



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Appeals

DECISION AND REASONS

Appeal No. AP-2017-061

Atlas Trailer Coach Products Ltd.

v.

President of the Canada Border
Services Agency

*Decision and reasons issued
Thursday, October 25, 2018*

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IN THE MATTER OF an appeal heard on August 23, 2018, pursuant to subsection 67(1) of the *Customs Act*, R.S.C., 1985, c. 1 (2nd Supp.);

AND IN THE MATTER OF eight decisions of the President of the Canada Border Services Agency, dated December 13, 2017, with respect to a request for re-determination pursuant to subsection 60(4) of the *Customs Act*.

BETWEEN

ATLAS TRAILER COACH PRODUCTS LTD.

Appellant

AND

**THE PRESIDENT OF THE CANADA BORDER SERVICES
AGENCY**

Respondent

DECISION

The appeal is dismissed.

Peter Burn

Peter Burn
Presiding Member

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	August 23, 2018
Tribunal Panel:	Peter Burn, Presiding Member
Support Staff:	Eric Wildhaber, Counsel Sarah Perlman, Counsel

PARTICIPANTS:

Appellant	Counsel/Representative
Atlas Trailer Coach Products Ltd.	Rajesh Mamtora

Respondent	Counsel/Representative
President of the Canada Border Services Agency	Adrian Johnston

WITNESS:

Martin Restoule
Professor/Coordinator
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STATEMENT OF REASONS

INTRODUCTION

[1] This appeal was filed by Atlas Trailer Coach Products Ltd. (Atlas) with the Canadian International Trade Tribunal (the Tribunal) pursuant to subsection 67(1) of the *Customs Act*¹ from eight decisions made by the President of the Canada Border Services Agency (CBSA) on December 13, 2017, pursuant to subsection 60(4) of the *Act*.

[2] The issue in this appeal is whether “Fastway e2 Sway Control Hitches” (the goods in issue) are properly classified under tariff item No. 8708.99.99 of the schedule to the *Customs Tariff*² as “parts and accessories of the motor vehicles of headings 87.01 to 87.05”, as determined by the CBSA, or should be classified under tariff item No. 8302.49.90 (or 8302.49.00 since October 1, 2014) as “base metal mountings, fittings and similar articles suitable for . . . coachwork . . . or the like”, as argued by Atlas.

PROCEDURAL HISTORY

[3] On November 17, 2016, Atlas applied for a refund of duties under paragraph 74(1)(e) of the *Act*, claiming that duties were overpaid as a result of an error in the determination of the tariff classification.

[4] From December 22, 2016, to January 25, 2017, the CBSA re-determined the classification of the goods in issue, affirming their original classification under tariff item No. 8716.90.99 as “trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof”.

[5] On February 8, 2017, Atlas filed a request for a further re-determination of the tariff classification under subsection 60(1) of the *Act*.

[6] On December 13, 2017, the CBSA further re-determined the tariff classification of the goods in issue. It determined that the goods were properly classified under tariff item No. 8708.99.99.

[7] On February 16, 2018, Atlas appealed the CBSA’s decision to the Tribunal under subsection 67(1) of the *Act*.

[8] On May 1, 2018, Atlas filed its brief.

[9] On July 3, 2018, the CBSA filed its brief.

[10] On August 23, 2018, the Tribunal held a hearing, in which the CBSA called one witness.

DESCRIPTION OF THE GOODS IN ISSUE

[11] The goods in issue, imported by Atlas and supplied by Progress Manufacturing Inc., based in Utah, USA, are called “Fastway e2 Sway Control Hitch”. These hitches are composed of many small interconnecting components made mainly of iron and steel. These components include two sway

1. R.S.C., 1985, c. 1 (2nd Supp.) [*Act*].

2. S.C. 1997, c. 36.

control brackets, one hitch head, one standard shank, two spring arms, one snap up lever, and the installation hardware. The hitches are used to connect a vehicle to various types of trailers, carts, wagons, etc.

LEGAL FRAMEWORK

Relevant Tariff Nomenclature and Notes

[12] The nomenclature for tariff item No. 8708.99.99, the classification determined by the CBSA, reads as follows:

Section XVII

VEHICLES, AIRCRAFT, VESSELS AND ASSOCIATED TRANSPORT EQUIPMENT

...

