Court of Justice of the European Union

Case Law in the field of Customs Union Law

Cases 2015

Last Update 01/10/2015

Case C-344/14, 17 September 2015 (Kyowa Hakko Europe GmbH v Hauptzollamt Hannover)

Kyowa Hakko Europe GmbH v Hauptzollamt

Reference for a preliminary ruling — Tariff and statistical nomenclature — Classification of goods — Amino acid mixes used for the preparation of foodstuffs for infants and young children allergic to cow's milk proteins — Classification under tariff headings 2106 'food preparations' or 3003 'medicinal products'

The Combined Nomenclature in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1214/2007 of 20 September 2007, must be interpreted as meaning that amino acid mixes, such as those at issue in the main proceedings, which are used in the preparation of foodstuffs for infants and young children who are allergic to cow's milk proteins, must be classified under heading 2106 of that nomenclature as 'food preparations' since, because of their objective characteristics and properties, those goods do not have clearly defined therapeutic or prophylactic characteristics, with an effect concentrated on precise functions of the human organism and, accordingly, are not capable of being applied in the prevention or treatment of diseases or ailments and also are not naturally intended for medical use, which it is for the national court to ascertain.

Case C-84/14P (appeal of case before the General Court T-438/10), 14 July 2015 (Forgital Italy SpA v Council of the European Union)

Forgital Italy SpA v Council of the European Union

Pourvoi – Article 181 du règlement de procédure de la Cour – Recours en annulation – Article 263, quatrième alinéa, TFUE – Droit de recours – Qualité pour agir – Personnes physiques ou morales – Acte réglementaire comportant des mesures d'exécution – Règlement douanier modifiant les conditions d'une suspension tarifaire – Possibilité de recours devant les juridictions nationales

Par ces motifs, la Cour ordonne:

1) *Le pourvoi est rejeté.*

2) *Forgital Italy SpA est condamnée aux dépens.*

Case C-187/14, 25 June 2015 (Skatteministeriet v DSV Road A/S)

Skatteministeriet v DSV Road A/S

Reference for a preliminary ruling - Community Customs Code - Regulation (EEC) No 2913/92 - Articles 203 and 204 - Regulation (EEC) No 2454/93 - Article 859 - External transit procedure - Incurrence of a customs debt - Removal or not from customs supervision - Failure to perform an obligation - Late submission of the goods at the office of destination - Goods refused by the consignee and returned without having been submitted to the customs office - Goods again placed under the external transit procedure via a fresh declaration - Directive 2006/112/EC - Article 168(e) - Deduction of VAT on import by the carrier.

1) *Article 203 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Council Regulation (EC) No 1791/2006 of 20 November 2006 must be interpreted as meaning that a customs debt is not incurred on the basis of the sole fact that the goods placed under an External Community transit procedure are, after an unsuccessful delivery attempt, brought back to the free port of departure without having been presented to either the customs office of destination or the customs of the free port if it is established that the same goods were subsequently transported again to their destination under a second correctly discharged External Community transit procedure. However, if it is not possible to establish that the goods covered by the first and second External Community transit procedures are the same goods, a customs debt is incurred under that provision;*

2) *Article 204 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Council Regulation (EC) No 1791/2006 of 20 November 2006, read in conjunction with Article 859 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92, as amended by Commission Regulation (EC) No 214/2007 of 28 February 2007, must be interpreted as meaning that the late presentation at the customs office of destination under a second External Community transit procedure of goods placed under a first External Community transit procedure constitutes an omission which leads to a customs debt being incurred, unless the conditions laid down in Article 356(3) or the second indent of Article 859 and point 2(c) thereof of that regulation are satisfied, which it is for the referring court to ascertain;*

3) *Article 168(e) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as not precluding national legislation which excludes the deduction of VAT on import which the carrier, who is neither the importer nor the owner of the goods in question and has merely carried out the transport and customs formalities as part of its activity as a transporter of freight subject to VAT, is required to pay.*

Case C-405/14, 11 June 2015 (PST CLC, a.s. v Generální ředitelství cel)

PST CLC, a.s. v Generální ředitelství cel

Renvoi préjudiciel – Classement tarifaire – Validité du point 2 du tableau figurant à l'annexe du règlement (CE) n° 384/2004 pendant la période allant du 22 mars 2004 au 22 décembre 2009 – Applicabilité de cette disposition aux déclarations en douane déposées au cours de l'année 2008 – Classement de produits destinés aux ordinateurs, constitués d'un diffuseur de chaleur et d'un ventilateur

1) Le point 2 du tableau figurant à l'annexe du règlement (CE) n° 384/2004 de la Commission, du 1er mars 2004, relatif au classement de certaines marchandises dans la nomenclature combinée était invalide durant la période où celui-ci était en vigueur, soit du 22 mars 2004 au 22 décembre 2009.

