Canadian International Trade Tribunal
Tribunal canadien du commerce extérieur

CANADIAN INTERNATIONAL TRADE TRIBUNAL

Appeals

DECISION AND REASONS

Appeal No. AP-2019-003

Ronsco Inc.

v.

President of the Canada Border Services Agency

Decision issued
Tuesday, March 17, 2020

Reasons issued
Wednesday, April 1, 2020

Canada

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IN THE MATTER OF an appeal heard on October 24, 2019, pursuant to section 67 of the *Customs Act*, R.S.C., 1985, c. 1 (2nd Supp.);

AND IN THE MATTER OF a decision of the President of the Canada Border Services Agency, dated January 18, 2019, with respect to a request for re-determination pursuant to subsection 60(4) of the *Customs Act*.

BETWEEN

RONSCO INC. **Appellant**

AND

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

DECISION

The appeal is dismissed.

Cheryl Beckett

Cheryl Beckett
Presiding Member

The statement of reasons will be issued at a later date.

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	October 24, 2019
Tribunal Panel:	Cheryl Beckett, Presiding Member
Support Staff:	Heidi Lee, Counsel

PARTICIPANTS:

Appellant	**Counsel/Representatives**
Ronsco Inc.	Peter Clark Colin S. Baxter David Taylor Alyssa Edwards

Respondent	**Counsel/Representative**
President of the Canada Border Services Agency	Charles Maher

WITNESSES:

Kent D. Montgomery Executive Vice-President and Chief Operating Officer Ronsco Inc.	Peter (Pietro) Lepore Mechanical Engineer

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STATEMENT OF REASONS

OVERVIEW

[1] This is an appeal filed by Ronsco Inc. pursuant to subsection 67(1) of the *Customs Act*,[1] from a decision made by the President of the Canada Border Services Agency (CBSA) under subsection 60(4) of the *Act*.

[2] The issue in appeal is whether the goods in issue are properly classified under tariff item No. 8607.19.29 as "other wheels, whether or not fitted with axles", as determined by the CBSA, or under tariff item No. 8607.19.30 as "parts of wheels", as claimed by Ronsco.

[3] For the reasons that follow, the Tribunal finds that the goods in issue are wheels of tariff item No. 8607.19.29.

GOODS IN ISSUE

[4] The goods in issue are H36 wheels, Class C, for use on freight rolling-stock. They are made of a single piece of forged steel and, at the time of importation, have a rough-cut bore. Due to the rough bore, the goods cannot be attached to axles.

[5] After importation, the rough bore is finished so that the goods can be attached to axles. Two finished wheels are mounted onto a single axle and secured with bearings to form a wheel set.[2]

[6] The parties agree that the goods in issue are properly classified in subheading No. 8607.19 under the two-dash breakout for "bogies, bissel-bogies (truck assemblies), axles and wheels, and parts thereof".

PROCEDURAL HISTORY

[7] In 2015, Ronsco imported the goods in issue under five transactions and classified them under tariff item No. 8607.19.21 as "wheel blanks, for use in the manufacture of wheel and axle combinations".

[8] In 2017, the CBSA commenced a trade compliance verification of these transactions, and on August 27, 2018, issued re-determinations classifying the goods under tariff item No. 8607.19.29 as "other wheels, with or without axles".

[9] Ronsco requested a further re-determination of these decisions, pursuant to subsection 60(1) of the *Act*.

[10] On January 18, 2019, the CBSA upheld its previous decision and maintained that the goods were classified under tariff item No. 8607.19.29.

[11] Ronsco filed the present appeal on April 15, 2019.

[12] The Tribunal held a public hearing on October 24, 2019, in Ottawa, Ontario.

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

2 Exhibit AP-2019-003-03A at para. 3, Vol. 1.

[13] Ronsco relied on fact testimony from Mr. Kent Montgomery, Executive Vice-President and Chief Operating Officer of Ronsco, and expert testimony from Mr. Peter (Pietro) Lepore, a consulting mechanical engineer. The CBSA did not call any witnesses nor did it object to the expert qualification of Mr. Lepore.