Chapter 87

VEHICLES OTHER THAN RAILWAY OR TRAMWAY ROLLING-STOCK, AND PARTS AND ACCESSORIES THEREOF

...

87.08 Parts and accessories of the motor vehicles of headings 87.01 to 87.05.

...

8708.99 - -Other

...

8708.99.99 - - - -Other

[13] Note 2(b) to Section XVII reads as follows:

2. The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:

...

(b) Parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV) . . . ;

[14] Subsequently, note 2(c) to Section XV provides as follows:

2. Throughout the Nomenclature, the expression “parts of general use” means:

...

(c) Articles of headings . . . 83.02 . . . ;

[15] Note 3 to Section XVII reads as follows:

References in Chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

[16] The explanatory notes of Section XVII read in relevant part as follows:

[Chapters 86 to 88] each provide for the classification of parts and accessories of the vehicles, aircraft or equipment concerned.

It should, however, be noted that these headings apply **only** to those parts or accessories which comply with **all three of** the following conditions:

(a) They must not be excluded by the terms of Note 2 to this Section

and (b) They must be suitable for use solely or principally with the articles of Chapter 86 to 88

and (c) They must not be more specifically included elsewhere in the Nomenclature

. . .

This Note **excludes** the following parts and accessories, whether or not they are identifiable as for the articles of this Section:

. . .

(2) **Parts of general use as defined in Note 2 to Section XV**, for example, . . . fittings or mountings for vehicle coachwork (e.g. made up ornamental beading strips, hinges, door handles, grip bars, foot rests, window opening mechanisms) . . . (such goods of base metals fall in **Chapter 83** . . .).

. . .

(B) Criterion of sole or principal use.

(1) Parts and accessories classifiable both in Section XVII and in another Section.

Under Section Note 3, parts and accessories which are not suitable for use **solely or principally** with the articles of Chapters 86 to 88 are **excluded** from those Chapters.

The effect of Note 3 is therefore that when a part or accessory can fall in one or more other Sections as well as in Section XVII, its final classification is determined by its **principal use**. . . .

...

(C) Parts and accessories covered more specifically elsewhere in the Nomenclature.

Parts and accessories, even if identifiable as for the articles of this Section, are **excluded** if they are covered more specifically by another heading elsewhere in the Nomenclature

[17] The explanatory notes to Chapter 87 read in relevant part as follows:

This Chapter covers the following vehicles . . . :

...

(2) Motor vehicles designed for the transport of persons (heading 87.02 or 87.03) or goods (heading 87.04) or for special purposes (heading 87.05).

...

This Chapter also covers parts and accessories which are identifiable as being suitable for use **solely or principally** with the vehicles included therein, **subject** to the provisions of the Notes to Section XVII (see the General Explanatory Note to the Section).

[18] The explanatory notes to heading No. 87.08 read in relevant part as follows:³

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05, **provided** the parts and accessories fulfil **both** the following conditions:

(i) They must be identifiable as being suitable for use solely or principally with the above mentioned vehicles;

and (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

[19] The nomenclature for tariff item No. 8302.49.90 (or 8302.49.00 since October 1, 2014), the classification supported by Atlas, reads as follows:

Section XV

BASE METALS AND ARTICLES OF BASE METAL

...

Chapter 83

MISCELLANEOUS ARTICLES OF BASE METAL

...

3. There are no relevant classification opinions.

83.02 Base metal mountings, fittings and similar articles suitable for . . . coachwork . . . or the like . . .

. . .

8302.49 - -Other

. . .

8302.49.90 - - -Other

[20] Note 1(g) to Section XV reads as follows:

1. This Section does not cover:

. . .

(g) Assembled railway or tramway track (heading 86.08) or other articles of Section XVII (vehicles, ships and boats, aircraft);

[21] Note 3 to Section XV reads in relevant parts as follows:

Throughout the Nomenclature, the expression “base metals” means: iron and steel . . .

[22] Legal note 1 to Chapter 83 reads as follows:

For the purpose of this Chapter, parts of base metals are to be classified with their parent articles. . .

[23] The explanatory notes to heading No. 83.02 read in relevant part as follows:⁴

This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on . . . coachwork, etc. Goods within such general classes remain in this heading even if they are designed for particular uses (e.g. door handles or hinges for automobiles). . .

This heading covers:

. . .

