



BUREAU OF CUSTOMS

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PROFESSIONALISM

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ACCOUNTABILITY

18 November 2022

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CUSTOMS MEMORANDUM CIRCULAR NO. 74-2022

To: The Assistant Commissioner
All Deputy Commissioners
All Directors and Division Chiefs
All District/ Port Collectors
All Others Concerned

SUBJECT: TARIFF CLASSIFICATION DISPUTE RULING

This has reference to the herein attached Tariff Commission Circular Dispute Ruling (TCC DR) No. 22-001 issued on 15 November 2022 pursuant to Commission Order No. 2018-1 (Rules of Procedure on Disputes involving Tariff Classification) on the shipment of "Freezing Cylinder, Model: WS25-CO2" consigned to Froneri Philippines Inc. (Import Entry/ Customs Reference No. C-133664-21, NAIA) the dispositive portion of which states that:

WHEREFORE, premises considered, subject article is hereby classified as follows:

Product	AHTN 2017/2022 Code	2022 MFN Rate
Freezing Cylinder, Model: WS25-CO2	8418.99.90	5%

For information and guidance.

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt thereof.

[Signature]
NOV 29 2022
YOGI FILEMON L. RUIZ
Acting Commissioner *[Signature]*



BOC-09-35663

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REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

RONALD JAMES T. RUISO
ADMINISTRATIVE SERVICES OFFICER

RE: REQUEST FOR TARIFF CLASSIFICATION
DISPUTE RULING ON "FREEZING CYLINDER,
Model: WS25-CO2", CONSIGNED TO FRONERI
PHILIPPINES INC.

TCC (DR) NO. 22-001



(Import Entry/Customs Reference No.
C-133664-21, NAIA)

Issued on: 15 November 2022

TARIFF CLASSIFICATION DISPUTE RULING

Before this Commission is a request for Tariff Classification Dispute Ruling (TCDR), pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as the *Customs Modernization and Tariff Act (CMTA)*, on the shipment of Freezing Cylinder, Model: W25-CO2 imported by Froneri Philippines Inc. (Importer/Consignee) from Denmark. The request of the Importer/Consignee for a TCDR was accepted by this Commission on 11 February 2022.

The shipment of said article, declared under ASEAN Harmonized Tariff Nomenclature (AHTN) 2017 subheading 8438.90.29, with a Most Favoured Nation (MFN) rate of duty of zero, was processed under Import Entry/Customs Reference No. C-133664-21 at the Bureau of Customs (BOC), Ninoy Aquino International Airport (NAIA). The BOC contested the declared heading and reclassified the subject article under AHTN 2017 subheading 8418.99.90, with an MFN rate of duty of 5% *ad valorem*.

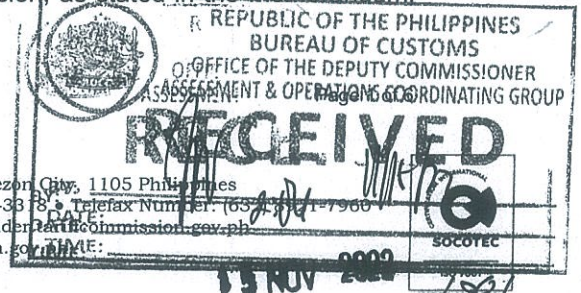
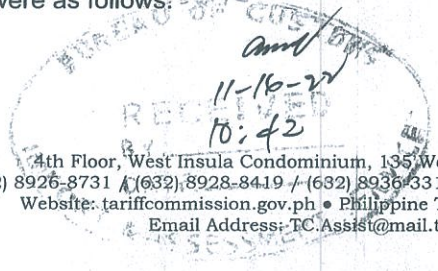
Hence, this request for Tariff Classification Dispute Ruling.

On 14 February 2022, this Commission wrote to the Importer/Consignee requesting for the submission of a catalogue, brochure, or product literature of the specific machine/equipment where the freezing cylinder will be installed/used. The said document must contain the following information:

- a. brand, model, and name of the machine/equipment;
- b. process (system) or how the machine functions;
- c. drawing (design); and
- d. other pertinent technical specifications which may help this Commission in properly classifying the product.

On 28 February 2022, the Importer/Consignee provided this Commission with a link to the information requested including a video of the production line.

With information deemed sufficient to classify subject article and pursuant to Section 7.3 of Commission Order No. 2018-01, this Commission requested the concerned BOC District Collector on 06 April 2022 for comments on the request for TCDR on Freezing Cylinder, Model: W25-CO2. In a letter dated 22 April 2022, Atty. Halleck A. Valdez, Deputy Collector for Assessment, BOC-NAIA, submitted BOC's comment through a memorandum (with supporting documents) prepared by Mr. Wilchrist R. Rama, Customs Operations Officer (COO) III, and Mr. Edward Cruz, COO V, stating the reasons why subject article was reclassified from the declared AHTN 2017 subheading 8438.90.29 (with an MFN rate of duty of zero) to 8418.99.90 (with an MFN rate of duty of 5% *ad valorem*). The reasons for this reclassification decision, as stated in the memorandum, were as follows:



"The consignee classify the above-mentioned goods under HS Code 8438.90.29 (Others; Machinery, not specified or included elsewhere in this Chapter, for the industrial preparation or manufacture of food and drink).

