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- (1) **Classification of goods — HSN Explanatory Notes relevant for Interpretation of Customs Tariff (2) 'Sheath' or 'Sheathed' since not defined in HSN/Tariff, their trade meaning has to be given prominence (3) 'Sheath' and 'coating' are two different things though both may have same function of insulating conductors (4) Cables — Optical Fibre cables with dual acrylic coating and colour coding at both ends, used in telecommunications classifiable under Customs Tariff Heading 9001 and not under Heading 8544**

The CESTAT Larger Bench constituted at the West Zonal Bench, Mumbai comprising Shri. D.N. Panda, Hon'ble Member (Judicial), Shri Raju, Hon'ble Member (Technical) and Shri. C.J. Mathew, Hon'ble Member (Technical) has answered the reference in favour of Revenue and against the assessee in Appeal Nos. C/688/2008, C/48-55, 126/2010, C/372-378/2012 [*Commissioner of Customs (Import), Mumbai-I v. Vodafone Essar Gujarat Ltd.*] by Interim Order Nos. I/7-23/2017, dated 22-11-2017. The said appeals to the CESTAT were filed against the impugned Order-in-Appeal No. 165/2008/MCH/AC/VB/07-08, dated 25-3-2008, Order-in-Original No. 154/2009 CC(I), JNCH, dated 21-10-2009, Order-in-Appeal No. 08/2009-10 CC(I), dated 20-1-2010 and Order-in-Appeal Nos. 64-70 (Gr. VB)/2012 (JNCH) MP-54 to 65, dated 8-2-2012 passed by Commissioner of Customs (Appeals), Mumbai-I, Commissioner of Customs (Import), Nhava Sheva and Commissioner of Customs (Import), Mumbai-II respectively.

The Larger Bench, after hearing the Representatives of the parties held as under -

1. HSN Explanatory Notes are very relevant for deciding the issue of classification of goods under the Customs Tariff Act.

2. Since no definition of the word 'sheath' and 'sheathed' occurring in various places of HSN/Tariff, provided in the statute, the trade meaning thereof has to be given prominence. The expression 'impregnated, coated, covered or sheathed' used in various places of the Customs Tariff makes it clear that the term 'sheathed' has been used in contrast with the term 'impregnated', 'coated' or 'covered'. The term coating and sheathing have different meaning in the Tariff.

3. The Tribunal in *Reliance Communication Infrastructure Ltd.* case reported in 2015 (320) E.L.T. 306 (Tri.-Mum.) has rightly approved the decision of the Authority for Advance Ruling in the case of *Alcatel Ltd.* reported in 2006 (197) E.L.T. 176 (AAR) and held that 'coating' and 'sheathing' are two different things though both of them may have the same function, namely insulation of conductors.

4. **Optical Fibre Cables** consisting of dual acrylic coating with colour coding at both the ends and used in Telecommunication, are classifiable under Heading 9001 of the Customs Tariff and not under Heading 8544 of the said Tariff.

[*Commissioner v. Vodafone Essar Gujarat Ltd. - 2018 (360) E.L.T. A193 (CESTAT-LB)*]

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## Judicial Analysis

for

**Commissioner vs. Vodafone Essar Gujarat Ltd.  
2018 (360) ELT A193 (Tri.-LB)**

### This case was:

- Referred in 2020 (373) ELT 421 (Tribunal Bombay/Mumbai)

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