



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



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28 September 2023 **MASTER COPY**
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CUSTOMS MEMORANDUM CIRCULAR
NO. 177-2023

TO : ASSISTANT COMMISSIONER
ALL DEPUTY COMMISSIONERS
ALL DIRECTORS AND DIVISION CHIEF
ALL DISTRICT AND SUB-PORT COLLECTORS
ALL OTHERS CONCERNED

SUBJECT : TARIFF CLASSIFICATION DISPUTE RULING

This has reference to the herein attached Tariff Commission Circular Dispute Ruling No. 22-003 issued on 18 September 2023 pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, on the shipment of "Restrictor Clip for GSP-01 ½ oz.," consigned to Kalinisan Chemicals Corporation (Import Entry/Customs Reference No. C-10175-23, Ninoy Aquino International Airport), the dispositive portion of which states that:

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

Product	AHTN 2022 Code	2022 MFN Rate
RESTRICTOR CLIP FOR GSP-01 ½ OZ.	3926.90.99	15% ad valorem

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

For information and guidance.



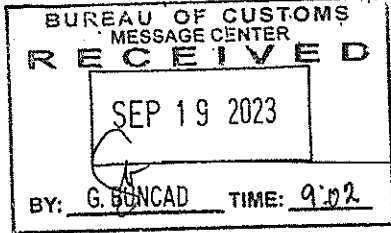
BIENVENIDO Y. RUBIO
Commissioner

[Handwritten Signature]

SEP 29 2023

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REPUBLIC OF THE PHILIPPINES
BUREAU OF CUSTOMS #6112
DEPUTY COMMISSIONER
TARIFF COORDINATING GROUP (TCOC)
09-19-23

REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION
DISPUTE RULING ON "RESTRICTOR CLIP FOR
GSP-01 1/2 OZ.", CONSIGNED TO KALINISAN
CHEMICALS CORPORATION

TCC (DR) NO. 23-003



(Import Entry/Customs Reference No. C-10175,
BOC-NAIA)

Issued on: 18 September 2023

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 Restrictor Clip for GSP-01 1/2 oz., imported by Kalinisan Chemicals Corporation (Importer/Consignee) from the United States of America (USA). The request of the Importer/Consignee for TCDR was accepted by this Commission on 14 February 2023.

The shipment of said article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2022 subheading 8413.91.20, with a Most Favoured Nation (MFN) rate of duty of 1% *ad valorem*, was processed under Import Entry/Customs Reference No. C-10175 at the Bureau of Customs (BOC) - Ninoy Aquino International Airport (NAIA). The BOC contested the declared heading and reclassified subject article under AHTN 2022 subheading 3926.90.99, with an MFN rate of duty of 15% *ad valorem*.

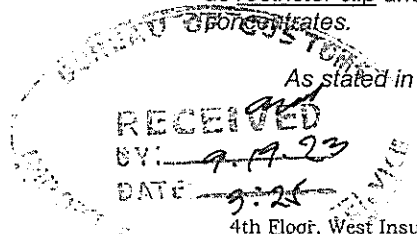
Hence, this request for Tariff Classification Dispute Ruling.

Pursuant to Section 7.3 of Commission Order No. 2018-01, this Commission requested the concerned BOC District Collector on 10 March 2023 for comments on the request for TCDR on Restrictor Clip for GSP-01 1/2 oz. In a letter dated 22 March 2023, Atty. Halleck A. Valdez, Deputy Collector for Assessment of BOC-NAIA, submitted BOC's comment through a Memorandum, prepared by Ms. Katryn B. Cristobal, Customs Operations Officer (COO) III; Ms. Jackielyn G. Rivera, Acting COO V; Ms. Zaida D. Sarip, Acting Chief of Formal Entry Unit, PAL/PSI Assessment Composite Unit; and Mr. Dan E. Oquias, Chief of PAL/PSI Assessment Composite Unit, stating the reasons why subject article was reclassified from the declared AHTN 2022 subheading 8413.91.20 (with an MFN rate of duty of 1% *ad valorem*) to AHTN 2022 subheading 3926.90.99 (with an MFN rate of duty of 15% *ad valorem*). The reasons for this reclassification decision, as stated in the aforesaid Memorandum, were as follows:

"xxx

In view of the memorandum dated March 15, 2023 from Atty. Yasser Ismail A. Abbas, CESO IV - Director III, Imports and Assessment Service with subject Tariff Classification of "Restrictor Clip for GSP-01 1/2 oz" consigned to Kalinisan Chemicals Corp and processed under Import Entry No. P03-C-10175-2023, NAIA with TCC(DR) No. 23-003, requesting for comment on the above subject matter, we would like to reiterate that the said articles in question are illustrated and described in the product brochure submitted by Kalinisan Chemicals Corporation as restrictor clip and Plastic Bottle Pump head with dip tube commonly used for dispensing liquid concentrates.

As stated in the AHTN Section XVI Note, it indicates that:



1. it does not cover (g) parts of general use as defined in Note 2 to Section XV base metal or similar goods of plastic (which is in Chapter 39); and
2. subject to Note 1 of Chapter 84 (a) parts which are goods included in any of the headings "other than 34.09, 84.31, 84.46, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.39 and 85.48" are in all case to be classified in their respective headings (84.13 is not mentioned as exemption to the section note).