(C) **Mountings, fittings and similar articles suitable for motor vehicles** (e.g. motor cars, lorries or motor coaches), **not being** parts or accessories of **Section XVII**. For example: made up ornamental beading strips; foot rests; grip bars; rails and handles; fittings for blinds (rods, brackets, fastening fittings, spring mechanisms, etc.); interior luggage racks; window opening mechanisms; specialized ash trays; tail-board fastening fittings.

4. There are no relevant classification opinions.

WITNESSES AND EVIDENCE

[24] Atlas filed the owner's manual, pages from the manufacturer's website, dictionary definitions, and a video from the manufacturer's website, explaining how to install the goods in issue.

[25] Atlas did not call any witnesses.

[26] The CBSA filed pages from trailer product and automobile websites, dictionary definitions, the owner's manual, and two promotional videos by the manufacturer for the goods in issue.

[27] The CBSA called one witness: Mr. M. Restoule, Professor and Transportation Coordinator, Algonquin College. He testified about the installation and use of the goods in issue.

POSITIONS OF THE PARTIES

Atlas

[28] Atlas submits that the goods in issue are metallic mountings, fittings or similar articles suitable for coachwork or the like, such as trailers, carts, wagons, etc. It argues that the goods in issue meet the conditions of heading No. 83.02 as follows.

[29] First, Atlas submits that they are made of base metals, as defined in note 3 to Section XV, namely iron and steel.⁵

[30] Second, Atlas submits that they are mountings or fittings or similar articles. The terms "mountings" and "fittings" are not defined in the *Customs Tariff* or the *Explanatory Notes to the Harmonized Commodity Description and Coding System*.⁶ Atlas suggests that "mountings" should be defined as something that serves as a mount, support or setting to anything, and that "fittings" should be defined as a part that is used to connect, assemble or hold in place two pieces. Atlas argues that the goods in issue are "mountings" or "fittings" or similar articles because they connect, attach and hold in place two things, namely the trailer and the towing motor vehicle.⁷

[31] Third, Atlas submits that they are suitable for coachwork or the like, as they are mounted or fitted on the body or structure of the trailer. It submits that "coachwork" should be defined as the "body of a car", "an automobile body", "the bodywork of the vehicle" or "the body of a car or other vehicle, especially the outside surface". According to Atlas, the goods in issue are designed to be mounted or fitted on the body or structure of something like coachwork, namely trailer bodies.⁸

[32] In addition, Atlas submits that the goods in issue are "parts of general use" as they fulfill the requirement of note 2(c) to Section XV.⁹ As such, they should be excluded from Section XVII and cannot be classified under tariff item No. 8708.99.99.

5. Exhibit AP-2017-061-08A at para. 32(i), Vol. 1.

6. World Customs Organization, 5th ed., Brussels, 2017 [*Explanatory Notes*].

7. Exhibit AP-2017-061-08A at para. 32(ii), Vol. 1.

8. *Ibid.* at para. 33.

9. *Ibid.* at para. 45.

[33] Atlas also denies that the goods in issue could be classified as parts or accessories of the motor vehicles of heading Nos. 87.01 to 87.05. Once they are installed on a trailer, the goods in issue only need to be attached to their counterpart, which is already present on the motor vehicle. According to Atlas, the goods in issue thus have nothing to do with motor vehicles.¹⁰

[34] Finally, Atlas submits that the goods in issue are not “parts” or “accessories” of trailers, since they are “parts of general use”, which are expressly excluded from the “parts” and “accessories” of Section XVII according to note 2(b) to Section XVII.¹¹ As such, they cannot be classified under heading No. 87.16.¹² Should the Tribunal find that the goods in issue are “accessories”, Atlas submits that “accessories” are not included in heading No. 87.16. The goods in issue could thus not be classified as accessories to trailers under that heading.¹³

CBSA

[35] The CBSA submits that the goods in issue are properly classified under heading No. 8708.99.99 as other accessories of motor vehicles of heading Nos. 87.01 to 87.05.

