



Ottawa, Thursday, October 28, 1993

Appeal No. AP-92-226

IN THE MATTER OF an appeal heard on May 7, 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  
November 21, 1992.

**BETWEEN**

**HAMIDA TEXTILES INC.**

**Appellant**

**AND**

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

**Respondent**

**DECISION OF THE TRIBUNAL**

The appeal is dismissed.

W. Roy Hines  
W. Roy Hines  
Presiding Member

Sidney A. Fraleigh  
Sidney A. Fraleigh  
Member

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

Michel P. Granger  
Michel P. Granger  
Secretary

*UNOFFICIAL SUMMARY*

Appeal No. AP-92-226

**HAMIDA TEXTILES INC.**

**Appellant**

**and**

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

**Respondent**

*The goods in issue are cloths or towels. The issue in this appeal is whether the goods are more properly classified under tariff item No. 6307.10.10 as "Industrial shop towels ... of a weight of 135 g/m2 or more but not exceeding 203 g/m2," as claimed by the appellant, or properly classified under tariff item No. 6307.10.90 as "Other...[f]loor-cloths, dish-cloths, dusters and similar cleaning cloths," as claimed by the respondent.*

***HELD:** The appeal is dismissed. The goods in issue are properly classified under tariff item No. 6307.10.90 as "Other...[f]loor-cloths, dish-cloths, dusters and similar cleaning cloths."*

*Place of Hearing: Ottawa, Ontario  
Date of Hearing: May 7, 1993  
Date of Decision: October 28, 1993*

*Tribunal Members: W. Roy Hines, Presiding Member  
Sidney A. Fraleigh, Member  
Robert C. Coates, Q.C., Member*

*Counsel for the Tribunal: Robert Desjardins*

*Clerk of the Tribunal: Janet Rumball*

Appeal No. AP-92-226

HAMIDA TEXTILES INC.

Appellant

and

THE DEPUTY MINISTER OF NATIONAL REVENUE  
FOR CUSTOMS AND EXCISE

Respondent

TRIBUNAL: W. ROY HINES, Presiding Member  
SIDNEY A. FRALEIGH, Member  
ROBERT C. COATES, Q.C., Member

REASONS FOR DECISION

This is an appeal under section 67 of the *Customs Act*<sup>1</sup> from a decision of the Deputy Minister of National Revenue for Customs and Excise (the Deputy Minister) dated November 21, 1992.

The parties agreed that the present case should be disposed of on the basis of written submissions. The facts, as agreed by them, are the following. On January 28, 1992, the appellant imported into Canada cloths or towels. These goods were imported under tariff item No. 6307.10.10, which refers to industrial shop towels of a specified description, of subheading No. 6307.10 - "Floor-cloths, dish-cloths, dusters and similar cleaning cloths." By notice dated May 11, 1992, the appellant was informed that the classification of the goods had been re-determined as tariff item No. 6307.10.90. By notice of decision dated November 21, 1992, the respondent confirmed this classification.

The goods in issue consist of rectangular pieces of cloth, 44 cm x 45 cm. They have a hem on each of the three sides and a selvage on the fourth side. These cloths are made from unbleached fabric, with warp yarns of 604 decitex and weft yarns of 566 decitex. The cloths have 117 yarns per 10 cm in the warp and 79 yarns per 10 cm in the weft. Samples of the cloths were weighed under the conditions set out in Explanatory Note<sup>2</sup> (IV), "Standard Atmospheres for Conditioning and Testing of Textiles," which relates to Section XI of the *Customs Tariff*<sup>3</sup> - "Textiles and Textile Articles." The cloths were found to have an average weight of approximately 129.0 g/m<sup>2</sup> to 129.5 g/m<sup>2</sup>.

The issue in this appeal is whether the goods are more properly classified under tariff item No. 6307.10.10 as "Industrial shop towels ... of a weight of 135 g/m<sup>2</sup> or more but not exceeding 203 g/m<sup>2</sup>," as claimed by the appellant, or properly classified under tariff item No. 6307.10.90 as "Other ... [f]loor-cloths, dish-cloths, dusters and similar cleaning cloths," as claimed by the respondent.

1. R.S.C. 1985, c. 1 (2nd Supp.).
2. Explanatory Notes to the Harmonized Commodity Description and Coding System, Customs Co-operation Council, 1st ed., Brussels, 1986.
3. R.S.C. 1985, c. 41 (3rd Supp.).

The appellant contended that the imported shop towels fall under tariff item No. 6307.10.10 and are duty-free under the Generalized Preferential Tariff. Counsel for the respondent conceded that the goods satisfy all the criteria set out in this particular tariff item except that referring to weight. Counsel for the respondent argued that the goods can be classified under this tariff item only if they weigh between 135 g/m<sup>2</sup> and 203 g/m<sup>2</sup>. Since tests have shown that the goods weigh less than 135 g/m<sup>2</sup>, counsel for the respondent submitted that these goods cannot be classified under the tariff item sought by the appellant, but must rather be classified under tariff item No. 6307.10.90.

Having reviewed the file and considered the arguments, the Tribunal is of the view that the appeal must be dismissed. As put forth in the respondent's brief, the onus is on the appellant to show that the respondent has incorrectly classified the goods. As to the weight criterion, the appellant has not submitted any specific evidence in support of its case, nor rebutted the evidence contained in the technical reports under Tabs 1 and 2 of the respondent's brief.<sup>4</sup> Indeed, paragraph 5 of the agreed statement of facts indicates that the appellant has acknowledged that the cloths' average weight is approximately 129.0 g/m<sup>2</sup> to 129.5 g/m<sup>2</sup>. As the weight of the goods is below that specified in tariff item No. 6307.10.10, the Tribunal considers that the goods are properly classified under tariff item No. 6307.10.90.

Accordingly, the appeal is dismissed.

W. Roy Hines  
W. Roy Hines  
Presiding Member

Sidney A. Fraleigh  
Sidney A. Fraleigh  
Member

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

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4. Tab 1: Department of National Revenue, Customs and Excise, Textile/Inorganic Laboratory of the Laboratory & Scientific Services Directorate, Memorandum, March 1, 1993; and Tab 2: Ortech International, Report Number 93-T51-T0104, February 11, 1993.