

Customs & Trade in Israel

A Legal Newsletter

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Imported Goods Classification Dispute

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Case Facts:

The importer, M.N. Systems For Transport & Industry Ltd., submitted a purchase tax return claim against the Customs Authority. The tax was paid by the importer under protest for the commercial import of tool boxes. The importer's customs agent submitted a request for the release of a cargo containing, according to the import register declaration, "wings and tool boxes for trailers". The customs agent classified the goods under Article 42.02.9200 of The Customs and Purchase Tax Tariff. Following an examination of the goods, the Customs Authority classified the tool boxes under Article 39.26.9089, which is subject to purchase tax, resulting in a 25,275 ILS tax deficit. The importer paid the tax under protest, and appealed the classification before the Customs Authority. The Customs Authority rejected the appeal, and the importer therefore turned to the court. The dispute is centered upon the classification of the imported goods.

Party Arguments:

The Customs Authority argued that the tool boxes should be classified as Article 39.26.9089, "other plastic components for engine powered vehicles". The Customs Authority claimed that the tool boxes are installed upon vehicles, and this is their main and natural use. On the other hand, the importer argued that the tool boxes should be classified as Article 42.02.9200, which includes tool boxes to the importer's view, or if that view is not accepted, as Article 39.26.9059.

Alternately, the Customs Authority claimed that if the tool boxes cannot be classified as Article 42.02.9200 but due fall under Article 39.26.9059, they may still be classified as Article 39.26.9089. The Customs Authority argued that the rule presented in Section 3(3)(c) of The Customs and Purchase Tax Tariff, which dictates that goods be classified as the later of two possible classifications, supports this claim.

Legal Deliberation:

In order to classify goods under a Customs Tariff Article, a three stage interpretation is required. First, the physical character and essence of the goods must be examined. Second, the legal significance of the relevant customs articles should be examined in light of the purpose of the legislation and in accordance with the accepted rules of interpretation, while attempting to delineate the range of goods

to which this or other customs article applies. Lastly, the goods, whose character was examined in the first stage, must be classified as one of the customs articles, according to the legal significance determined in the second stage. Where there is more than one classification option, the classification will be determined according to the classification rules in Section 3 of The Customs and Purchase Tax Tariff, which set the classification priorities for cases in which the goods may be classified under two or more articles.

The goods in question are plastic cases suitable for storing tools. The box is devoid of any characteristic which ties it to use on a vehicle, and loses none of its potency as a storage case for tools when situated outside of a vehicle. Installing the box on a vehicle does not narrow its purpose as a storage case, and it cannot be claimed that the essence of the box is as a vehicle accessory. In light of the above, the court ruled that as the boxes in question are not inherently connected to use on a vehicle, as specified in Article 39.26.9089, and they cannot be classified under that article. The court therefore rejected the Customs Authority's argument for classifying the boxes under Article 39.26.9089.

On the other hand, the court ruled that the importer's argument that the boxes should be classified under Article 42.02.9200 should be rejected as well. The Brussels Convention, an important source for interpreting the implementation of The Customs and Purchase Tax Tariff in this case, states that a tool box not inherently dedicated to the storage of specific tools does not fall under Chapter 42.02. as the boxes in question are not inherently dedicated to specific tools, they cannot be classified under Chapter 42.02.

An alternate classification for the boxes discussed by the court was Chapter 39, on "Plastic and Plastic Items". According to the explanatory notes of the Brussels Convention in Article 39.26, the article includes boxes not inherently dedicated to the storage of specific items. As the boxes in question are indeed plastic boxes not inherently dedicated to the storage of specific items, they should be classified under Article 39.26. Another classification option is Article 39.26.9059, as suggested by the importer, which is exempt from purchase tax as well. This article includes "other plastic items" not detailed in previous articles, and accurately describes the boxes in question.

The court noted that the rule presented in Section 3(3)(c) of The Customs and Purchase Tax Tariff, which dictates that goods be classified as the later of two possible classifications, does not apply here, contrary to the Customs Authority's claim. The court added that Article 39.26.9059 provides the most detailed description of the tool boxes, while Article 39.26.9089 does not apply to tool boxes, as argued by the Customs Authority, and the boxes cannot be classified under both articles.

Ruling:

The court ruled that the boxes should be classified under Article 39.26.9059 of The Customs and Purchase Tax Tariff, which is exempt from purchase tax. The court therefore ordered the Customs Authority to return the paid purchase tax to the importer, in addition to legal expenses.

[TA 19890-02-16, **M.N. Systems For Transport & Industry Ltd. V. The State of Israel - Customs Authority**]

**The above review is a summary. The information presented is for informative purposes only,
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