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DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

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22 April 2024

CUSTOMS MEMORANDUM CIRCULAR
NO. 77-2024

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. 23-008 issued on 17 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 "System Res Half Inflated Rubber Bag Ref DTLG272A1450," from France consigned to Asia Brewery Incorporated, (Import Entry/ Customs Reference Nos. C-134351 and C-135954, 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	2022 MFN Rate
System Res Half Inflated Rubber Bag Ref DTLG272A1450	8431.39.50	1% ad valorem

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



MAY 08 2024



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09-47993

REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION
DISPUTE RULING ON "SYSTEM RES HALF
INFLATED RUBBER BAG REF DTLG272A1450"
CONSIGNED TO ASIA BREWERY INCORPORATED

TCC (DR) NO. 23-008

(Import Entry/Customs Reference Nos. C-134351
and C-135954, NAIA)

Issued on: 17 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 System Res Half Inflated Rubber Bag Ref DTLG272A1450 imported by Asia Brewery Incorporated (Importer/Consignee) from France. The request of the Importer/Consignee for a TCDR was accepted by this Commission on 18 May 2023.

The shipment of the said subject article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2022 subheading 8431.39.90, with a Most Favoured Nation (MFN) rate of duty of 1% *ad valorem*, was processed under Import Entry/Customs Reference Nos. C-134351 and C-135954 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 4016.95.00, with an MFN rate of duty of 7% *ad valorem*.

Hence, this request for a TCDR.

While evaluating the submissions from the Importer/Consignee, the Commission determined that additional information was needed to properly classify the subject article. Hence, on 10 July 2023, the Commission requested the Importer/Consignee to submit the following additional information, as certified by the supplier:

- a) identification of the complete components of the good; and
- b) description on how the subject good is used in relation to the palletizer/depalletizer machine it is intended for.

The response, containing the required information, was received by this Commission via electronic mail (email) on 20 July 2023.

Furthermore, the Commission extended a request to Mr. Reynan C. Samoy, the authorized representative from Time Cargo Logistics Corporation, via telephone, seeking a copy of the Discrepancy Report for the shipment with Reference No. C-134351. This document was received by the Commission on 19 October 2023 via an email from Ms. Aica Razon of the same company.

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 System Res Half Inflated Rubber Bag Ref DTLG272A1450. In a letter dated 24 November 2023, Atty. Halleck A. Valdez, Deputy Collector for Assessment, provided BOC's comment through a Memorandum, prepared by Mr. Johnorel S. Sionillo, Customs Operations Officer (COO) III; Ms. Gladys Joy C. Obsum, COO III; and Mr. Jaypee Mabuhay, Acting COO V, stating the reasons why subject article was reclassified from the declared AHTN 2022 subheading 8431.39.90 (with an MFN rate of duty of 1% *ad valorem*) to AHTN 2022 subheading 4016.95.00 (with an MFN rate of duty of 7% *ad valorem*). The reasons for this reclassification decision, as stated in the aforesaid Memorandum, were as follows:

"To reiterate, article in question are **"SYSTEM RES HALF INFLATED RUBBER BAG PEF DTLG27A1450"** was initially classified by the consignee/customs broker to **84313990 (1%)** (Parts suitable for use solely or principally with the machinery of headings 84.25 to 84.30; other parts of machinery of heading 84.28), however upon document examination and submission of brochure

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TIME: 2:34

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the article may be classified under 40169500 7% (other articles of vulcanised rubber other than hard rubber; Other inflatable articles).

In relation to this, below are the following reasons of the assigned examiners for reclassification to HS Code 40169500 (7%):

- Section XVI Note 1-A of chapter 84 does not cover (Transmission or conveyor belts or belting, of plastics of Chapter 39, or of vulcanised rubber (heading 40.10), or other articles of a kind used in machinery or mechanical or electrical appliances or for other technical uses, of vulcanised rubber other than hard rubber (heading 40.16).
- Explanatory notes of heading 8431 Parts suitable for use solely or principally with the machinery of headings 84.25 to 84.30 states; Subject to the general provision regarding the classification of parts (see the General Explanatory Note to Section XVI), this heading covers parts for use solely or principally with the machinery of headings 84.25 to 84.30

It should also be noted that many parts do not fall in this heading since they are Specified elsewhere in the Nomenclature, e.g., suspension springs (heading 73.20), engines (heading 84.07 or 84.08, etc.)

- **SYSTEM RES HALF INFLATED RUBBER BAG REF DTLG27A1450 is an inflatable air bag with specific HS code in AHTN 2022 of 40169500 other inflatable articles."**

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 brochure, material certification issued by the manufacturer, invoice, packing list, other technical specifications, and photographs of the product, it is established that subject article is a component of a bottle palletizing machine. It is made of non-plasticized polyvinyl chloride-coated fabric formed into a rectangular inflatable bag measuring 1,320 mm (L) x 75 mm (H) x 27 mm (T). It is fitted with three carbon steel threaded studs placed at 510 mm apart, reinforced steel plates, and a 12-mm long plastic air tube. During operation, the rows of air bags (also called gripping tubes), which are fitted to the gripping mechanism of said machine, will be filled with air and used to pick-up or grip rows of bottles for transfer to the feeding table conveyor for layer stacking. Subject article is intended for bottles with a special shape design (short necks, wide space between necks) and is to be imported in a half-inflated state.