2) Pour autant que les produits en cause au principal soient composés d'un diffuseur de chaleur ainsi que d'un ventilateur et soient exclusivement destinés à être incorporés dans un ordinateur, ce qu'il appartient à la juridiction de renvoi de vérifier, leur classement tarifaire doit être effectué sur la base des règles générales pour l'interprétation de la nomenclature combinée prévues par le règlement (CEE) n° 2658/87 du Conseil, du 23 juillet 1987, relatif à la nomenclature tarifaire et statistique et au tarif douanier commun, tel que modifié par le règlement (CE) n° 1214/2007 de la Commission, du 20 septembre 2007.

Case C-272/14, 11 June 2015 (Skatteministeriet v Baby Dan A/S)

Skatteministeriet v Baby Dan A/S

Renvoi préjudiciel – Union douanière et tarif douanier commun – Nomenclature combinée – Classement tarifaire – Positions 7318 et 8302 – Article spécialement conçu pour la fixation de barrières de sécurité destinées à la protection des enfants

La nomenclature combinée figurant à l'annexe I du règlement (CEE) n° 2658/87 du Conseil, du 23 juillet 1987, relatif à la nomenclature tarifaire et statistique et au tarif douanier commun, dans ses versions résultant successivement du règlement (CE) n° 1214/2007 de la Commission, du 20 septembre 2007, et du règlement (CE) n° 1031/2008 de la Commission, du 19 septembre 2008, doit être interprétée en ce sens qu'un article, tel que celui en cause au principal, qui permet de fixer à un mur ou à un chambranle des barrières de sécurité amovibles pour enfants, doit être classé dans la position 7318 de la nomenclature combinée.

Case C-58/14, 11 June 2015 (Hauptzollamt Hannover v Amazon EU Sàrl)

Hauptzollamt Hannover v Amazon EU Sàrl

Reference for a preliminary ruling - Regulation (EEC) No 2658/87 - Customs union and Common Customs Tariff - Combined Nomenclature - Heading 8543 70 - Electrical machines and apparatus, having individual functions, not specified or included elsewhere in Chapter 85 of the Combined Nomenclature - Subheadings 8543 70 10 and 8543 70 90 - Reading devices for electronic books with translation or dictionary functions

The Combined Nomenclature in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 861/2010 of 5 October 2010, must be interpreted as meaning that a reading device for electronic books which has a translation or dictionary function must, where that function is not its principal function, that being a matter for the national court to ascertain, be classified under subheading 8543 70 90 and not under subheading 8543 70 10.

Case C-635/13, 523 April 2015 (SC ALKA CO SRL v Autoritatea Națională a Vămilor - Direcția Regională pentru Accize și Operațiuni Vamale Galați and Direcţia Generală a Finanţelor Publice a Municipiului București)

SC ALKA CO SRL v Autoritatea Națională a Vămilor - Direcția Regională pentru Accize și Operațiuni Vamale Galați and Direcţia Generală a Finanţelor Publice a Municipiului București

Reference for a preliminary ruling — Common customs tariff — Tariff classification — Combined Nomenclature — Heading 1207 — Oilseeds — Heading 1209 — Seeds for sowing — Heading 1212 — Seeds principally used for human foodstuffs, not specified or included elsewhere — Import of raw shelled pumpkin seeds originating from China

It is for the referring court, in order to make a tariff classification of the pumpkin seeds at issue in the main proceedings, to ascertain whether those seeds are normally used for the extraction of edible or industrial oils and fats, but are not covered by headings 1201 to 1206 of the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the versions resulting, successively, from Commission Regulation (EC) No 1549/2006 of 17 October 2006 and Commission Regulation (EC) No 1214/2007 of 20 September 2007. If that is the case, those seeds must be classified under heading 1207 of the Combined Nomenclature because they are oilseeds, whether or not they are actually used for the extraction of edible or industrial oils and fats or for sowing or human consumption. If that is not the case, those seeds will come under heading 1209 of the Combined Nomenclature if they could still be germinated when they were imported, whether or not they are actually used for the extraction of edible or industrial oils and fats or for sowing or human consumption, or under heading 1212 of the Combined Nomenclature if they could not still be germinated.