[14] Based on his education and experience, the Tribunal qualified Mr. Lepore as an expert witness in the areas of railroad operations; technical standards for rolling stock, freight cars and locomotives; components and operation of the supply chain in the rolling stock industry; manufacturing processes for rolling stock, including components such as wheelsets; and North America's integrated railway maintenance system.[3]

[15] After the hearing, the parties submitted additional written submissions at the direction of the Tribunal. The parties submitted reply comments on November 19, 2019. The record closed on that date.

LEGAL FRAMEWORK

[16] The tariff nomenclature is set out in detail in the schedule to the *Customs Tariff*, which is designed to conform to the Harmonized Commodity Description and Coding System (the Harmonized System) developed by the World Customs Organization (WCO).[4] The schedule is divided into sections and chapters, with each chapter containing a list of goods categorized in a number of headings and subheadings and under tariff items.

[17] Subsection 10(1) of the *Customs Tariff* provides that the classification of imported goods shall, unless otherwise provided, be determined in accordance with the *General Rules for the Interpretation of the Harmonized System*[5] and the *Canadian Rules*[6] set out in the schedule.

[18] The *General Rules* comprise six rules. Classification begins with Rule 1, which provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the other rules.

[19] Section 11 of the *Customs Tariff* provides that, in interpreting the headings and subheadings, regard shall be had to the *Compendium of Classification Opinions to the Harmonized Commodity Description and Coding System*[7] and the *Explanatory Notes to the Harmonized Commodity Description and Coding System*,[8] published by the WCO. While classification opinions and explanatory notes are not binding, the Tribunal will apply them unless there is sound reason to do otherwise.[9]

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3 *Transcript of Public Hearing*, p. 105-106. See Mr. Lepore's expert witness report at Exhibit AP-2019-003-17A, Vol. 1.

4 Canada is a signatory to the *International Convention on the Harmonized Commodity Description and Coding System*, which governs the Harmonized System.

5 S.C. 1997, c. 36, schedule [*General Rules*].

6 S.C. 1997, c. 36, schedule.

7 World Customs Organization, 4th ed., Brussels, 2017.

8 World Customs Organization, 6th ed., Brussels, 2017.

9 See *Canada (Attorney General) v. Suzuki Canada Inc.*, 2004 FCA 131 (CanLII) at paras. 13, 17, and *Canada (Attorney General) v. Best Buy Canada Inc.*, 2019 FCA 20 at para. 4.

[20] The Tribunal must therefore first determine whether the goods in issue can be classified at the heading level according to Rule 1 of the *General Rules* as per the terms of the headings and any relative section or chapter notes in the *Customs Tariff*, having regard to any relevant classification opinions and explanatory notes. As the Supreme Court of Canada indicated in *Igloo Vikski*, it is "only where Rule 1 does not conclusively determine the classification of the goods that the other General Rules become relevant to the classification process".[10]

[21] Once the Tribunal has used this approach to determine the heading in which the goods in issue should be classified, the next step is to use a similar approach to determine the proper subheading.[11] The final step is to determine the proper tariff item.[12]

[22] The relevant provisions of the *Customs Tariff* are as follows:

Chapter 86

**RAILWAY OR TRAMWAY LOCOMOTIVES;
ROLLING-STOCK AND PARTS THEREOF;
RAILWAY OR TRAMWAY TRACK FIXTURES AND FITTINGS
AND PARTS THEREOF; MECHANICAL (INCLUDING ELECTRO-MECHANICAL)
TRAFFIC SIGNALLING EQUIPMENT OF ALL KINDS**

86.07	**Parts of railway or tramway locomotives of rolling-stock.**
	-Bogies, bissel-bogies (truck assemblies), axles and wheels, and parts thereof:
8607.19	- -Other, including parts
	- -Wheels, whether or not fitted with axles:
8607.19.29	- - - -Other
8607.19.30	- - -Parts of axles or wheels

[23] There are also several relevant notes to the chapter and explanatory notes.

[24] Note 2 to Chapter 86 provides in relevant part as follows:

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10 *Canada (Attorney General) v. Igloo Vikski Inc.*, 2016 SCC 38 (CanLII) at para. 21.

11 Rule 6 of the *General Rules* provides that "the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, mutatis mutandis, to [Rules 1 through 5] . . ." and that "the relative Section and Chapter Notes also apply, unless the context otherwise requires."