[36] First, the CBSA submits that the goods in issue benefit both the towing vehicle and the trailer by ensuring proper weight distribution between the two. They particularly benefit the towing vehicle by enhancing its towing and driving functions. Accordingly, the CBSA submits that it correctly classified the goods in issue as accessories to motor vehicles.¹⁴

[37] Second, the CBSA argues that the goods in issue are not mountings or fittings suitable for “coachwork”. It submits that the term “coachwork” refers to the body of a vehicle, whereas the goods in issue are attached to the frame or tongue of the trailer.¹⁵

[38] Finally, the CBSA submits that the goods in issue meet the four conditions of heading No. 87.08, which, according to the terms of the heading and the *Explanatory Notes*, state that the goods

- i. must be suitable for use solely or principally with the motor vehicles of heading Nos. 87.01 to 87.05;
- ii. must be either parts or accessories;
- iii. must not be excluded by the provisions in the notes to Section XVII; and
- iv. must not be covered more specifically elsewhere in the nomenclature.¹⁶

[39] Regarding the first requirement, the CBSA submits that descriptions and pictures of the goods in issue and of similar goods online show that they are used with various vehicles, and are

10. *Ibid.* at para. 46.

11. *Ibid.* at para. 24.

12. *Ibid.* at para. 16(c).

13. *Ibid.* at para. 60.

14. Exhibit AP-2017-061-10A at para. 1, Vol. 1A.

15. *Ibid.* at para. 2.

16. *Ibid.* at para. 20.

used to tow other vehicles or trailers behind them.¹⁷ These vehicles include automobiles, minivans, pick-up trucks and the like, all of which are classified under heading Nos. 87.03 and 87.04 as “motor cars and other motor vehicles principally designed for the transport of persons . . . including station wagons and racing cars” or “motor vehicles for the transport of goods”.¹⁸

[40] The CBSA also submits that the goods in issue are suitable for use “principally” with towing vehicles: the most important use of the goods is to improve the vehicle’s towing, handling and overall functionality, in addition to reducing the trailer’s sway.¹⁹

[41] Regarding the second requirement, the CBSA submits that the goods are “accessories”, as that term was previously defined by the Tribunal. In *Fastco Canada v. The Deputy Minister of National Revenue*, the Tribunal held that an accessory is “something contributing in a subordinate degree to a general result or effect; an adjunct or accompaniment” which does not need to be necessary to the product to which it relates, unlike parts.²⁰

[42] In addition, the CBSA submits that the Tribunal found in a previous case that bicycle racks are accessories to motor vehicles, because they enhance the load capacity of the vehicle by allowing it to carry bicycles safely.²¹ In another case, the Tribunal found that emergency towing straps are “accessories” in part because they allow vehicles to tow other vehicles.²² The CBSA submits that the goods in issue are “accessories” as they also contribute to the vehicles’ ability to tow and improve driving conditions while towing.²³

[43] Regarding the third requirement, the CBSA submits that the goods in issue are not excluded by note 2(b) to Section XVII, contrary to Atlas’ submissions. Specifically, the CBSA argues that the goods in issue are not suitable for coachwork or the like. The CBSA agrees that “coachwork” should be defined as an automobile body or bodywork, which is in turn the vehicle’s body or the outer shell of the vehicle.²⁴ Moreover, the CBSA submits that the body is distinct from the vehicle’s “frame” or “chassis” and to the trailer’s tongue, to which the goods in issue attach.²⁵

17. *Ibid.* at para. 21.

18. *Ibid.*

19. *Ibid.* at paras. 22-26.

20. *Ibid.* at para. 28; See *Fastco Canada v. The Deputy Minister of National Revenue* (29 April 1997), AP-96-078 (CITT) [*Fastco*]; *Cycles Lambert Inc. v. President of the Canada Border Services Agency* (12 July 2013), AP-2011-060 (CITT) at para. 48, affirmed in *Cycles Lambert Inc. v. Canada (Border Services Agency)*, 2015 FCA 45 (CanLII).

21. Exhibit AP-2017-061-10A at para. 29, Vol. 1A; See *Accessoires Sportracks Inc. de Thule Canada Inc. v. President of the Canada Border Services Agency* (13 January 2012), AP-2010-036 (CITT) at para. 25.

22. Exhibit AP-2017-061-10A at para. 29, Vol. 1A; See *Rui Royal International Corp v. Canada Border Services Agency* (30 March 2011), AP-2010-003 (CITT) at para. 52.

23. Exhibit AP-2017-061-10A at para. 30, Vol. 1A.

24. *Ibid.* at para. 37.

25. *Ibid.* at paras. 39-43.

