

Ottawa, Friday, March 18, 1994

Appeal No. AP-92-276

IN THE MATTER OF an appeal heard on November 1, 1993,
under section 67 of the *Customs Act*, R.S.C. 1985, c. 1 (2nd
Supp.);

AND IN THE MATTER OF a decision of the Deputy Minister
of National Revenue for Customs and Excise dated December
19, 1992, with respect to a request for re-determination under
section 63 of the *Customs Act*.

BETWEEN

LIGHT TOUCH STENOGRAPHIC SERVICES LTD.

Appellant

AND

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

Respondent

DECISION OF THE TRIBUNAL

The appeal is dismissed.

Sidney A. Fraleigh

Sidney A. Fraleigh
Presiding Member

Anthony T. Eyton

Anthony T. Eyton
Member

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Member

Michel P. Granger

Michel P. Granger
Secretary

UNOFFICIAL SUMMARY

Appeal No. AP-92-276

LIGHT TOUCH STENOGRAPHIC SERVICES LTD.

Appellant

and

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

Respondent

The goods in issue are stenographic ribbons for use in stenotype machines. They are manufactured from long run cotton fibres and are continuous loop in design. The issue in this appeal is whether the stenographic ribbons are properly classified under tariff item No. 9612.10.90 as other typewriter or similar ribbons, as determined by the respondent, or should be classified under tariff item No. 8522.90.10 as parts of dictating or transcribing machines, as contended by the appellant.

***HELD:** The appeal is dismissed. Goods that are specifically named in the tariff nomenclature are classified there and not elsewhere as a part of some other article. In this regard, the Tribunal observes that the goods in issue are inked ribbons similar to typewriter ribbons used for giving impressions. As these goods are specifically named in heading No. 96.12, they are classified thereunder. As they are made of cotton fibres, they are classified under tariff item No. 9612.10.90.*

*Place of Hearing: Calgary, Alberta
Date of Hearing: November 1, 1993
Date of Decision: March 18, 1994*

*Tribunal Members: Sidney A. Fraleigh, Presiding Member
Anthony T. Eyton, Member
Robert C. Coates, Q.C., Member*

Counsel for the Tribunal: David M. Attwater

Clerk of the Tribunal: Anne Jamieson

*Appearances: Garry D. Bratland, for the appellant
Anne M. Turley, for the respondent*

Appeal No. AP-92-276

LIGHT TOUCH STENOGRAPHIC SERVICES LTD.

Appellant

and

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

Respondent

TRIBUNAL: SIDNEY A. FRALEIGH, Presiding Member
ANTHONY T. EYTON, Member
ROBERT C. COATES, Q.C., Member

REASONS FOR DECISION

This is an appeal under section 67 of the *Customs Act*¹ (the Act) from a decision of the Deputy Minister of National Revenue for Customs and Excise (the Deputy Minister). The goods in issue were imported into Calgary on April 9, 1991. At the time of entry, the goods were classified under tariff item No. 8473.10.93 as parts and accessories of typewriters and word processing machines. The appellant requested a re-determination of the tariff classification pursuant to section 60 of the Act. The goods were reclassified under tariff item No. 9612.10.90 as other typewriter or similar ribbons, inked or otherwise prepared for giving impressions, whether or not on spools or in cartridges. This determination was upheld by the Deputy Minister in a decision made pursuant to section 63 of the Act. The appellant then appealed from this decision to the Tribunal.

The goods in issue are stenographic ribbons for use in steno machines. They are manufactured from long run cotton fibres and are continuous loop in design. The issue in this appeal is whether the stenographic ribbons are properly classified under tariff item No. 9612.10.90 as other typewriter or similar ribbons, as contended by the respondent, or under tariff item No. 8522.90.10 as parts of dictating or transcribing machines, as contended by the appellant.

For purposes of this appeal, the relevant tariff nomenclature of Schedule I to the *Customs Tariff*² reads as follows:

- | | |
|-------|---|
| 85.19 | <i>Turntables (record-decks), record-players, cassette-players and other sound reproducing apparatus, not incorporating a sound recording device.</i> |
| 85.20 | <i>Magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device.</i> |
| 85.21 | <i>Video recording or reproducing apparatus.</i> |
| 85.22 | <i>Parts and accessories of apparatus of heading Nos. 85.19 to 85.21.</i> |