12 Rule 1 of the *Canadian Rules* provides that "the classification of goods in the tariff items of a subheading or of a heading shall be determined according to the terms of those tariff items and any related Supplementary Notes and, mutatis mutandis, to the [General Rules] . . ." and that "the relative Section, Chapter and Subheading Notes also apply, unless the context otherwise requires." Classification opinions and explanatory notes do not apply to classification at the tariff item level.

Heading 86.07 applies, *inter alia*, to:

(a) Axles, wheels, wheel sets (running gear), metal tires, hoops and hubs and other parts of wheels;

[25] The explanatory notes to heading 86.07 provide in relevant part as follows:

This heading covers parts of railway or tramway locomotives or rolling-stock, **provided** the parts fulfil **both** the following conditions:

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

(11) They must not be excluded by the provisions of the Notes to Section XVII.

Parts of railway or tramway locomotives or rolling-stock include:

(3) Wheels and parts thereof (wheel centres, metal tyres, etc.).

POSITIONS OF THE PARTIES

Ronsco

[26] Ronsco submitted that the goods in issue are "wheel bodies" that are properly classified as "parts of wheels" under tariff item No. 8607.19.30.

[27] In Ronsco's view, the goods cannot perform the essential function of a wheel at the time of importation. It is only after importation – that is, after the goods undergo the wheel boring process – that they can be mounted onto axles and be fixed onto a vehicle for use.

[28] Ronsco acknowledged that the goods in issue are commonly referred to as "wheels" within the rail industry, but argued that they are nevertheless functionally incapable of being used as wheels.

CBSA

[29] The CBSA submitted that the goods in issue are "wheels" under tariff item No. 8607.19.29, in accordance with Rule 1.

[30] According to the CBSA, at the time of importation the goods in issue have the principal characteristics and features of a wheel according to industry standards. The CBSA also argued that the goods are referred to as "wheels" throughout the industry, including by Ronsco, the manufacturer of the goods, and the Association of American Railroads (AAR).

[31] In addition, the CBSA submitted that neither the *Customs Tariff* nor the AAR defines "wheels" as ready to be fitted with specific axles. Therefore, according to the CBSA, the fact that the goods have rough-cut bores instead of precise-cut bores is irrelevant to the definition of a wheel for the purposes of tariff classification.

[32] The CBSA submitted that the goods in issue cannot be classified as "parts of wheels" because they are not assembled to another part to form a whole or complete wheel. In the CBSA's view, the goods are manufactured to such an extent that they exhibit the principal features and characteristics of wheels.

TRIBUNAL'S ANALYSIS

[33] The issue in dispute is whether the goods in issue are "wheels" or "parts of wheels".

Evidence on the goods in issue

[34] Broadly speaking, the CBSA agreed with Ronsco's evidence on the goods in issue, which was in large part presented through the fact testimony of Mr. Montgomery and the expert testimony of Mr. Lepore. Both witnesses were credible and provided evidence that was helpful to the Tribunal's consideration of the present matter.

Finishing after importation

[35] As noted above, the goods in issue are imported with rough bores. In this state, the goods cannot be fitted onto axles "if you tried".[13] Because the goods as imported cannot be used for their intended function, i.e. as wheels attached under a vehicle, Ronsco argued that they are therefore parts of a wheel within the meaning of tariff item No. 8607.19.30.

[36] After importation, the goods in issue are finished at Ronsco's wheel shop. They undergo the wheel boring process, which shapes the bore to custom-match a specific axle.[14] This is a highly precise process with a tolerance of no more than the thickness of a sheet of paper.[15] In Ronsco's view, it is only at this stage that the good in issue can be considered a "wheel" within the meaning of tariff item No. 8607.19.29.

[37] The finished wheel is then pressed onto the axle. The wheel and axle are held together by the friction between the two parts and not by any other attaching process, such as welding or bolting, which is why the wheel boring process requires such high precision.

[38] Though it would be theoretically possible to finish a wheel bore and press it onto an axle at a later time, such as hours or even months later, Mr. Lepore testified that this is simply not practical, as it requires space to store the finished wheels and risks mix ups between finished wheels and the corresponding axles.[16] The boring and pressing usually occurs one right after the other.

