

Ottawa, Wednesday, November 20, 1991

Appeal No. AP-90-179

IN THE MATTER OF an appeal heard on October 16, 1991, under section 67 of the *Customs Act*, R.S.C., 1985, c. 1 (2nd Supp.) as amended;

AND IN THE MATTER OF a decision of the Deputy Minister of National Revenue for Customs and Excise dated January 10, 1991, with respect to a request for a re-determination pursuant to section 63 of the *Customs Act*.

BETWEEN

CROSBY VALVE LTD.

Appellant

AND

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

Respondent

DECISION OF THE TRIBUNAL

The appeal is allowed. The Tribunal finds that the spring and washer assemblies form identifiable parts of machinery classified under tariff item No. 8481.40.99 as other safety or relief valves. As such, the goods are properly classified under tariff item No. 8481.90.10.

W. Roy Hines
W. Roy Hines
Presiding Member

Michèle Blouin
Michèle Blouin
Member

Charles A. Gracey
Charles A. Gracey
Member

Robert J. Martin
Robert J. Martin
Secretary

UNOFFICIAL SUMMARY

Appeal No. AP-90-179

CROSBY VALVE LTD.

Appellant

and

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

Respondent

The goods in issue are spring and washer sets comprised of a helical steel spring and two machined castings. The appellant claims that the assemblage forms an integral part of pressure relief valve. The unit is built to exact tolerances for a specific pressure relief valve that the appellant claims would be dutiable under tariff item No. 8481.40.90. The respondent claims that the goods should be classified according to the spring, being the article of primary importance, and that the goods are parts of general use.

HELD: *The appeal is allowed. The Tribunal finds that the spring and washer assemblies form identifiable parts of machinery classified under tariff item No. 8481.40.99 as other safety or relief valves. As such, the goods are properly classified under tariff item No. 8481.90.10.*

Place of Hearing: Ottawa (Ontario)
Date of Hearing: October 16, 1991
Date of Decision: November 20, 1991

Tribunal Members: W. Roy Hines, Presiding Member
Michèle Blouin, Member
Charles A. Gracey, Member

Counsel for the Tribunal: David M. Attwater

Clerk of the Tribunal: Janet Rumball

Appearances: D.J. Bowering, for the appellant
J. de Pencier, for the respondent

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CROSBY VALVE LTD.

Appellant

and

**THE DEPUTY MINISTER OF NATIONAL REVENUE
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Respondent

TRIBUNAL: W. ROY HINES, Presiding Member
MICHÈLE BLOUIN, Member
CHARLES A. GRACEY, Member

REASONS FOR DECISION

The issue in this appeal is whether certain spring and washer assemblies are properly classified under tariff item No. 7320.20.90 as other helical springs of iron or steel or, as claimed by the appellant, under tariff item No. 8481.90.10 as parts of goods of tariff item No. 8481.40.99. The relevant tariff items are:

73.20 **Springs and leaves for springs, of iron or steel.**

7320.20 **- Helical springs**

7320.20.90 --- Other

84.81 **Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves.**

8481.90 **- Parts**

8481.90.10 --- Of the goods of tariff item No. 8481.10.99, 8481.20.00, 8481.30.90, 8481.40.99, 8481.80.20 or 8481.80.99.

Counsel for the respondent argued that, pursuant to Rule 3(b) of the General Rules for the Interpretation of the Harmonized System, the goods, consisting of a spring and two washers of steel, are classified according to their constituent article of primary importance, namely, the spring. Accordingly, the goods are classified under tariff item No. 7320.20.90 as helical springs of iron or steel. Counsel further argued that the goods are parts of general use and excluded from Section XVI (including heading 84.81) of Schedule I to the *Customs Tariff*.¹ However, the Tribunal rejects these arguments for the following reasons.

1. R.S.C., 1985, c. 41 (3rd Supp.).

The Explanatory Notes² to heading 73.20 state that springs assembled with other articles to form identifiable parts of machinery of Section XVI are excluded from the heading. The Tribunal finds that the goods do form identifiable parts of machinery classified in Section XVI, Schedule I to the *Customs Tariff* under tariff item No. 8481.40.99 as other safety or relief valves. Therefore, the goods should be classified under tariff item No. 8481.90.10 as parts of the goods enumerated in tariff item No. 8481.40.99.

When a spring assembly is being ordered, the particular valve for which the assembly is needed must be identified. In the "typical order" produced for the hearing, the type of valve required and its shop number are specified. When the customer is invoiced, the spring and washer assembly is identified as a part of a particular valve, the part numbers are given and the shop number is identified.

The springs in issue are not general use springs. Each spring has a part number etched onto its side as does the spring washer. Each spring is defined by a specification sheet that defines its operational parameters, envelope dimensions, material requirements, testing, inspection and certification requirements. The outside diameter of the spring is controlled and specified as a maximum. The spring rate, which is how much the spring will compress, which affects valve operation, is a critical characteristic of each spring. The full lift spring compression, which refers to how much of the spring can be used and how much it can flex when put into a safety relief valve, can be no greater than 80 percent of the nominal solid deflection as specified by the American Society of Mechanical Engineers (ASME) Code governing such springs. Though, in some cases, a particular spring may be used in two different valves, the Tribunal recognizes the spring as a specific and identifiable part of a pressure relief valve.

As the inside diameter of each spring may vary, the washers that fit into and over the top of each end of the spring must be specifically machined. The washers are made from bar stock and must be finished to critical dimensions while being unique to each end of the spring. The washers are used for both alignment and transferring the pressure force of the relief valve through the valve so that it can open and close within its predetermined pressure range. To insure proper alignment for all the moving parts, it is necessary to purchase new spring washers when purchasing a new spring. On this basis, the Tribunal is of the opinion that the washers together with a spring form an assemblage.

Accordingly, the appeal is allowed.

W. Roy Hines
W. Roy Hines
Presiding Member

Michèle Blouin
Michèle Blouin
Member

Charles A. Gracey
Charles A. Gracey
Member

2. Explanatory Notes, Harmonized Commodity Description and Coding System, Customs Co-operation Council, Brussels, First Edition (1986), Volume 3.