Likewise, Rule 1 of Section 1610 General Rules for the Interpretation (AHTN) provided that the classification shall be determined according to the terms of headings and any "relative section or chapter notes" and, provided such heading or notes do not otherwise require.

Subsequently, there is no clear definition of "Hand pumps" given in the Harmonized Commodity Description & Coding System Explanatory Notes creating highly technical question on commodity classification.

Attached herewith are the reports and other pertinent documents for your information in connection to the subject importation.

RECOMMENDATION

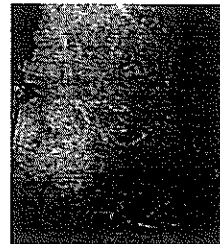
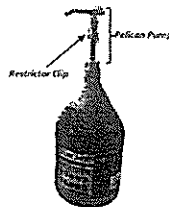
In view of the foregoing premises, we find reasonable ground for classifying the commodities in question under the heading 39269099 with a rate of duty of 15% as the primary constituent material and according to Section XVI Notes pursuant to Rule 1 of Section 1610 General Rules for the Interpretation (GRI) of the ASEAN Harmonized Tariff Nomenclature (AHTN).

xxx"

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 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 product brochure, specification sheet, confirmation on product composition, and product sample, it was established that subject article is a restrictor clip made of polypropylene. It is attached to the pump rod of a pelican pump to regulate the dispensing volume to 15 mL (½ oz.) per dispense.

Below are photographs of the product submitted by the Importer/Consignee and the BOC:



The Importer/Consignee classified subject article as part of pump under heading 84.13 of the AHTN 2022 which covers, among others, pumps for liquids, whether or not fitted with a measuring device, specifically under subheading 8413.91.20 for parts of pumps of subheadings 8413.20.20 and 8413.20.90.

The said heading is under Section XVI (Machinery and mechanical appliances; electrical equipment; parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles) of the AHTN 2022. Notes 1(g) and 2 to this Section state that:

"1. This Section does not cover [emphasis added]:

x x x

(y) *Parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39) [emphasis added];*

x x x"

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;*

(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."*

Further, the Harmonized System (HS) Subheading Explanatory Notes (EN) to subheadings 8413.11 and 8413.19 (*pumps fitted or designed to be fitted with a measuring device*) state that:

"Subheadings 8413.11 and 8413.19

These subheadings cover only those pumps, of whatever type, which form, or have been designed to form, a unit with a device permitting the volumetric control of the quantity of liquid discharged, whether or not this device is presented at the same time as the pump.

This control device may be very simple (for example, a calibrated globe or unit) or, on the contrary, consist of more complex mechanisms automatically controlling the stopping of the pump when a given total quantity is discharged (such as, for example, a delivery pump comprising a calibrated cylinder (measuring cylinder) and a device permitting, on the one hand, the determining of a desired quantity and, on the other, stopping the pump motor when the predetermined quantity is obtained) or fulfilling other operations connected with volumetric control proper (for example, pumps for integration of totals, prepayment pumps, price-calculating pumps, sampling pumps, automatic mixture regulating pumps and automatic dosage pumps).

On the other hand, when, for example, the measuring device is designed to be simply mounted on the tube through which the liquid set in motion by the pump flows, each of the two units (pump and measuring device) are to be classified in their own headings, even when presented together [emphasis added].

These subheadings cover, for example, pumps for delivering petrol or other motor fuels and lubricants as well as pumps with a measuring device for use in food shops, laboratories and various industrial activities."

Hence, subject article, being a dispensing volume regulator made of plastics, is not covered under heading 84.13 of AHTN 2022, by virtue of the Section Notes and HS Subheading Explanatory Notes cited above.

On the other hand, the BOC considered classification of the subject article under heading 39.26 of AHTN 2022 (*other articles of plastics and articles of other materials of headings 39.01 to 39.14*), particularly under subheading 3926.90.99, which covers other articles of plastics except for the products identified in the preceding subheadings under heading 39.26.

The HS EN to heading 39.26 state that:

"This heading covers articles, not elsewhere specified or included [emphasis added], of plastics (as defined in Note 1 to the Chapter) or of other materials of headings 39.01 to 39.14."

Subject article, being a restrictor clip made of plastics and used to regulate the dispensing volume of a pelican pump, is not covered by a more specific heading in Chapter 39. Thus, it is classifiable under the residual heading of the Chapter, which is heading 39.26.

Based on the information received from the Importer/Consignee and the BOC, and the clarifications provided by the foregoing Section Notes, HS Subheading EN, and HS EN, subject article is properly classified under AHTN 2022 subheading 3926.90.99 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS (Section 1610 of the CMTA).

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

Product	AHTN 2022 Code	2023 MFN Rate
Restrictor Clip for GSP-01 ½ oz.	3926.90.99	15% <i>ad valorem</i>

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

So Ordered.

FOR THE COMMISSION

MariLou P. Mendoza
Digitally signed

MARILOU P. MENDOZA
Chairperson

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