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2017 (354) E.L.T. 651 (Tri. - Mumbai)

IN THE CESTAT, WEST ZONAL BENCH, MUMBAI

[COURT NO. I]

S/Shri D.N. Panda, Member (J) and C.J. Mathew, Member (T)

COMMISSIONER OF CUS. (I), NHAVA SHEVA

Versus

MICROQUAL TECHNO PVT. LTD.

Final Order No. A/87750/2017-WZB/CB, dated 24-5-2017 in Appeal No. C/593/2007-Mum

Electric conductors 7/8" (for telecommunication purpose) - Classification of - Goods meant for telecommunication purpose and were co-axial cables classifiable under sub-heading 8544.20 of Customs Tariff Act, 1975. [para 4]

Classification of goods - Specific entry in tariff excludes other goods embraced by different tariff entries and even may be under same chapter. [para 4]

Appeal allowed

CASE CITED

Commissioner v. Microqual Techno Pvt. Ltd. — [2011 \(274\) E.L.T. 289](#) (Tribunal) — *Referred* [Para 2]

REPRESENTED BY : Shri M.K. Sarangi, Joint Commissioner (AR), for the Appellant.
None, for the Respondent.

[Order per : D.N. Panda, Member (J)]. - None present for respondent.

2. Learned DR says that the goods imported under bill of entry No. 854053, dated 31-7-2006 described as "Electric conductors 7/8" (for telecommunication purpose)" was rightly classified by the adjudicating authority under CTH 8544 20 10 being such goods were co-axial cables. But learned Commissioner (Appeals) brought the goods under CTH 8544 41 90 for no good reason stated in his order. It is further explained by learned DR that the very purpose of the co-axial cable is to serve the purpose of telecommunication and law is well-settled that the entry which covers a particular type of goods within its fold that excludes the other category of goods. Therefore appellate authority is wrong in his approach to set aside the adjudication order. The Chennai Bench of Tribunal has taken the view as was held by Adjudicating Authority in the case of *Microqual Techno Pvt. Ltd.* - [2011 \(274\) E.L.T. 289](#) (Tri.-Chennai).

3. Heard the Revenue and perused the records.

4. There is no difference that the goods imported belong to Chapter 85 of the Customs Tariff Act, 1975. When the manner of classification of goods in the said chapter is read from the tariff entry, it is categorically clear that co-axial cable falls under CTH 8544 20 10. For convenience of reading, the relevant tariff entry is reproduced below :-

"8544	Insulated (including enamelled or anodized) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors
	- <i>Winding wire :</i>
8544 11	-- <i>Of copper :</i>
8544 11 10	-- Enamelled
8544 11 90	-- Other
8544 19 10	-- Asbestos covered
8544 19 20	-- Plastic insulated
8544 19 30	-- Rubber insulated
8544 19 90	-- Other
8544 20	-- <i>Co-axial cable and other co-axial electric conductors:</i>

- 8544 20 10 -- Co-axial cable
- 8544 20 90 -- Other
- 8544 30 00 - Ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships
- *Other electric conductors, for a voltage not exceeding 80 V.*
- 8544 41 - *Fitted with connectors :*
- *Telephone cables:*
- 8544 41 11 - Dry core paper insulated
- 8544 41 19 - Other
- 8544 41 20 - Paper insulated
- 8544 41 30 - Plastic insulated
- 8544 41 40 - Rubber insulated
- 8544 41 90 - Other"

A specific entry in tariff excludes other goods embraced by different tariff entries and even may be under the same chapter. The goods being described in the bill of entry is meant for telecommunication purpose, those were unerringly co-axial cables and nothing else. Therefore the order of the learned Commissioner (Appeals) is fundamentally erroneous for which that is set aside and the adjudication order is upheld.

5. In the result, appeal is allowed.

(Dictated and pronounced in the open Court)