The goods under consideration is pictured and described in the product brochure as parts of freezing equipment, otherwise known as Ice Cream Freezer. Therefore, it is classifiable under the heading 8418.99.90, with a rate of duty of 5%."

"The General Explanatory Note of Heading 8418 covers "Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 84.15". PARTS - Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), parts of the goods of this heading, whether for domestic or industrial uses, are also classified here,

The General Rules for the Interpretation (GRI) Rule 1, states that the sections, chapters and subchapters are provided for easy reference only. For legal purposes, 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 following provisions. In this case the Freezing Cylinder is part of the Ice Cream Freezer Machine which is classifiable in the Heading 8418.

*The Consignee provided the undersigned examiner a copy of photograph of the Ice Cream Freezer Machine, where the above-mentioned parts will be placed, hereto attached as **Annex "A"**. Hence, the undersigned examiner made a research to verify the functions of the Freezing Cylinder as part of the Ice Cream Freezer, hereto attached marked as **Annex "B"**.*

With the new information provided by the BOC which was not part of the Importer/Consignee's submission to this Commission, the Commission again wrote to the Importer/Consignee requesting for a virtual meeting with their technical representatives for an in-depth discussion of the product, specifically its functions and specifications. The virtual meeting between the Importer/Consignee and the Commission took place on 17 May 2022.

In the evaluation of disputes on tariff classification, Section 8 of Commission Order No. 2018-01 provides that this Commission, if it deems necessary, shall conduct a hearing to clarify the facts necessary to resolve the pending disputes in tariff classification. In the present case, however, this Commission found that the submissions of and clarifications from the Importer/Consignee and the BOC were sufficient to make a correct determination on the tariff classification of the subject article. A hearing, therefore, is no longer necessary.

After due examination of the submitted technical specifications and drawings, APV Crepaco Instruction Manual, video of the production line, and other technical information, it is established that the subject article is a freezing cylinder consisting of a chrome-plated seamless nickel pipe fitted with a flange on one end. It has a diameter of 8 inches and length of 1,750 mm. It is designed solely as an internal part of the APV Crepaco 20 TR Continuous Ice Cream Freezer, Model: WS-212GA, used in the production of frozen dessert food products.

During operation, the liquid product mix is pumped into the freezing cylinder. A dasher with attached scraper blades rotates inside the freezing cylinder. As metered product mix and air enter the cylinder, the mix freezes on the cold cylinder wall and is continuously scraped off by the scraper blades. The rotating dasher incorporates the air and product mix into a homogeneous semi-frozen product which is then discharged from the front of the freezing cylinder and through the product pump. Finally, the ice cream is pumped to the next processing step such as the forming and/or packaging equipment.

The ice cream freezer equipment is supplied with liquid from the in-plant refrigeration system, through a separate liquid line. One end is connected to the liquid line of the in-plant refrigeration system and the other end is connected to the liquid inlet of the freezer. The liquid refrigerant in the freezing cylinder absorbs the heat from the product. This

causes the refrigerant to boil (vaporize). The vaporized refrigerant then flows back through a suction line back to the main suction line of the in-plant refrigeration system. The process is controlled by the back pressure regulator.

The BOC Examiners considered the product to be classifiable under heading 84.18 of the AHTN 2017 which covers "refrigerators, freezers, and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 84.15". The Harmonized System (HS) Explanatory Notes (EN) to this heading state that:

"(I) REFRIGERATORS, FREEZERS AND OTHER REFRIGERATING OR FREEZING EQUIPMENT

The refrigerators and refrigerating equipment of this heading are in the main machines or assemblies of apparatus for the production, in a continuous cycle of operations, of low temperatures (in the region of 0 °C or less) at the active cooling element, by the absorption of the latent heat of evaporation of liquefied gases (e.g., ammonia, halogenated hydrocarbons), of volatile liquids or, in the case of certain marine types, of water.

x x x

(B) ABSORPTION TYPE REFRIGERATORS

In these the compressor is replaced by a "generator" in which a strong aqueous solution of ammonia is heated (by gas, oil or electric element), the gas being driven off and accumulating under pressure in the condenser. The cycle of condensation followed by expansion and cooling in the evaporator continues as in the compressor type, the expanded gas being re-dissolved in the weakened solution, either in a separate absorber which feeds the generator by simple pressure effect or through a pump, or in the generator itself which, in certain types, functions as the absorber on cooling during periods when the heat is withdrawn.

In certain dry types the ammonia gas is absorbed by a solid (e.g., calcium chloride or silica-gel) instead of being in solution.

Apparatus of the foregoing kinds are classified in this heading if in the following forms:

(2) Cabinets or other furniture or appliances incorporating a complete refrigerating unit or an evaporator of a refrigerating unit, whether or not equipped with ancillary devices such as agitators, mixers, moulds. These appliances include domestic refrigerators, refrigerated show cases and counters, ice-cream or frozen food storage containers, refrigerated water or beverage fountains, milk cooling vats, beer coolers, ice-cream makers, etc.

