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DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

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13 November 2023

CUSTOMS MEMORANDUM CIRCULAR

NO. 209-2023

p1

TO : ASSISTANT COMMISSIONER
ALL DEPUTY COMMISSIONERS
ALL DIRECTORS AND DIVISION CHIEFS
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 (TCC DR) No. 22-041 issued on 20 October 2023 pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as Customs Modernization and Tariff Act, on the shipment of "ProBlue Flex Melter," consigned to Adhesives & Paints Application System Inc. (Import Entry/ Customs Reference No. C-115941-22, Ninoy Aquino International Airport), the dispositive portion of which states that:

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

Product	AHTN 2017 Code	2022 MFN Rate
"PROBLUE FLEX MELTER"	8413.50.90	1% <i>ad valorem</i>

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

For strict compliance.

BIENVENIDO Y. RUBIO
Commissioner



NOV 20 2023



Gate 3, South Harbor, Port Area, Manila 1018

+63 (02) 8705-6000, +63 (02) 8527-1968 | www.customs.gov.ph | boc.cares@customs.gov.ph

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 OFFICE OF THE DEPUTY COMMISSIONER
 ASSESSMENT & OPERATIONS COORDINATING GROUP (AOCG)

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BY: _____
 DATE & TIME: 10-23-23 11:08

CMC NO. 204-2023
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REPUBLIC OF THE PHILIPPINES
 TARIFF COMMISSION

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RE: REQUEST FOR TARIFF CLASSIFICATION
 DISPUTE RULING ON "PROBLUE FLEX MELTER",
 CONSIGNED TO ADHESIVES & PAINTS
 APPLICATION SYSTEM (APASI) INC.

TCC (DR) NO. 22-041

(Import Entry/Customs Reference No. C-115941,
 NAIA)

Issued on: 20 October 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 ProBlue Flex Melter imported by Adhesives & Paints Application System (APASI) Inc. (Importer/Consignee) from the United States of America (USA). The request of the Importer/Consignee for TCDR was accepted by this Commission on 09 December 2022.

The shipment of said article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2022 subheading 8413.50.90, with a Most Favoured Nation (MFN) rate of duty of 1% *ad valorem*, was processed under Import Entry/Customs Reference No. C-115941 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 8424.89.50, with an MFN rate of duty of 5% *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 27 January 2023 for comments on the request for TCDR on Problue Flex Melter. In a letter dated 15 February 2023, Atty. Halleck A. Valdez, Deputy Collector for Assessment of BOC-NAIA, submitted BOC's comment through a Memorandum (with supporting documents), prepared by Mr. Marlon R. Atengco, Customs Operations Officer (COO) III, and Mr. Edward B. Cruz, COO V, stating the reasons why subject article was reclassified from the declared AHTN 2022 subheading 8413.50.90 (with an MFN rate of duty of 1% *ad valorem*) to AHTN 2022 subheading 8424.89.50 (with an MFN rate of duty of 5% *ad valorem*). The reasons for the reclassification decision, as stated in the aforesaid Memorandum, were as follows:

"The products submitted by the Consignee / Importer to the Commission, to wit: **"ProBlue Flex/Melter"** is included in the dispute on tariff classification.

The items disputed by the Bureau based on the filed documents is **"ProBlue Flex/Melter"**; Single Administrative Document (SAD), Packing List and Invoice, hereto attached marked as Annex A, to wit:

To reiterate, articles in question is **"ProBlue Flex/Melter"** were initially classified by the consignee/broker under HS code 8413.50.90 1% (Other reciprocating positive displacement pumps, others) and was re-classified to 8424.89.50 5% (Other appliances for dispersing liquid).

The goods under consideration are pictured and described in the invoice submitted and upon physical examination it was found as Adhesive Dispensing machine. Therefore, classifiable under 8424.89.50 5% (Other appliances for dispersing liquid). Furthermore, as per explanatory notes 8424 covers machines and appliances for projecting, dispersing liquids in the form of a jet, a dispersion (whether or not in drips) of a spray. As per submitted product brochure, "the ProBlue Flex incorporates intelligent technology that enables ultra-precise dispensing accuracy."

Attached herewith is the examination pictures and product brochure for your easy reference, hereto attached marked as Annex B."

BY: S. BLANCO
 TIME: 4:44

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It is worth noting that although a "Packing List" and "Invoice" were indicated as part of Annex A, and "examination pictures" and "product brochure" were indicated as part of Annex B, of the aforesaid BOC Memorandum, the same were not included in the documents forwarded to the Commission.

While evaluating the submissions from the Importer/Consignee and the BOC, the Commission sought further clarification from the Importer/Consignee, through a telephone conversation, on the specific model subject to tariff classification dispute as well as the specifications of the pump and tank. For documentation/records purposes, the Commission requested submission of the additional information provided during aforesaid telephone conversation. On 20 April 2023, the Commission received the additional information, via an electronic mail (email) from Ms. Marlyn Lim of APASI, highlighting the specific product model (*ProBlue 10*), type of pump (*piston pump*), and tank capacity (*10 kg*).

