acquisition). They have inbuilt advanced micro processors (CPU) programmed by specific software and these microprocessors are used to analyse power system voltages and current by converting analogue values to digital values and controlling various factors for the purpose of detection of faults in an electric power system".

4.6 Similarly, the F650 family is described as "comprehensive protection; control metering and monitoring package. The microprocessor-based architecture is a complete solution for different applications that complies with most relevant international standards". IEDs provide optimum off-the shelf, ready to use solutions equipped and configured with complete protection functionality and default parameters to meet the needs of a wide range of applications within generation, transmission and sub-transmission. The advanced F650 series incorporate advanced automation features including powerful programmable logic communication and SCADA capabilities that far surpass what is found in the average feeder relay. The F650 integrates seamlessly with other GE multiple relays for complete protection system. It is the powerful programming logic engine that provides the ability of creating customised protection and

control schemes thereby minimising the need and the associated costs of auxiliary components and wiring.

4.7 There is no dispute with regard to the description of the products based on the catalogues produced by the appellant. The only argument put forth by the appellant is though Relays are used *inter alia* for protection of high end and complex industrial equipment, without which any damage to the equipment would be critical to the entire production line, the advanced relay systems are required to rectify any tentative faults in the power supply to quickly reduce the loss in productivity, advances in technology led to the development of relays with multiple protection functions that not only isolate the fault in the circuit but also identify the same by giving a disturbance value for helping the customer repair and equipment and minimize the downtime for a production plant, such relays also monitor and record the fault and have a user interface for communication. Thus, Numerical relays may, in addition to the traditional protection function, implement several other functions such as disturbance recording, measurement, display, etc., by using components like keyboard, LED display, PCBA with microprocessor, etc., but still continues to be a single apparatus. Therefore, the question arises whether a multifunctional equipment which also does the job of relay can be classified under CTH 8537 as claimed by the Revenue.

4.8 From the above description of the impugned products, there is no dispute that the products imported by the appellant are with advanced features and multiple functions much more than a simple relay could perform. The technical literature placed on record with regard to F650 Feeder Protection and Bay Controller System reads as Provides high speed protection and control for speeder management and Bay control applications including over current protection, breaker failure control etc.,

The UR and UR Plus products also have the features of protection and control, the products SELCO also monitor functions like trip circuit supervision, self-supervision of the relay, etc., thus the products no doubt have advanced automation features and perform multiple other functions such as programmable logic, communication and other remedial action schemes. In view of the above description and performance of the products, there is no doubt that they cannot be considered as relays described under CTH 8536 but fall under the category of numerical controls or programmable controllers as described under Chapter heading 8537 which are used by the power stations. It is also to be noted that the expert opinion sought from Indian Institute of Science, Bangalore vide letter dated 15.03.2012 clarified that GE F650 Digital Bay Controller, SELCO T-Line Generator control, production monitoring, GE ALPS, GE UR Family and SIPROTEC 4 7SA522 that are multifunctional apparatus which are suitable for measurement, recording, protection, control, display, communication etc., cannot be treated as relays. The Department of Electrical Engineering vide letter dated 29.03.2010 had also opined that multifunctional apparatus cannot be considered as relays. In view of the above, the products are rightly classifiable under Chapter heading 8537.

4.9 The case laws relied upon by the appellant are to the effect that the classification to be decided based on the principal function, which is irrelevant in the context of the present facts since the technical literature placed on record does not describe the principal function as relay but it constitutes a complex system as a multifunctional unit meant for various industries. As far as the benefit of the Notification No. 21/2002-Cus. dated 01.03.2002 is concerned, the benefit is only relays, which are classifiable under CTH 8536 as seen from the Notification reproduced below:

Notification No. 21/2002-Cus., dated 1-3-2002.

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 17/2001-Customs, dated the 1st March, 2001 [G.S.R. 116(E), dated the 1st March, 2001], the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column (3) of the Table below or column (3) of the said Table read with the relevant List appended hereto, as the case may be, and falling within the Chapter, heading or sub-heading 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,-

(a) **from so much of the duty of customs** leviable thereon under the said First Schedule as is in excess of the amount calculated at the rate specified in the corresponding entry in column (4) of the said Table;

(b) **from so much of the additional duty** leviable thereon under sub-section (1) of section 3 of the said Customs Tariff Act, as is in excess of the rate specified in the corresponding entry in column (5) of the said Table,

subject to any of the conditions, specified in the Annexure to this notification, the condition No. of which is mentioned in the corresponding entry in column (6) of the said Table:

Provided that nothing contained in this notification shall apply to -
(a) the goods specified against serial Nos. 239, 240, 241 and 242 of the said Table on or after the 1st day of April, 2003;
(b) the goods specified against serial Nos. 250, 251, 252 and 415 of the said Table on or after the 1st day of March, 2005.

*Explanatio*n. - For the purposes of this notification, the rate specified in column (4) or column (5) is *ad valorem* rate, unless otherwise specified.

Sl. No.	Chapter Heading	Description of goods	Standard rate	Additional duty	condition
244	84,85 or 90	The goods specified in List 26	15%	--	----

List 26

(12) Relays of contact rating upto 7 amperes

Based on the above Notification No.21/2002-Cus. dated 01.03.2002, the impugned products being multifunctional product which cannot be considered as a simple relay are rightly classifiable under CTH 8537 and not eligible for the benefit of the Notification No. 21/2002-Cus. dated 01.03.2002 since they do not fall under the category of simplicitor relays that are exempted.

4.10 It is also to be noted that similar products were investigated and classified under CTH 8536 based on the technical literature on the ground that the principal function of the product was of a relay. The Order-in-Original No.245/2009 dated 16.09.2009, the product imported by the appellant M/s. GE India Industrial Pvt. Ltd., was F650-Feeder/Bay Protection System and question before the Original Authority was whether these products with multi-functional capabilities could be treated as relays and the Original Authority relying on Section Note 3 of Section XVI classified the said products under CTH 8536. The present products in the impugned order are also described as F650 Feeder Protection and Bay Controller System, hence, there is no question of suppression, misclassification or mis-declaration as alleged by the Revenue. Having accepted classification based on the expert opinion and on the technical literature, there cannot be element of suppression or mis-declaration; hence, the demand vide impugned Order-in-Original No.7/2013-Commr. dated 29.04.2013 cannot be sustained since the entire demand is beyond the normal period. Accordingly, the impugned order is set aside and Appeal No. C/27368/2013 (M/s. GE India Industrial Private Limited vs. CC, Bangalore) is allowed.

5. In the case of appeals filed by M/s. ABB Ltd. (C/437/2012 and C/21866/2018), the impugned products are feeder terminal relay and Intelligent Electronic Devices (IEDs) of 650 and 670 series of relays. It is submitted by the learned counsel that similar products described as machine terminal (Relays) were

imported earlier and the same were classified under CTH 8536 vide Order-in-Original No.878/2007 dated 28.12.2007 by Mumbai Commissionerate. The Original Authority had classified the products based on the technical opinion given by IIT Mumbai stating that the machine terminals are numerical relays and accordingly classified them under CTH 8536 which had attained finality. The description of the products imported earlier is entirely different from the impugned products and hence, the question of classifying the impugned products under the earlier classification does not arise. Moreover, the demands are within the normal period and hence, upheld. Hence, the benefit of Notification No. 21/2002-Cus. dated 01.03.2002 is denied and the differential duty is confirmed. Accordingly, the impugned orders are upheld and appeal Nos. C/437/2012 and C/21866/2018 filed by M/s. ABB Ltd. are dismissed.

(Order pronounced in Open Court on 25.06.2025.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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