

Ottawa, Tuesday, August 6, 1991

Appeal No. 2396

IN THE MATTER OF an appeal heard on April 16, 1991,
under section 47 of the *Customs Act*, R.S.C., 1970, c. C-40, as
amended;

AND IN THE MATTER OF the decision of the Deputy
Minister of National Revenue for Customs and Excise dated
August 30, 1985, with respect to a request for a
re-determination pursuant to section 46 of the *Customs Act*.

BETWEEN

THE MUFFIN HOUSE BAKERY LTD.

Appellant

AND

**THE DEPUTY MINISTER OF NATIONAL REVENUE
FOR CUSTOMS AND EXCISE**

Respondent

DECISION OF THE TRIBUNAL

The Tribunal allows the appeal and declares that the goods in issue, namely, an electric oven, model KC V 12/90, imported from Hans Wachtel GmbH & Co. Kg. of Hilden, Germany, under Vancouver Entry No. L154063, dated November 21, 1984, should be classified under tariff item 44305-1 as "Ovens, of a class or kind not made in Canada, for use in commercial bakeries.... "

Robert J. Bertrand, Q.C.
Robert J. Bertrand, Q.C.
Presiding Member

W. Roy Hines
W. Roy Hines
Member

Michèle Blouin
Michèle Blouin
Member

Robert J. Martin
Robert J. Martin
Secretary

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THE MUFFIN HOUSE BAKERY LTD.

Appellant

and

**THE DEPUTY MINISTER OF NATIONAL REVENUE
FOR CUSTOMS AND EXCISE**

Respondent

TRIBUNAL: ROBERT J. BERTRAND, Q.C., Presiding Member
 W. ROY HINES, Member
 MICHÈLE BLOUIN, Member

REASONS FOR DECISION

ISSUE

This is an appeal under subsection 47(1) of the *Customs Act*¹ (the Act) from a decision of the Deputy Minister of National Revenue, Customs and Excise, dated August 30, 1985, classifying an electric oven, model KC V 12/90, imported from Hans Wachtel GmbH & Co. Kg., Germany, at the Port of Vancouver, British Columbia, on November 21, 1984, under tariff item 44300-1 as apparatus for cooking. The issue in this appeal is whether the goods are more properly classified under tariff item 44305-1 as "Ovens, of a class or kind not made in Canada, for use in commercial bakeries.... "

REASONS

This appeal, originally commenced before the Tariff Board, is taken up and continued by the Canadian International Trade Tribunal (the Tribunal) in accordance with section 60 of the *Canadian International Trade Tribunal Act*.²

The appeal was scheduled to be heard on April 16, 1991. On March 26, 1991, counsel for the respondent advised the Tribunal that the Deputy Minister of National Revenue for Customs and Excise no longer contested the appeal and, consequently, accepted the position of the appellant that the goods in issue should be classified under tariff item 44305-1 as "Ovens, of a class or kind not made in Canada, for use in commercial bakeries.... "

1. R.S.C., 1970, c. C-40, as amended.
2. R.S.C., 1985, c. 47 (4th Supp.).

CONCLUSION

The Tribunal allows the appeal and declares that the goods in issue, namely, an electric oven, model KC V 12/90, imported from Hans Wachtel GmbH & Co. Kg. of Hilden, Germany, under Vancouver Entry No. L154063, dated November 21, 1984, should be classified under tariff item 44305-1 as "Ovens, of a class or kind not made in Canada, for use in commercial bakeries.... "

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Member