(3) Refrigerating installations of larger type consisting of components which are not mounted on a common base or as self-contained units but are designed to operate together, either by direct expansion (an evaporator then being incorporated in the "cold-using" appliance), or by means of a refrigerating medium (brine) which is cooled by a refrigerating unit and piped into the "cold-using" appliances (indirect cooling). Such installations are used, for example, in cold storage plants and for manufacturing operations (manufacture of block ice, quick-freezing of food products, rapid chilling in chocolate manufacture, separating paraffin wax in petroleum refining, in chemical industries, etc.)."

The HS EN for parts of heading 84.18 state that:

"Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), parts of the goods of this heading, whether for domestic or industrial uses, are also classified here, e.g., condensers, absorbers, evaporators, generators, cabinets, counters and other refrigerating furniture, of the kind referred to in paragraph (2) above, not yet fitted with a complete refrigerating unit or with an evaporator but clearly designed to receive such equipment."

On the other hand, the Importer/Consignee declared subject article under AHTN 2017 heading 84.38 which covers "machinery, not specified or included elsewhere in Chapter 84, for the industrial preparation or manufacture of food or drink, other than machinery for the extraction or preparation of animal or fixed vegetable or microbial fats or oils".

The HS EN to heading 84.38 state that:

*"This heading covers machinery, not specified or included elsewhere in this Chapter, for the industrial preparation or manufacture of food or drink (whether for immediate consumption or preserving, and whether for human or animal consumption), but **not including** machinery for the extraction or preparation of animal or fixed vegetable fats or oils (heading 84.79). This heading also includes machines for industrial or commercial use, of a type used in restaurants or similar establishments.*

*It should, however, be noted that in practice the heading **excludes** many machines used for these purposes, e.g.,:*

- (a) Domestic appliances (e.g., meat mincing machines and bread cutting machines) falling in heading 82.10 or 85.09.*
- (b) Industrial or laboratory ovens (heading 84.17 or 85.14).*
- (c) Cooking, roasting, steaming, etc., machinery and plant (heading 84.19).*
- (d) Centrifuges and filters (heading 84.21).*
- (e) Bottling, canning, packing, etc., machinery (heading 84.22).*
- (f) Machinery for the milling industry (heading 84.37)."*

Furthermore, the HS EN for parts of the machines of heading 84.38 state that:

*"**Subject** to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), the parts of the machinery of this heading are also classified here (for example, moulds (pans) used in continuous process bread-making, moulds for confectionery moulding machines, moulds for chocolate moulding machines and extrusion dies, of bronze or brass, for use in extruding presses for the manufacture of macaroni, spaghetti, or similar products)."*

Based on the subheadings considered, both the BOC and the Importer/Consignee classified subject freezing cylinder as a part of a machinery under Chapter 84 of the AHTN 2017. The Commission agrees with their assessment of the product.

The classification of parts for machinery under Chapters 84 and 85 is governed by Note 2 to Section XVI, as follows:

"2.- Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules :

(a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings;

*(b) **Other parts, if suitable for use solely or principally with a particular kind of machine**, or with a number of machines of the same heading (including a machine of heading 84.79 or 85.43) **are to be classified with the machines of that kind** or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 85.17 and 85.25 to 85.28 are to be classified in heading 85.17, and parts which are suitable for use solely or principally with the goods of heading 85.24 are to be classified in heading 85.29; [emphasis added]*

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(c) All other parts are to be classified in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate or, failing that, in heading 84.87 or 85.48."

As discussed in the product description, subject article is suitable for use solely for APV Crepaco 20 TR Continuous Ice Cream Freezer, Model: WS-212GA. By its function, the ice cream freezer machinery is covered by heading 84.18. Moreover, subject freezing cylinder is an essential part of the machinery as it is where the product mix's change in temperature (i.e., cooling or semi-freezing process) happens. Thus, by application of Note 2(b) to Section XVI, the freezing cylinder is to be classified in the same heading with the machine.

Heading 84.38 is to be considered only if the machinery used for the industrial preparation or manufacture of food or drink is not specified or included elsewhere in Chapter 84. However, since there is a specific heading for refrigerators, freezers and other refrigerating or freezing equipment (heading 84.18), said heading should be considered first before heading 84.38.

Based on the information received from the Importer/Consignee and the BOC, and the clarifications provided by the foregoing Section Note and HS EN, subject article is properly classified under AHTN 2017 subheading 8418.99.90 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS (Section 1610 of the CMTA). In view of the Philippines' adoption and implementation of the 2022 version of the AHTN on 01 July 2022, subject article is classifiable under the same subheading in AHTN 2022.

WHEREFORE, premises considered, the subject article is hereby classified as follows:

Product	AHTN 2017 Code	2022 MFN Rate
Freezing Cylinder, Model: WS25-CO2	8418.99.90	5%

This is for compliance by the BOC pursuant to Section 1100 of the CMTA.

So Ordered.

FOR THE COMMISSION

Digitally signed


MARILOU P. MENDOZA
Chairperson

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