[44] The CBSA also submits that “coachwork” does not share important characteristics or have common features with trailers, wagons, carts, etc., and notes that Atlas does not provide any arguments supporting this assertion.²⁶

[45] Regarding the fourth requirement, the CBSA submits that the goods in issue are not more specifically described elsewhere in the nomenclature. First, the goods in issue are properly classified in Section XVII as accessories of motor vehicles and are thus excluded from classification under heading No. 83.02.²⁷ Second, the CBSA agrees with Atlas that the goods in issue are not classifiable under heading No. 87.16.²⁸

ANALYSIS

[46] As indicated above, the Tribunal must determine whether the goods in issue are properly classified under tariff item No. 8708.99.99 as accessories of the motor vehicles of heading Nos. 87.01 to 87.05, as determined by the CBSA, or should be classified under tariff item No. 8302.49.90 (or 8302.49.00 since October 1, 2014) as base metal mountings or fittings suitable for coachwork or the like, as claimed by Atlas. Consequently, the dispute between the parties arises at the heading level.

[47] The Tribunal notes that the explanatory notes to Section XVII state that this section excludes “[p]arts of general use as defined in Note 2 to Section XV . . . (such goods of base metals fall in Chapter 83 . . .).” In addition, note 1(g) to Section XV states that the section does not cover “other articles of Section XVII (vehicles, ships and boats, aircraft)”.

[48] Consequently, the two competing headings, namely, heading Nos. 87.08 and 83.02, are mutually exclusive. Therefore, the goods in issue are not *prima facie* classifiable under both headings.²⁹

[49] In these circumstances, unlike in situations where there is only one exclusionary note, the Tribunal need not begin its consideration of the competing headings in any particular order.³⁰ Accordingly, the Tribunal will determine, on the basis of the evidence before it, whether the goods in issue meet the terms of heading No. 87.08 or those of heading No. 83.02.

[50] It is well established that, although appeals before the Tribunal proceed *de novo*, the appellant bears the burden of demonstrating that the classification of imported goods was incorrect,

26. *Ibid.* at para. 44-45; See *Canadian Tire Corporation Ltd v. Canada Border Services Agency* (22 May 2012), AP-2011-024 (CITT) at para. 44 [*Canadian Tire*], where the Tribunal held that something must share important characteristics and have common features with the items it is compared with for it to be considered “the like”.

27. Exhibit AP-2017-061-10A at para. 46 and 48, Vol. 1A.

28. *Ibid.* at para. 49-50.

29. *Janicki & Associates Ltd. v. President of the Canada Border Services Agency* (10 August 2017), AP-2016-025 (CITT) [*Janicki*] at para. 28; *Sher-Wood Hockey Inc. v. President of the Canada Border Services Agency* (10 February 2011), AP-2009-045 (CITT) at para. 39; *Helly Hansen Leisure Canada Inc. v. President of the Canada Border Services Agency*, (2 June 2008), AP-2006-054 (CITT) at para. 24, affirmed in *Helly Hansen Leisure Canada Inc. v. Canada (Border Services Agency)*, 2009 FCA 345 (CanLII).

30. *Janicki* at para. 29; *Rutherford Controls International Corp. v. President of the Canada Border Services Agency* (26 January 2011), AP-2009-076 (CITT) at para. 44.

in accordance with subsection 152(3) of the *Act*.³¹ Thus, since Atlas bears the burden of proving that the goods in issue are classifiable under heading No. 83.02, the Tribunal will first consider whether they are classifiable under that heading.

The Goods in Issue are not Classifiable in Heading No. 83.02

[51] For the reasons that follow, the Tribunal finds that the goods in issue are not classifiable under heading No. 83.02.

[52] For the goods in issue to have been classified under heading No. 83.02, Atlas would have had to convince the Tribunal that they are mountings, fittings or similar articles, made of base metal, suitable for *coachwork* or the like. Atlas failed to do so. It provided no cogent reason for the Tribunal to accept expanding the meaning of “coachwork or the like” to include a towing hitch.

[53] Both Atlas and the CBSA submit that “coachwork” should be defined as “bodywork”, or the body of the vehicle. Atlas argues that the term “framework” is *like* “bodywork”, and further submits that the goods in issue are either installed on a trailer’s body, or on something *like* coachwork, namely the framework. The CBSA submits that the goods in issue are attached to the frame or tongue of the trailer, which is not *like* coachwork.