Case C-178/14, 5 March 2015 (Vario Tek GmbH v Hauptzollamt Düsseldorf)

Vario Tek GmbH v Hauptzollamt Düsseldorf

Renvoi préjudiciel – Union douanière et tarif douanier commun – Nomenclature combinée − Classement tarifaire – Position 8525 80 – Caméras de télévision, appareils photographiques numériques et caméscopes – Sous-positions 8525 80 91 et 8525 80 99 – Caméras vidéo intégrées dans des lunettes de sport – Fonction 'zoom optique' − Enregistrement de fichiers provenant de sources externes

1) La nomenclature combinée figurant à l'annexe I du règlement (CEE) nº 2658/87 du Conseil, du 23 juillet 1987, relatif à la nomenclature tarifaire et statistique et au tarif douanier commun, dans sa version résultant du règlement (UE) nº 1006/2011 de la Commission, du 27 septembre 2011, doit être interprétée en ce sens que le fait que des caméras vidéo intégrées dans des lunettes de sport, telles que celles en cause au principal, soient dépourvues d'une fonction «zoom optique» n'empêche pas le classement desdites lunettes dans les sous-positions 8525 80 91 et 8525 80 99 de cette nomenclature.

2) La nomenclature combinée figurant à l'annexe I du règlement nº 2658/87, dans sa version résultant du règlement nº 1006/2011, doit être interprétée en ce sens que le fait que des caméras vidéo intégrées dans des lunettes de sport, telles que celles en cause au principal, offrent la possibilité d'enregistrer et de stocker sur un support amovible des fichiers vidéo ou audio en provenance d'une source externe s'oppose à leur classement dans la sous-position 8525 80 91 de cette nomenclature si cet enregistrement peut être réalisé de manière autonome et sans dépendre de matériels ou de logiciels externes.

Case C-547/13, 4 March 2015 («Oliver Medical» SIA v Valsts ieņēmumu dienests)

«Oliver Medical» SIA v Valsts ieņēmumu dienests

Reference for a preliminary ruling — Regulation (EEC) No 2658/87 — Common Customs Tariff — Tariff classification — Combined Nomenclature — Headings 8543, 9018 and 9019 — Laser and ultrasonic appliances and their parts and accessories

The Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff as amended, successively, by Commission Regulation (EC) No 1214/2007 of 20 September 2007, Commission Regulation (EC) No 1031/2008 of 19 September 2008, Commission Regulation (EC) No 948/2009 of 30 September 2009, Commission Regulation (EU) No 861/2010 of 5 October 2010 and Commission Regulation (EU) No 1006/2011 of 27 September 2011 must be interpreted as meaning that, in order to determine whether goods, such as those at issue in the main proceedings, must be classified as medical instruments or appliances, under heading 9018 of the Combined Nomenclature, or as mechano-therapy appliances, under heading 9019 thereof, or rather as electrical apparatus, having an individual function, under heading 8543 thereof, it is appropriate to take account of all the relevant factors in the case, to the extent that they relate to characteristics and objective properties inherent to those goods. Among the relevant factors, it is necessary to assess the use for which the product is intended by the manufacturer and the methods and place of its use. Thus, the fact that the product is intended to treat one or more different pathologies and that that treatment must be carried out in an authorised medical centre and under the supervision of a practitioner are indications capable of establishing that that product is intended for medical use. Conversely, the fact that a product mainly brings about aesthetic improvement, that it may be operated outside a medical environment, for example in a beauty parlour, and without the intervention of a practitioner are indications that that product is not intended for medical use. The dimensions, weight and technology used are not decisive factors for the classification of goods, such as those at issue in the main proceedings, under heading 9018 of the Combined Nomenclature.

Case C-134/13, 12 February 2015 (Raytek GmbH and Fluke Europe BV v Commissioners for Her Majesty's Revenue and Customs)

Raytek GmbH and Fluke Europe BV v Commissioners for Her Majesty's Revenue and Customs

Reference for a preliminary ruling — Common Customs Tariff — Tariff classification — Combined Nomenclature — Infrared thermal imagers

Examination of the question referred has not revealed any factor capable of affecting the validity of Commission Regulation (EU) No 314/2011 of 30 March 2011 concerning the classification of certain goods in the Combined Nomenclature.