[39] For these reasons, Mr. Lepore explained that it would not be realistic or practical to purchase an unattached wheel with a finished bore.[17] As a result, in practice no rail wheel is ever imported into Canada with anything but a rough bore.[18]

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13 *Transcript of Public Hearing*, p. 31.
14 *Transcript of Public Hearing*, p. 31. See also Section G II of the AAR Manual of Standards and Recommended Practices at Exhibit AP-2019-003-03A, Tab 10 at p. 141, Vol. 1; and Exhibit AP-2019-003-03A, Tab 12 at p. 150, Vol. 1.
15 *Transcript of Public Hearing*, p. 45, 117.
16 *Transcript of Public Hearing*, p. 171-172.
17 *Transcript of Public Hearing*, p. 146-147.
18 *Transcript of Public Hearing*, p. 60.

Production of the goods in issue

[40] The Tribunal now briefly turns to the production of the goods in issue. The manufacture of rail wheels in North America is governed by the AAR.[19] AAR compliance allows goods to be used on railways throughout North America (i.e. "interchange service").

[41] Section G of the AAR Manual of Standards and Recommended Practices (the AAR manual) establishes the industry standards for wheels and axles.[20] Ronsco submitted a summary of the 18 steps involved in the production of the goods in issue, which Mr. Lepore confirmed is in line with Section G of the AAR manual.[21]

[42] As highlighted by the CBSA, the AAR manual requires rail wheels to be manufactured with a rough bore[22]:

> **16.0 FINISH**
>
> **16.1** Wheels shall be rough bored and shall not have black spots in the rough bore.

[43] This is also reflected in Ronsco's 18-step summary at step 14, which provides that "the bore diameter is left in its 'rough' state until after export".[23]

[44] The Tribunal also notes that after the completion of step 6, the good "is no longer a blank". Mr. Lepore agreed that, at this stage, the good is in the final shape of the class of wheel being manufactured, in this case an H36 wheel.[24] The final product, i.e. the goods in issue at the time of importation, have the required features of a wheel – specifically, a tread, flange, web, hub, rim and bore.[25]

Industry terminology

[45] According to the witnesses, the goods in issue are commonly referred to in the North American rail industry as "wheel blanks", "wheel plates" and "wheel bodies".[26] In addition, Mr. Lepore confirmed that the goods are also simply referred to as a "wheel".[27] These terms all reference a product that requires further processing.[28]

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19 *Transcript of Public Hearing*, p. 37.
20 Exhibit AP-2019-003-11A, Tab 15 at p. 98, Vol. 1.
21 *Transcript of Public Hearing*, p. 138.
22 *Transcript of Public Hearing*, p 142, and Exhibit AP-2019-003-03A, Tab 8 at p. 104, Vol. 1.
23 Exhibit AP-2019-003-03A, Tab 3 at p. 31, Vol. 1.
24 *Transcript of Public Hearing*, p. 134.
25 *Transcript of Public Hearing*, p. 157.
26 *Transcript of Public Hearing*, p. 17.
27 *Transcript of Public Hearing*, p. 109. According to Mr. Lepore, the term "wheel" is generally only used within the wheel shop. Outside of the wheel shop, that is, while in operation, the term "wheel" is used only in narrow circumstances, such as identifying a defective wheel on a wheel set. More commonly, in operation the plural "wheels" is used to refer to wheel sets. (See *Transcript of Public Hearing*, p. 110, 128-129). Based on the CBSA's evidence, the Tribunal finds, as discussed in these reasons below, that the term "wheel" is used by the industry to refer to the goods in issue outside of wheel shops.
28 *Transcript of Public Hearing*, p. 17, 26.

[46] Though there are other terms used to refer to the goods in issue, the CBSA submitted that they are nevertheless widely referred to as "wheels" throughout the industry. The CBSA emphasized that the AAR manual uses the term "wheel" throughout to refer to the goods in issue; Ronsco purchases, markets and sells the goods in issue as wheels;[29] Ronsco markets itself as a wheel supplier;[30] and the manufacturer of the goods markets itself as a manufacturer of railway wheels and is AAR-certified to sell "forged wheels".[31] In this regard, Mr. Lepore agreed that the goods in issue are often marketed as wheels by manufacturers.[32]

[47] Altogether, it is the Tribunal's view that despite the various terminologies used in the industry to refer to the goods in issue, there is no confusion that they refer to a wheel with a rough-cut bore.