[54] The Tribunal finds the CBSA’s submissions and witness testimony compelling in this regard. The evidence presented by the parties show that the goods in issue are mounted to the frame or the tongue of the towing vehicle and the trailer. The Tribunal cannot accept that the frame is similar to the body of a vehicle, or that trailers are *like* coachwork, as there is no evidence that they share important characteristics or have common features, which would compel the Tribunal to find otherwise.³²

[55] In light of the above, the Tribunal concludes that Atlas has not discharged its burden of proving that the goods in issue are suitable for coachwork or the like. Consequently, the goods in issue are not classifiable under heading No. 83.02.

The Goods in Issue are Classifiable in Heading No. 87.08

[56] Having regard to the terms of heading No. 87.08 and the *Explanatory Notes*, in order for the goods in issue to be classified under that heading, the Tribunal must find that they

- i. are suitable for use solely or principally with the motor vehicles of heading Nos. 87.01 to 87.05;
- ii. are either parts or accessories;
- iii. are not excluded by the provisions in the notes to Section XVII; and
- iv. are not covered more specifically elsewhere in the nomenclature.

[57] The Tribunal finds that the goods in issue meet the terms of heading No. 87.08. Firstly, the evidence submitted by the parties shows that the goods in issue are used with various automobiles,

31. *Janicki* at para. 30; *Canada (Border Services Agency) v. Miner*, 2012 FCA 81 (CanLII) at paras. 7, 21.

32. *Canadian Tire*.

pick-up trucks, motorhomes and the like. These types of motor vehicles are generally classified under heading Nos. 87.03 and 87.04 as “motor cars and other motor vehicles principally designed for the transport of persons” and “motor vehicles for the transport of goods”, respectively.

[58] In addition, it is evident that, to be towed, a trailer must be attached to a vehicle. The goods in issue would serve no purpose if they were attached to a stationary trailer. These goods are specifically intended to improve a motor vehicle’s towing process, as indicated in the owner’s manual and as stated by Mr. Restoule in his testimony. As such, the goods in issue meet the first requirement.

[59] Secondly, following the above, the goods in issue “contribute in a subordinate degree to the general result or purpose for which motor vehicles are designed”,³³ namely, to transport goods or people, and thus fit the definition of “accessory”.

[60] Thirdly, the Tribunal has established above that the goods in issue cannot be classified under heading No. 83.02. As such, they are not “parts of general use” and are not excluded by note 2(b) to Section XVII. No other section notes are relevant in this case.

[61] Finally, the parties agree that the goods in issue are not classifiable under heading No. 87.16 as parts of trailers, as they are not essential to a trailer.³⁴ As indicated above, the Tribunal has also established that the goods in issue cannot be classified under heading No. 83.02. No other heading would more specifically cover the goods in issue.

[62] In light of the above, the Tribunal finds that the goods in issue are accessories suitable for use solely or principally with the motor vehicles of heading Nos. 87.01 to 87.05, are not excluded by the provisions in the notes to Section XVII and are not covered more specifically elsewhere in the nomenclature.

Classification at the Subheading and Tariff Item Levels

[63] Having determined that the goods in issue are properly classified under heading No. 87.08, the Tribunal must next determine the proper classification at the subheading and tariff levels.

[64] Heading No. 87.08 contains eight subheadings at the one-dash level which regard (i) bumpers, (ii) parts and accessories of bodies, (iii) brakes and servo-brakes, (iv) gear boxes, (v) drive-axles, (vi) road wheels, (vii) suspension systems and (viii) other parts and accessories. The Tribunal finds that the goods in issue must be classified as other parts and accessories as they do not relate to any other category.

[65] This category is further divided at the two-dash level into (i) radiators, (ii) silencers and exhaust pipes, (iii) clutches, (iv) steering wheels, columns and boxes, (v) airbags and (vi) other. The Tribunal finds that the goods must be classified in subheading No. 8708.99 in the “other” category.

33. *Fastco*.

34. *GL&V/Black Clawson Kennedy v. The Deputy Minister of National Revenue* (27 September 2000), AP-99-063 (CITT).

[66] Finally, subheading No. 8708.99 is divided between parts for power trains and other. The Tribunal finds that the goods in issue must be classified under tariff item No. 8708.99.99 as other parts and accessories, not for the vehicles listed in tariff item No. 8708.99.91.

DECISION

[67] The appeal is dismissed.

Peter Burn

Peter Burn

Presiding Member