

Ottawa, Friday, January 7, 1994

**Appeal No. AP-93-032**

IN THE MATTER OF an appeal heard on June 22, 1993,  
under section 67 of the *Customs Act*, R.S.C. 1985, c. 1  
(2nd Supp.);

AND IN THE MATTER OF decisions of the Deputy Minister  
of National Revenue for Customs and Excise dated  
April 8, 1993, with respect to requests for re-determination  
under section 63 of the *Customs Act*.

**BETWEEN**

**CAMCO INC. (MONTRÉAL)**

**Appellant**

**AND**

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

**Respondent**

**DECISION OF THE TRIBUNAL**

The appeal is allowed.

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

W. Roy Hines  
W. Roy Hines  
Member

Desmond Hallissey  
Desmond Hallissey  
Member

Michel P. Granger  
Michel P. Granger  
Secretary

**UNOFFICIAL SUMMARY**

**Appeal No. AP-93-032**

**CAMCO INC. (MONTRÉAL)**

**Appellant**

**and**

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

**Respondent**

*This is an appeal under section 67 of the Customs Act from decisions of the Deputy Minister of National Revenue for Customs and Excise dated April 8, 1993. The issue in this appeal is whether the brake bands imported by the appellant are properly classified under tariff item No. 8450.90.10 as parts of the goods of tariff item No. 8450.11.10, 8450.12.00 or 8450.19.00, as contended by the respondent, or should be classified under tariff item No. 8485.90.10 as parts of mechanically operated brakes, as claimed by the appellant.*

**HELD:** *The appeal is allowed. The evidence has shown that there is an unambiguous link between the imported brake bands and the brakes. Furthermore, the evidence has revealed that the brake bands are parts of mechanically operated brakes. The goods in issue are, thus, classified under tariff item No. 8485.90.10 as parts of mechanically operated brakes.*

*Place of Hearing: Ottawa, Ontario*

*Date of Hearing: June 22, 1993*

*Date of Decision: January 7, 1994*

*Tribunal Members: Robert C. Coates, Q.C., Presiding Member*

*W. Roy Hines, Member*

*Desmond Hallissey, Member*

*Counsel for the Tribunal: Robert Desjardins*

*Clerk of the Tribunal: Janet Rumball*

*Appearances: P.L. Gupta and Don Bannister, for the appellant*

*Christine Hudon, for the respondent*

**Appeal No. AP-93-032**

**CAMCO INC. (MONTRÉAL)**

**Appellant**

**and**

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

**Respondent**

TRIBUNAL: ROBERT C. COATES, Q.C., Presiding Member  
W. ROY HINES, Member  
DESMOND HALLISSEY, Member

**REASONS FOR DECISION**

This is an appeal under section 67 of the *Customs Act*<sup>1</sup> (the Act) from decisions of the Deputy Minister of National Revenue for Customs and Excise dated April 8, 1993, under section 63 of the Act.

The appellant is a manufacturer of home appliances, including automatic washing machines. It imported brake bands into Canada to be used in manufacturing these washing machines.

The issue in this appeal is whether the brake bands imported by the appellant are properly classified under tariff item No. 8450.90.10 of Schedule I to the *Customs Tariff*<sup>2</sup> as parts of the goods of tariff item No. 8450.11.10, 8450.12.00 or 8450.19.00, as contended by the respondent, or should be classified under tariff item No. 8485.90.10 as parts of mechanically operated brakes, as claimed by the appellant.

Mr. P.L. Gupta testified on behalf of Camco Inc. (Montréal), the appellant, where he is Manager of Inbound Transportation and Customs. He also argued the appellant's case. During his brief testimony, Mr. Gupta described the goods in issue. He added that the function of the brake band is to stop the transmission of a washing machine from spinning. It may be noted that the transmission performs essentially two functions, i.e. a spinning function and an agitating function. Mr. Gupta indicated that a brake is made up of a base plate and a brake band, to which is added a lining; the brake then forms part of the transmission of a washing machine.

Mr. John Hart, President of DASA Manufacturing Ltd., testified on behalf of the respondent. Mr. Hart's company rebuilds washing machine transmissions for the appliance industry. Mr. Hart indicated to the Tribunal that the brake band is found at the bottom of a washing machine transmission. The brake band stops the internal parts of the transmission from rotating and spinning, and allows the power to be transferred through the gears. During cross-examination, Mr. Hart agreed with Mr. Gupta that a transmission constitutes a separate component of a washing machine when "everything is assembled into it." Finally, he told the Tribunal that the brake band, "once it is installed [in a cast frame], it's a brake, yes." He further added that the brake could be called or be characterized as a mechanical brake.

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

The appellant's representatives argued that the goods in issue are not parts of washing machines. In their view, the brake band is specifically designed to act as a brake part. The lining added to that part does not change the essential nature of the band. Under Rule 2 (a) of the General Rules for the Interpretation of the Harmonized System<sup>3</sup> (the General Rules), any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article.

Counsel for the respondent first argued that the relevant question to be asked relates to the purpose of the goods in issue. In her view, not only is a brake band part of a washing machine but it is specifically designed for only certain types of washing machines. Then, after referring to Rule 1 of the General Rules, counsel mentioned the Notes to Chapter 84 of Schedule I to the *Customs Tariff* to emphasize that there is nothing to exclude the brake band from that Chapter. She also referred to Note 2 (b) to Section XVI of Schedule I to the *Customs Tariff*, which provides that other parts, if suitable for use solely or principally with a particular kind of machine are to be classified with the machines of that kind. Finally, she drew the Tribunal's attention to the Explanatory Notes<sup>4</sup> to heading No. 84.85 which provide that, in general, goods of this particular heading are such that they can be recognized as being parts of machines, but not as being parts of any particular machine.

Having reviewed the evidence and considered the arguments, the Tribunal is of the view that the appeal must be allowed. In issue in the present case are imported brake bands used in the assembly or production of brakes inserted in washing machine transmissions. Thus, there is an unambiguous link between the imported brake bands and the brakes. Mr. Hart testified at the hearing that, in his view, the brake is a mechanically operated brake, of which the brake band is a part. More particularly, speaking of the brake band, Mr. Gupta told the Tribunal that it is a "[p]art of a brake. Under [heading No.] 84.85, mechanically operated brakes." The Tribunal is in full agreement with this opinion. Therefore, the Tribunal concludes that the goods in issue are classified under tariff item No. 8485.90.10 as parts of mechanically operated brakes.

In light of the foregoing, the appeal is allowed.

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

W. Roy Hines  
W. Roy Hines  
Member

Desmond Hallissey  
Desmond Hallissey  
Member

---

3. *Ibid.*, Schedule I.

4. Explanatory Notes to the Harmonized Commodity Description and Coding System, Customs Co-operation Council, 1st ed., Brussels, 1986.