[48] Throughout its submissions, Ronsco referred to the goods in issue as "wheel bodies". To arrive at this terminology, Ronsco relied on the French version of the explanatory notes to heading No. 86.07, which provide: "Parmi ces parties de véhicules pour voies ferrées ou similaires, on peut citer: . . . roues et leur parties (corps de roues, bandages, frettes, centres, etc.)" [emphasis added]. Ronsco argued that the goods in issue are "corps de roues", which Ronsco translated as "wheel bodies".[33] The CBSA disagreed with Ronsco's use of this term.

[49] The explanatory notes to heading No. 86.07 are not identical in English and French. While the French provides four examples of parts of wheels ("corps de roues, bandages, frettes, centres, etc."), the English only provides two ("wheel centres, metal tyres, etc.").

[50] The CBSA argued that the French term "corps de roues" is equivalent to "wheel centres", as they are both the first listed example of parts of wheels. Ronsco argued that "wheel centre" is equivalent to "centres" in French.

[51] The CBSA argued that its translation is supported by note 2 to Chapter 86, which are equivalent in both languages. In English, the note states that heading 86.07 applies to "axles, wheels, wheel sets (running gear, metal tires, hoops and hubs and other parts of wheels". In French, the note lists "les essieux, roues, essieux montés (trains de roulement), bandages, frettes, centres et autres parties de roues". Based on the foregoing, the CBSA submitted that "centres" in French is the equivalent of "hubs".

[52] Based on the above, the Tribunal is of the view that "corps de roues" translate to "wheel centres". For completeness, the Tribunal notes that there is no evidence that indicates that the goods in issue may be "wheel centres". The only evidence on the record suggests that a wheel centre is a part of a type of rail wheel that is unlike the goods in issue in both make and composition, and is not used in North America.[34]

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29 Confidential Exhibit AP-2019-003-03C, Tab 3, Tab 19 and Tab 20, Vol. 2.
30 *Transcript of Public Hearing*, p. 51; Exhibit AP-2019-003-11A, Tab 10 at p. 81, Vol. 1.
31 *Transcript of Public Hearing*, p. 65-66; Exhibit AP-2019-003-11A, Tab 11, Vol. 1.
32 *Transcript of Public Hearing*, p. 130.
33 Exhibit AP-2019-003-03A, paras. 34-35, Vol. 1; *Transcript of Public Hearing*, p. 86-87.
34 Exhibit AP-2019-003-11A, Tab 13 at p. 93, Vol. 1; *Transcript of Public Hearing*, p. 165.

Analysis

The goods are wheels

[53] After careful consideration of the evidence set out above, it is the Tribunal's view that the goods in issue are wheels with rough-cut bores. At the time of importation, they are rail wheels produced to industry standards, which, the Tribunal notes, require a rough-cut bore. That they require additional finishing to be fitted onto an axle does not change the fact that the goods in issue are complete rail wheels.

[54] The Tribunal recalls that Ronsco submitted that the goods in issue are not "wheels" within the meaning of tariff item No. 8607.19.29 because they cannot function as wheels. In other words, Ronsco argued that tariff item No. 8607.19.29 is limited to wheels that are capable of being fitted with axles, i.e. with finished bores.

[55] There is no basis on which the Tribunal could find that tariff item No. 8607.19.29 is limited in this manner. The terms of the three-dash tariff item level cover "wheels, whether or not fitted with axles". In the Tribunal's view, a plain reading of this provision does not support Ronsco's arguments in this regard.

[56] Accordingly, the Tribunal finds that the fact that the goods have a rough bore does not preclude classification in tariff item No. 8607.19.29. The Tribunal finds that they are classifiable in tariff item No. 8607.19.29 as other wheels not fitted with axles, pursuant to Rule 1.[35]

Not parts of wheels

[57] The Tribunal will now briefly address why the goods are not parts of wheels.

[58] The Tribunal has previously stated that while there is no universal test for what is a "part" of another good, it has set out the following general criteria for "parts":

- whether the product is essential to the operation of other goods;
- whether the product is a necessary and valid component of other goods;
- whether the product is installed in the other goods in the course of manufacture; and
- common trade usage and practice.[36]

[59] The CBSA submitted that the goods in issue are not assembled with another component to form an entire wheel, and that the purpose of wheel boring is not to transform the goods into wheels, but to adapt the rough-cut bore to fit a specific axle. In the CBSA's opinion, this does not change the fundamental nature of the wheel nor does it change the goods from a part of a wheel into a wheel.

