

Ottawa, Wednesday, June 29, 1994

Appeal No. AP-93-082

IN THE MATTER OF an appeal heard on December 8, 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
March 24, 1993, with respect to a request for re-determination
under section 63 of the *Customs Act*.

BETWEEN

**THREADS OF TIME - GLOUCESTER ANTIQUES
O/B PRICE-TOMPKINS LTD.**

Appellant

AND

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

Respondent

DECISION OF THE TRIBUNAL

The appeal is allowed.

Charles A. Gracey
Charles A. Gracey
Presiding Member

W. Roy Hines
W. Roy Hines
Member

Lise Bergeron
Lise Bergeron
Member

Michel P. Granger
Michel P. Granger
Secretary

UNOFFICIAL SUMMARY

Appeal No. AP-93-082

**THREADS OF TIME - GLOUCESTER ANTIQUES
O/B PRICE-TOMPKINS LTD.**

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 a decision of the Deputy Minister of National Revenue for Customs and Excise made on March 24, 1993, under section 63 of the Customs Act. The issue in this appeal is whether certain wooden furniture, such as tables, washstands, boxes, cupboards, bookcases, dressers and beds, is properly classified under tariff item No. 9403.60.00 as "Other wooden furniture," as determined by the respondent, or should be classified under tariff item No. 9706.00.00 as "Antiques of an age exceeding one hundred years," as claimed by the appellant.

HELD: *The appeal is allowed. The appellant produced invoices which expressly provide that the wooden furniture listed therein is over 100 years old. On that basis, counsel for the respondent advised the Tribunal that the Deputy Minister of National Revenue for Customs and Excise consented to judgment for the appellant. In the Tribunal's view, the appellant has demonstrated that the wooden furniture in issue are antiques of an age exceeding 100 years.*

*Place of Hearing: Ottawa, Ontario
Date of Hearing: December 8, 1993
Date of Decision: June 29, 1994*

*Tribunal Members: Charles A. Gracey, Presiding Member
W. Roy Hines, Member
Lise Bergeron, Member*

Counsel for the Tribunal: Shelley Rowe

Clerk of the Tribunal: Anne Jamieson

*Appearances: Michael Tompkins, for the appellant
Anne Michaud, for the respondent*

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**THREADS OF TIME - GLOUCESTER ANTIQUES
O/B PRICE-TOMPKINS LTD.**

Appellant

and

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

Respondent

TRIBUNAL: CHARLES A. GRACEY, Presiding Member
W. ROY HINES, Member
LISE BERGERON, 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) made on March 24, 1993, under section 63 of the Act. The issue in this appeal is whether certain wooden furniture, such as tables, washstands, boxes, cupboards, bookcases, dressers and beds, is properly classified under tariff item No. 9403.60.00 of Schedule I to the *Customs Tariff*² as "Other wooden furniture," as determined by the respondent, or should be classified under tariff item No. 9706.00.00 as "Antiques of an age exceeding one hundred years," as claimed by the appellant.

Mr. Michael Tompkins testified on behalf of the appellant that he had personally purchased all of the wooden furniture in issue from antique dealers in England and that he had confirmed their antiquity at the time of the purchases. He provided the Tribunal with copies of all the invoices for the purchases of the wooden furniture in issue and letters from one of the vendors, Fagin's Antiques. As pointed out by Mr. Tompkins, all of the invoices for the purchases of the wooden furniture in issue were issued by antique dealers or auction companies and, in some instances, describe the furniture as Victorian or Georgian, or bear the handwritten annotation "goods over 100 years old." The letters from Fagin's Antiques dated December 4, 1990, and April 10, 1991, provide that Fagin's Antiques deals only in furniture that is over 100 years old and that all of the items purchased by Mr. Tompkins from Fagin's Antiques were over 100 years old.

Counsel for the respondent advised the Tribunal that, on the basis of the invoices introduced by Mr. Tompkins, the Deputy Minister consented to judgment for the appellant. Counsel indicated that the Department of National Revenue had not previously seen these invoices.

In the Tribunal's view, the appellant has demonstrated that the wooden furniture in issue are antiques of an age exceeding 100 years.

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

Accordingly, the appeal is allowed, and the wooden furniture in issue should be classified under tariff item No. 9706.00.00 as "Antiques of an age exceeding one hundred years."

Charles A. Gracey

Charles A. Gracey
Presiding Member

W. Roy Hines

W. Roy Hines
Member

Lise Bergeron

Lise Bergeron
Member