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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

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26 April 2024

CUSTOMS MEMORANDUM CIRCULAR
NO. 75-2024

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. 23-024 issued on 23 April 2024 pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as Customs Modernization and Tariff Act, on the shipment of "Brake Pads JURID® 839 16mm for MT," from Germany consigned to Light Rail Manila Corporation, (Import Entry/ Customs Reference No. C-100783, Ninoy Aquino International Airport), the dispositive portion of which states that:

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

Product	AHTN 2022 Code	2023 MFN Rate
Brake Pads JURID® 839 16mm for MT	8607.21.00	3% <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



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REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION
DISPUTE RULING ON "BRAKE PADS JURID® 839
16MM FOR MT", CONSIGNED TO LIGHT RAIL
MANILA CORPORATION

TCC (DR) NO. 23-024

09-48135

(Import Entry/Customs Reference No. C-100783,
Ninoy Aquino International Airport)

Issued on: 23 April 2024

TARIFF CLASSIFICATION DISPUTE RULING

Before this Commission is a request for a 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 Brake Pads JURID® 839 16mm for MT imported by Light Rail Manila Corporation (Importer/Consignee) from Germany. The request of the Importer/Consignee for a TCDR was accepted by this Commission on 15 September 2023.

The shipment of said subject article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2022 subheading 8607.99.00, with a Most Favoured Nation (MFN) rate of duty of 3% *ad valorem*, was processed under Import Entry/Customs Reference No. C-100783 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 6813.81.00, with an MFN rate of duty of 10% *ad valorem*.

Hence, this request for a TCDR.

While evaluating the documents submitted by the Importer/Consignee, the Commission determined that additional information was needed to properly classify the subject article. Hence, the Commission contacted the Authorized Representative of the Importer/Consignee, Ms. Marisol Catapang of Avanti Transport Services Phils. Inc., and requested for the submission of brochure/technical specifications of the product and its complete (100%) material composition.

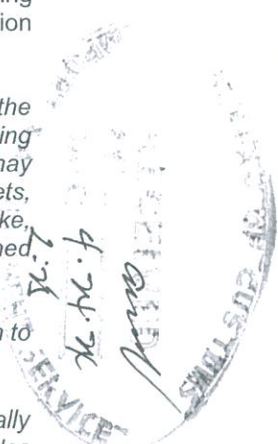
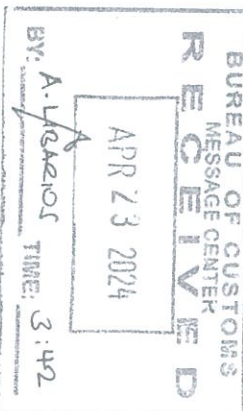
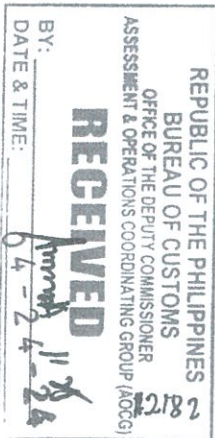
The Importer/Consignee's response containing the required information were received by this Commission on 09 October 2023, 26 January 2024, and 20 February 2024.

Pursuant to Section 7.3 of Commission Order No. 2018-01, this Commission requested the concerned BOC District Collector on 10 November 2023 for comments on the request for TCDR on Brake Pads JURID 839 16mm 35mm for MT. In a letter dated 24 November 2023, Atty. Halleck A. Valdez, CESO V, Deputy Collector for Assessment, BOC-NAIA, provided BOC's comment through a Memorandum he prepared along with Mr. Johnorel S. Sionillo, Customs Operations Officer (COO) III, through Ms. Leabel U. Basa, Acting Chief, Formal Entry Unit, Paircargo, and Dr. Siegfried L. Manaois, Special Deputy Collector (SDC), Paircargo Assessment Composite Division, stating the reasons why subject article was reclassified from the declared AHTN 2022 subheading 8607.99.00 (with an MFN rate of duty of 3% *ad valorem*) to AHTN 2022 subheading 6813.81.00 (with an MFN rate of duty of 10% *ad valorem*). The reasons for this reclassification decision, as stated in the aforesaid Memorandum, were as follows:

"To reiterate, article in question are "JURID 839 BRAKE PADS" was initially classified by the consignee/customs broker to 86079900 (3%) (Parts of Railway or tramway locomotives or rolling stock; other), however upon document examination and submission of brochure the article may be classified under 68138100 (10%) (Friction material and articles thereof (for example, sheets, rolls, strips, segments, discs, washers, pads) not mounted, for brakes, for clutches or the like, with a basis of asbestos, of other mineral substances or of cellulose, whether or not combined with textile or other materials; Not containing asbestos; Brake linings and Pads).

In relation to this, below are the following reasons of the assigned examiner for reclassification to HS Code 68138100 (10%):

- Explanatory Notes of Section XVII states on Parts and Accessories more specifically elsewhere in the Nomenclature. Parts and Accessories, even identifiable as for the articles



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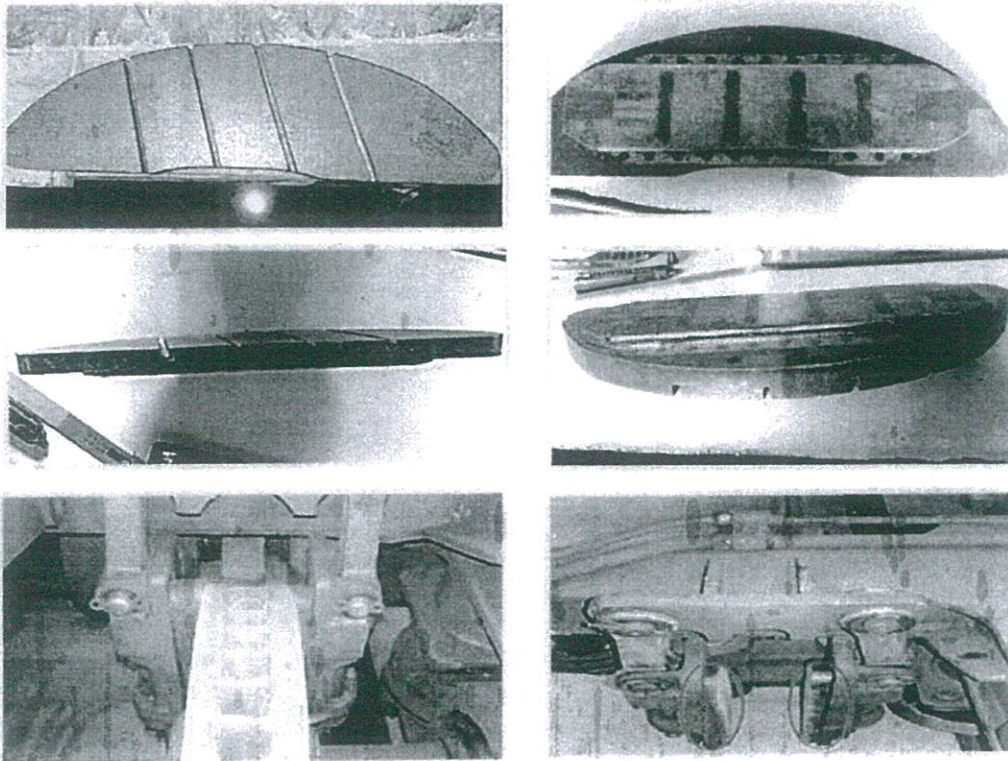
of this Section, are excluded if they are covered more specifically by another heading elsewhere in the Nomenclature.

- AHTN Section XVII, Note 3 states "References in Chapter 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."

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 subject article. A hearing, therefore, is no longer necessary.