Below is a photograph submitted by the Importer/Consignee of the actual product installed to the gripping mechanism of the palletizing machine:



Gripping tubes / Air Bag

The Importer/Consignee considered subject article as part of a palletizing machine classifiable under Section XVI of the AHTN 2022 (*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 article*), specifically under Chapter 84, which covers *nuclear reactors, boilers, machinery and mechanical appliances; parts thereof*.

Further, the Importer/Consignee declared/classified subject article under heading 84.31 of the AHTN 2022, which covers parts suitable for use solely or principally with the machinery of headings 84.25 to 84.30. The pertinent Harmonized System (HS) Explanatory Notes (EN) to this heading state that:

"Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), this heading covers parts for use *solely or principally* with the machinery of headings 84.25 to 84.30.

It should also be noted that many parts **do not fall** in this heading since they are :

- (a) Specified elsewhere in the Nomenclature, e.g., suspension springs (**heading 73.20**), engines (**heading 84.07 or 84.08**, etc.) and electrical ignition or starting equipment (**heading 85.11**).
- (b) Parts identical with those for motor vehicles and not suitable for use solely or principally with the machinery of headings 84.25 to 84.30, and therefore classified as parts of motor vehicles (**heading 87.08**); this applies in particular to wheels and steering and braking equipment.
- or (c) Parts suitable for use solely or principally with the machinery for lifting, handling, loading or unloading boules, wafers, semiconductor devices, electronic integrated circuits or flat panel displays (**heading 84.86**).

The heading includes :

- (1) Lifting grabs, buckets, grips, etc., i.e., simple lifting buckets fitted with attaching rings, hooks, etc.; hinge-bottomed buckets; grabs consisting of two jointed shells which fit together for lifting powdery materials; grips consisting of two or more jointed blades or claws for handling stone, rocks, etc.

Electro-magnetic lifting heads for handling scrap metal, etc., are also **excluded (heading 85.05)**.

XXX"

On the other hand, the BOC considered subject *half-inflated rubber bag* to be excluded from Section XVI (and thereby Chapter 84) by virtue of Note 1 (a) to Section XVI which states that:

"1. This Section does not cover :

- (a) Transmission or conveyor belts or belting, of plastics of Chapter 39, or of vulcanised rubber (heading 40.10), or other articles of a kind used in machinery or mechanical or electrical appliances or for other technical uses, of vulcanised rubber other than hard rubber (heading 40.16);"

Instead, they classified the product under Chapter 40 of the AHTN 2022, which covers *rubber and articles thereof*, specifically under heading 40.16 which covers *other articles of vulcanised rubber other than hard rubber*. The pertinent HS EN to said heading state that:

"This heading covers all articles of vulcanised rubber (other than hard rubber) not covered by the preceding headings of this Chapter or by other Chapters.

The heading includes :

- (1) Articles of cellular rubber.
- (2) Floor coverings and mats (including bath mats), **other than** rectangular (including square) mats cut from plates or sheets of rubber and not further worked than surface-worked (see the Explanatory Note to **heading 40.08**).
- (3) Erasers.
- (4) Gaskets, washers and other seals.
- (5) Boat or dock fenders, whether or not inflatable.
- (6) Pneumatic mattresses, pillows and cushions and other inflatable articles (**other than** those of **heading 40.14 or 63.06**); water-mattresses.

XXX"

Based on the evaluation of the information provided to this Commission, it has been established that though subject article is named "rubber bag", it is in fact not made of rubber material, but of non-plasticized polyvinyl chloride-coated fabric. It has also been determined that subject air bag is a component/part of a palletizing machine designed for the lifting/handling of bottles during the palletizing/stacking process.

The classification of parts of machines and apparatus covered under Section XVI of the AHTN 2022 is governed by Note 2 to this section which states that:

"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."

The palletizing machine, to which the subject article is a component, is classifiable under heading 84.28 of the AHTN 2022, which covers *other lifting, handling, loading or unloading machinery (for example, lifts, escalators, conveyors, teleferics)*. The pertinent HS EN regarding the classification of parts under this heading state that:

"Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), parts of the machines of this heading are classified in heading 84.31."

Furthermore, the General Explanatory Notes to Section XVI regarding the classification of parts state that:

"In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or apparatus subject, of course, to the exclusions mentioned in Part (I) above. Separate headings are, however, provided for :

(A) Parts of the engines of heading 84.07 or 84.08 (heading 84.09).

(B) Parts of the machinery of headings 84.25 to 84.30 (heading 84.31) [emphasis added].

XXX"

In addition, subject air bag is not merely a made-up article of textile/fabric. It is fitted with essential components, such as the carbon steel threaded studs, reinforced steel plates, and a plastic air tube, which play crucial roles in its functions of gripping/picking up and of being part of a palletizing machine (*i.e.*, incorporating it into the gripping mechanism), thus making subject article suitable for use solely or principally with the palletizing machine.

By reference to Note 2 to Section XVI and the HS EN to headings 40.16, 84.28, and 84.31, the Commission has determined that subject article, being a part solely designed for the gripping mechanism of the palletizing machine of heading 84.28, is appropriately covered under heading 84.31 of the AHTN 2022.

CMC 77-2024 p.6

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TCC (DR) NO. 23-008

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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 8431.39.50 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
System Res Half Inflated Rubber Bag Ref DTLG272A1450	8431.39.50	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

hnd

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