

Ottawa, Tuesday, August 18, 1992

Appeal No. AP-91-227

IN THE MATTER OF an appeal heard on July 10, 1992,  
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 17, 1992, with respect to a request for  
a re-determination pursuant to section 63 of the  
*Customs Act*.

**BETWEEN**

**SOREN MANUFACTURING CO. LTD.**

**Appellant**

**AND**

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

**Respondent**

**DECISION OF THE TRIBUNAL**

The appeal is dismissed.

John C. Coleman

John C. Coleman  
Member

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.  
Member

Desmond Hallissey

Desmond Hallissey  
Member

Robert J. Martin

Robert J. Martin  
Secretary

**UNOFFICIAL SUMMARY**

**Appeal No. AP-91-227**

**SOREN MANUFACTURING CO. LTD.**

**Appellant**

**and**

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

**Respondent**

*The issue in this appeal is whether the goods in issue are properly classified under tariff item No. 7606.92.90 as other aluminum alloy plates, sheets and strip, of a thickness exceeding 0.2 mm or, as claimed by the appellant, under tariff item No. 7606.92.10 as other unworked circles or discs of aluminum alloys, of a thickness exceeding 0.2 mm. The goods in issue are aluminum alloy discs of various sizes imported from Italy by the appellant. Prior to importation, the goods are coated with a non-stick coating. Subsequent to importation, the goods are pressed into shape, and handles are attached to make frying pans. In essence, the Tribunal had to determine whether the goods are "worked" or "unworked" in light of the non-stick coating that they have received. If they were seen as unworked, the appellant's proposed classification would be most appropriate.*

**HELD:** *The appeal is dismissed. Based on the definitions of "worked" and "unworked," as used in the tariff nomenclature, the Tribunal believes that the non-stick coating received by the aluminum discs disqualifies them as "unworked."*

*Place of Hearing: Ottawa, Ontario  
Date of Hearing: July 10, 1992  
Date of Decision: August 18, 1992*

*Tribunal Members: John C. Coleman, Presiding Member  
Robert C. Coates, Q.C., Member  
Desmond Hallissey, Member*

*Counsel for the Tribunal: David M. Attwater*

*Clerk of the Tribunal: Dyna Côté*

*Appearances: P.A. (Al) LeFort, for the appellant  
Linda J. Wall, for the respondent*

Appeal No. AP-91-227

**SOREN MANUFACTURING CO. LTD.**

**Appellant**

**and**

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

**Respondent**

TRIBUNAL: JOHN C. COLEMAN, Presiding Member  
ROBERT C. COATES, Q.C., Member  
DESMOND HALLISSEY, Member

**REASONS FOR DECISION**

The issue in this appeal is whether certain goods are properly classified under tariff item No. 7606.92.90 as other aluminum alloy plates, sheets and strip, of a thickness exceeding 0.2 mm or, as claimed by the appellant, under tariff item No. 7606.92.10 as other unworked circles or discs of aluminum alloys, of a thickness exceeding 0.2 mm.

The goods in issue are aluminum alloy discs of various sizes imported from Italy by the appellant. Prior to importation, the goods are coated with a non-stick coating. Subsequent to importation, the goods are pressed into shape, and handles are attached to make frying pans.

In essence, the Tribunal had to determine whether the goods are "worked" or "unworked" in light of the non-stick coating that they have received. If they were seen as unworked, the appellant's proposed classification would be most appropriate.

The relevant tariff nomenclature is as follows:

76.06 Aluminum plates, sheets and strip, of a thickness exceeding 0.2 mm.

-Other:

7606.92 --Of aluminum alloys

7606.92.10 ---Unworked circles or discs

7606.92.90 ---Other

Mr. P.A. (Al) LeFort, representative of the appellant, in his submissions, did not identify a specific tariff item as being the most appropriate alternative to the respondent's classification. However, assuming that the goods are composed of an aluminum alloy, as indicated in the respondent's unchallenged submissions, the most advantageous classification to the appellant would be tariff item No. 7606.92.10.

Mr. LeFort argued that under Schedule II to the former *Customs Tariff*,<sup>1</sup> aluminum discs were classified under tariff item 35302-1. He noted that under the tariff conversion chart provided to the Tribunal in the appellant's brief, tariff item 35302-1 may be converted to tariff item No. 7606.92.10.

He claimed that the coated discs are not worked as that term is defined by various dictionaries and the Encyclopaedia of Metallurgy and Materials.<sup>2</sup> Mr. LeFort further argued that in the opinion of the appellant corporation, which has 59 years of experience in the business, the coated discs are not worked.

Counsel for the respondent noted that the goods were imported on June 3, 1991, after implementation of the Harmonized Commodity Description and Coding System<sup>3</sup> of tariff classification. She submitted, therefore, that the former tariff classification of the goods in issue is of limited interest and not in any way determinative of the appropriate classification under the current *Customs Tariff*.<sup>4</sup>

Counsel argued that the imported goods are "worked" as that term is defined in the legal notes to Schedule I to the *Customs Tariff* and the Explanatory Notes to the Harmonized Commodity Description and Coding System<sup>5</sup> (Explanatory Notes). The first supplementary note to Chapter 76 of Schedule I states that "unworked" means:

*(b) when referring to plates, sheets, strip and foil, products which have not been processed beyond the last rolling mill pass except by heat treating, levelling, edge trimming, slitting, cutting-to-size, surface cleaning or lubricating.*

The Explanatory Notes to heading No. 74.09, which are adopted with appropriate modifications for purposes of heading No. 76.06, define "worked" to mean:

*cut to shape, perforated, corrugated, ribbed, channelled, polished, coated, embossed or rounded at the edges.*

Counsel noted that the goods are coated with a non-stick coating prior to shipment. She argued that such coating is not enumerated in Supplementary Note 1(b) to Chapter 76 that defines "unworked." However, it is specifically identified in the relevant Explanatory Notes under the definition of "worked." Counsel submitted, therefore, that application of the non-stick coating rendered the goods "worked." As the goods are worked circles or discs composed of an aluminum alloy, they are properly classified under tariff item No. 7606.92.90.

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1. R.S.C., 1985, c. C-54.

2. C.R. Tottle, London, Metals Society, Plymouth, MacDonald and Evans, 1984.

3. Customs Co-operation Council, Brussels, First Edition, 1986.

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

5. *Supra*, note 3.

Based on the definitions of "worked" and "unworked," as found in the Explanatory Notes and legal notes, respectively, the Tribunal believes that the non-stick coating received by the aluminum discs disqualifies them as "unworked" as that term is used in the *Customs Tariff*. Accordingly, the appeal is dismissed.

John C. Coleman  
John C. Coleman  
Member

Robert C. Coates, Q.C.  
Robert C. Coates, Q.C.  
Member

Desmond Hallissey  
Desmond Hallissey  
Member