After due examination of the submitted technical data sheet, safety information sheet, video on the installation of brake pads, product sample, and photographs of the product, it is established that subject article is a non-asbestos semi metallic brake pad composed of aluminium oxide, magnesium oxide, synthetic rubber, and resin, among others. The pad has parallel multiple slots and is fixed to a metal backing plate to secure its installation to the brake system of a train. These pads are designed for the disk brakes of Light Rail Vehicles (LRV) (first generation trains). Having a dimension of (L x W x T) 338 mm x 106 mm x 16 mm, subject article comes into contact with the rotating disc or brake rotor when the train operator applies the brake, causing the vehicle to slow or stop (e.g., upon arrival at the next train station or for safety during an emergency).

Below are photographs of subject article submitted by the Importer/Consignee to the Commission:



The BOC considered the classification of the product under Chapter 68 of the AHTN 2022, which covers *articles of stone, plaster, cement, asbestos, mica or similar materials*, particularly under heading 68.13, which covers *friction material and articles thereof (for example, sheets, rolls, strips, segments, discs, washers, pads), not mounted, for brakes, for clutches or the like, with a basis of asbestos, of other mineral substances or of cellulose, whether or not combined with textile or other materials*.

The pertinent Harmonized System (HS) Explanatory Notes (EN) to heading 68.13 states that:

"Asbestos friction material is usually made by high pressure moulding of a mixture of asbestos fibres, plastics etc.; it can also be made by compressing layers of woven or plaited asbestos which

have been impregnated with plastics, pitch or rubber. It may be reinforced with brass, zinc or lead wire, or may sometimes be made up from metal wire or cotton yarn covered with asbestos. Owing to its high friction coefficient and its resistance to heat and wear, this material is used for lining brake shoes, clutch discs, etc., for vehicles of all kinds, cranes, dredgers or other machinery. The heading includes similar friction materials with a basis of other mineral materials (e.g., graphite, siliceous fossil earths) or of cellulose fibre.

According to the particular use for which it is intended, friction material of this heading may be in the form of sheets, rolls, strips, segments, discs, rings, washers, pads or cut to any other shape. The friction material may also be assembled by sewing, may be drilled or otherwise worked.

The heading **excludes**:

(a) Friction materials not containing mineral materials or cellulose fibre (e.g., those of cork); these are generally classified according to the constituent material.

(b) **Mounted brake linings (including friction material fixed to a metal plate provided with circular cavities, perforated tongues or similar fittings, for disc brakes); these are classified as parts of the machines or vehicles for which they are designed (e.g., heading 87.08).** [emphasis added]

On the other hand, based on the subject article's use/function, the Importer/Consignee classified it under Chapter 86 of the AHTN 2022 which covers *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, specifically under heading 86.07 which covers parts of railway or tramway locomotives or rolling-stock. The pertinent HS EN to heading 86.07 state that:*

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

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

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

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

(1) *Bogies, with two or more axles, and bissel-bogies consisting of a frame with only one axle.*

(2) *Straight or cranked axles, whether or not assembled.*

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

(4) *Axle-boxes, also known as lubricating or grease-boxes, and parts thereof (e.g., axle-box bodies).*

(5) *All types of brake gear, including :*

(a) *Hand-brakes, controlled directly from each individual vehicle (lever and screw brakes).*

(b) *Continuous brakes with a single control for all the vehicles of the train. These include compressed air and vacuum brakes.*

(c) **Parts of brake gear including shoes, cylinders, levers, etc.** [emphasis added]

XXX"

Note 3 to Section XVII (Vehicles, aircraft, vessels and associated transport equipment) of the AHTN 2022 states that:

"3.- 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."

By reference to the HS EN of heading 68.13, the Commission has determined that subject article, as presented, is a mounted brake pad specifically for use with disk brakes designed/intended for trains of Chapter 86, and thus is specifically covered under heading 86.07 of the AHTN 2022.

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 8607.21.00 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
Brake Pads JURID® 839 16mm for MT	8607.21.00	3% <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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