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35 Though the goods are described by the parties as "unfinished" because they undergo further working, the Tribunal does not find that they are not unfinished such that recourse to Rule 2 is required. The Tribunal also notes that both parties argued that classification of the goods can be determined by Rule 1 alone.

36 *Alliance Mercantile Inc. v. President of the Canada Border Services Agency* (3 November 2017), AP-2016-038 (CITT) at para. 56.

[60] The Tribunal agrees with the CBSA. Though the goods in issue require additional finishing, the wheel-boring process does not transform the goods from parts of wheels into complete wheels. They simply cannot be characterized as parts. At the time of importation, the goods comprise, in and of themselves, the entire wheel – there is no other component to be joined with in order to form the wheel. Ronsco did not put forward evidence to convince the Tribunal otherwise.

CBSA advance ruling

[61] Finally, the Tribunal notes that Ronsco raised the existence of a CBSA advance ruling (the Advance Ruling) issued to its competitor in 2005 and which covered *inter alia* H36 wheels with rough bores. The Advance Ruling directed that such goods were classified as wheel blanks for passenger coaches in tariff item No. 8607.19.21.[37] The effect of the Advance Ruling was such that this competitor was able to import the same goods as the goods in issue on a duty-free basis for approximately 13 years.[38] Ronsco relied on its knowledge of the Advance Ruling to import the goods in issue duty-free utilizing the same tariff item No. 8607.19.21. Ronsco's counsel raised the relevance of the Advance Ruling in argument, stating that the change in the CBSA's position on the Advance Ruling will have a practical financial impact on Ronsco – i.e., while Ronsco's competitor was able to import similar goods at a duty-free rate in 2015 by relying on the Advanced Ruling, Ronsco, who relied on the same Advance Ruling, will now be subject to a 9.5-percent duty for the import of the same goods.[39]

[62] The Tribunal acknowledges that the imposition of historical duties on the goods in issue, imported in 2015, will place a financial burden on Ronsco, especially considering that it operates a small-margin business.[40] Though the Tribunal can sympathize with Ronsco's submissions in this regard, unfortunately it is well established that equitable considerations are not relevant to the tariff classification exercise.[41]

[63] Outcomes such as the one in the present case are an inherent risk when relying on an advance ruling issued to a third party. An advance ruling issued to a third party, even though it may cover the same type of goods, is not a relevant consideration for the tariff classification exercise that is undertaken by the Tribunal. It is well understood that advance rulings are not binding upon the Tribunal and they are not probative with respect to tariff classification, as appeals before the Tribunal are heard *de novo*.[42] The Tribunal's mandate in an appeal is simply to determine the correct tariff classification of the goods in issue. It has no power to determine how the tariff classification should ultimately impact the appellant with respect to the duties imposed, nor how the reliance of Ronsco upon an advance ruling should influence the CBSA's decisions on these matters.

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37 In full, tariff item No. 8607.19.21 covers "Blanks for use in the manufacture of wheel and axle combinations for railway and tramway (including subway cars) passenger coaches; for self-propelled railway vehicles for the transport of passengers, baggage, mail or express traffic; for use in the repair of tramway vehicles (excluding subway cars) with magnetic track brakes". The parties all agree that tariff item No. 8607.19.21 is not the correct classification as it requires the goods to be used in passenger cars (not freight cars).

38 The advance ruling was amended in 2018 to classify such goods as wheels of tariff item No. 8607.19.29. Ronsco's competitor confirmed that it began importing similar goods in 2019 under tariff item No. 8607.19.29, pursuant to the revised advance ruling in its affidavit (see Exhibit AP-2019-003-31, Vol. 1).

39 *Transcript of Public Hearing*, p. 231.

40 *Transcript of Public Hearing*, p. 44.

41 *Artcraft Company Inc. v. President of the Canada Border Services Agency* (8 March 2018), AP-2017-016 (CITT) at paras. 44-46.

42 See *Helly Hansen Leisure Canada Inc. v. Canada (Border Services Agency)*, 2009 FCA 345 at para. 16.

Conclusion

[64] For the foregoing reasons, the Tribunal finds that the goods in issue are wheels of tariff item No. 8607.19.29, pursuant to Rule 1.

DECISION

[65] The appeal is dismissed.

Cheryl Beckett

Cheryl Beckett
Presiding Member