1. R.S.C. 1985, c. 1 (2nd Supp.).
2. R.S.C. 1985, c. 41 (3rd Supp.).

- 8522.90 *-Other*
- 8522.90.10 *---Tape transport mechanisms and parts thereof; tone-arms; parts of turntables (record-decks) or record-players, excluding styli; parts of dictating or transcribing machines, excluding machines using magnetic tape; parts of the goods of tariff item No. 8519.99.10, 8520.31.10, 8520.39.10 or 8520.90.10*
- 96.12 *Typewriter or similar ribbons, inked or otherwise prepared for giving impressions, whether or not on spools or in cartridges; ink-pads, whether or not inked, with or without boxes.*
- 9612.10 *-Ribbons*
- 9612.10.10 *---Containing man-made fibres*
- 9612.10.90 *---Other*

Mr. Garry D. Bratland, President of Light Touch Stenographic Services Ltd., told the Tribunal that, under the former tariff nomenclature, the goods in issue were classified under tariff item 41410-1. Goods formerly classified under this tariff item are now classified under tariff item No. 8522.90.10. Mr. Bratland referred the Tribunal to a letter dated September 19, 1985, in which Mr. Brian E. Boyd, Director of Marketing for Stenograph Corporation in the United States, indicates that the ribbons are manufactured by his company and that they "are a part of the Stenograph shorthand machine and are not used on any other device." The witness indicated that there are no other manufacturers of these ribbons. During cross-examination, Mr. Bratland confirmed that the goods are used exclusively in stenotype machines and are not used in compact disc and cassette players or any other sound reproducing devices.

In argument, Mr. Bratland sought to distinguish the goods in issue from those considered by the Tariff Board in *Xerox Canada Inc. v. The Deputy Minister of National for Customs and Excise*.³ In that case, the Tariff Board determined that plastic film typewriter ribbons in cartridge or cassette form were supplies and not "[p]arts of typewriters." In this regard, Mr. Bratland noted that the goods in issue, being continuous loop in design, were endless, that they could function for several years and that they were substantially incorporated into the stenotype machine. It was submitted that the tariff nomenclature does not describe these goods by name, but that, according to trade usage, they are parts of a stenotype machine.

Counsel for the respondent submitted that the goods cannot be classified as claimed by the appellant. The stenotype machine, which utilizes the ribbons, is not classifiable under heading Nos. 85.19 to 85.21. As the goods in issue are not parts of goods classifiable under these headings, they are not classifiable under heading No. 85.22. In addition, simply because the ribbons are designed to be inserted into stenotype machines does not make them a part thereof.

The goods in issue are inked ribbons prepared for giving impressions and, as such, are classifiable under heading No. 96.12. In support of this proposition, counsel for the respondent

3. 17 C.E.R. 47, Appeal Nos. 2678 and 2722, July 15, 1988.

referred to the Explanatory Notes to the Harmonized Commodity Description and Coding System⁴ to this heading which state that it covers ribbons for typewriters, calculating machines, or for any other machines incorporating a device for printing by means of such ribbons.

As indicated by the Tribunal in *York Barbell Co. Ltd. v. The Deputy Minister of National Revenue for Customs and Excise*,⁵

*When classifying goods as either parts of something or as entities in their own right, the application of Rule 1 of the General Rules for the Interpretation of the Harmonized System (General Rules) is of utmost importance. This rule states that classification is first determined by the wording of the tariff headings and any relevant legal note. Therefore, the first consideration of the Tribunal is whether the goods are named or generically described in a particular heading of the tariff schedule. If the goods are named in the heading, they are classified there, subject to any relevant legal note. If not, the Tribunal would give consideration to the heading of the product for which the goods are claimed to be a part.*⁶

Thus, goods that are specifically named in the tariff nomenclature are classified there and not elsewhere as a part of some other article.

In this regard, the Tribunal observes that the goods in issue are inked ribbons similar to typewriter ribbons used for giving impressions. As these goods are specifically named in heading No. 96.12, they are classified thereunder. As they are made of cotton fibres, they are classified under tariff item No. 9612.10.90.

As to the tariff classification proposed by the appellant, the Tribunal only observes that the stenotype machines themselves would not be classified under heading Nos. 85.19 to 85.21. As such, parts of the stenotype machines would not be classified under heading No. 85.22.

Accordingly, the appeal is dismissed.

Sidney A. Fraleigh
Sidney A. Fraleigh
Presiding Member

Anthony T. Eyton
Anthony T. Eyton
Member

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

4. Customs Co-operation Council, 1st ed., Brussels, 1986.

5. 5 T.C.T. 1150, Appeal No. AP-91-131, March 16, 1992.

6. *Ibid.* at 1151.