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 technical specifications and photograph of the product, it was established that subject article is an electrically operated machine designed to be used in conjunction with Nordson hot melt hoses and applicators to create a complete hot melt application system. Subject article mainly consists of a heating element, a piston pump, a 10-kg storage tank, a liquid crystal display (LCD) screen, and associated controls, housed in an L-shaped enclosure. During operation, adhesives (in the form of pellets) are introduced to the tank where these are melted by the heating element. The hot-melt adhesives are then transferred by means of the piston pump to an applicator (dispense gun) through a hose (*the applicator and hose were presented separately from subject article*). Having a melting temperature of 40°C to 204°C and maximum pump (flow) rate of 32.7 kg/h, subject article is designed to be used, together with the applicator, for dispensing hot-melt adhesives directly to the surface of a product or packaging (e.g., cardboard box).

The Importer/Consignee considered classification of subject article under heading 84.13 of the AHTN 2022 which covers *pumps for liquids, whether or not fitted with a measuring device; liquid elevators*. The pertinent Harmonized System (HS) Explanatory Notes (EN) state that:

"This heading covers most machines and appliances for raising or otherwise continuously displacing volumes of liquids (including molten metal and wet concrete), whether they are operated by hand or by any kind of power unit, integral or otherwise.

The heading also includes delivery pumps equipped with measuring or price-calculating mechanisms such as are used for supplying petrol or oil in garages, and also pumps specially designed for use with other machines, vehicles, etc. (including petrol, oil or water pumps for internal combustion engines, and pumps for man-made textile fibre spinning machines).

The machines of this heading can be subdivided, according to their system of operation, into the following five categories.

(A) RECIPROCATING POSITIVE DISPLACEMENT PUMPS

These use the linear suction or forcing action of a piston or plunger driven within a cylinder, the inlet and outlet being regulated by valves. "Single-acting" pumps utilise the thrust or suction of one end of the piston only; "double-acting" types pump at both ends of the piston thus using both the forward and reverse strokes. In simple "lift" pumps the liquid is merely raised by suction and discharged against atmospheric pressure. In "force" pumps, the compression stroke is used, in addition to the suction stroke, to force the liquid to heights or against pressure. Multi-cylinder pumps are used for increased output. The cylinders may be either in line or in a star shape [emphasis added]."

On the other hand, the BOC considered classification of subject article under heading 84.24 of the AHTN 2022 which covers *mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines*. The pertinent HS EN for this heading state that:

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"This heading covers machines and appliances for projecting, dispersing or spraying steam, liquids or solid materials (e.g., sand, powders, granules, grit or metallic abrasives) in the form of a jet, a dispersion (whether or not in drips) or a spray."

As presented, subject article is not fitted with the hot melt hose and applicator which are responsible for dispensing the pumped hot-melt adhesive in measured quantities. Hence, subject article is not capable of projecting, dispersing or spraying liquids and should not be classified in heading 84.24 which covers such machines.

Moreover, the Commission has determined that subject article is a composite machine with two primary functions: melting solid adhesives and pumping the molten adhesives. It should be noted that the classification of composite machines and other machines designed for the purpose of performing two or more complementary or alternative functions is governed by Note 3 to Section XVI (i.e., the HS Section covering machinery and mechanical appliances).

Note 3 to Section XVI of the AHTN 2022 states that:

"Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function."

Following the provisions of Note 3 to Section XVI, the Commission has determined that subject article is essentially a reciprocating positive displacement pump for liquids (melted adhesives), with the heating element serving to facilitate the pumping function by turning the adhesive pellets into liquid state. Consequently, in accordance with the aforementioned Note, subject article shall be classified as if it consists only of the liquid pump, falling under heading 84.13.

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 2022 subheading 8413.50.90 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	2022 MFN Rate
ProBlue Flex Melter	8413.50.90	1% <i>ad valorem</i>

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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Copy furnished:

The Secretary

Department of Finance (DOF)
DOF Building, BSP Complex
Roxas Boulevard, Metro Manila.
Email: secfin@dof.gov.ph

The Commissioner

Bureau of Customs (BOC)
Office of the Commissioner
G/F OCOM Building, 16th Street
South Harbor, Port Area, Manila
Email: boc.ocom@customs.gov.ph
comm.boc@gmail.com

Atty. Maria Yasmin M. Obillos-Mapa

District Collector
Bureau of Customs (BOC)
BOC Building, Mendoza Avenue
Ninoy Aquino International Airport (NAIA)
Pasay City
Email: naia@customs.gov.ph
odcanaiaboc2021@gmail.com

Ms. Marciana Lopez

Operations Manager
Adhesives & Paints Application System (APASI) Inc.
APASI Corporate Center, Levi Mariano Avenue
Brgy. Ususan, Taguig City
Email: logistics@apasi.ph

Ms. Marlyn Lim

Logistics Officer
Adhesives & Paints Application System (APASI) Inc.
APASI Corporate Center, Levi Mariano Avenue
Brgy. Ususan, Taguig City
Email: logistics@apasi.ph