



GOVERNMENT OF PAKISTAN
MODEL CUSTOMS COLLECTORATE OF APPRAISEMENT (EAST)
CUSTOM HOUSE, KARACHI

C. No.(01)KAPE/WeBOC/PCT/2016

Dated: 15th April, 2016

The Collector,
MCC Appraisement (West),
Custom House,
Karachi.

Subject: CLASSIFICATION OF GOODS IMPORTED BY M/S PARADIZE AMUSEMENT & ENTERTAINMENT (PVT) LIMITED.

Model Customs Collectorate of Appraisement (West), Custom House, Karachi forwarded a reference to the Classification Committee for determination of appropriate classification of "Railway fixture & fittings, switch blades, crossing frogs, point rods and other cross pieces, vide letter No. SI/Misc/64/2015-VII dated 29-12-2015. Background of the issue is that M/s Paradise Amusement & Entertainment (Pvt) Ltd imported a consignment declared as 'Railway complete with locomotive, boogies and all other accessories' to be used in an amusement park vide GD No. KAPW-HC-37928-1-09-2015 claiming classification under PCT 8601.1000, 8605.0000, 7302.3000 & 8608.0000 respectively (First Schedule of the Customs Act, 1969). The Collectorate classified the goods as under:-

Sr. No	Description	Declared PCT	Assessed PCT
1.	Locomotive (in nude)	8601.1000	9508.9000
2.	Wagon	8605.0000	9508.9000
3.	Switch blades, crossing frogs (Point rods and other crossing pieces)	7302.3000	7302.1000
4.	Railway or tramway fixtures and fittings	8608.0000	6810.1900

2. The issue was deliberated upon in meetings of the Classification Committee held on 28.01.2016 and 11.02.2016. Representative of MCC (Appraisement-West) deliberated on the subject and invited attention towards exclusion of certain products from Chapter 86 vides Note 1 (a) & (b) to Chapter 86 as reproduced below:

- a) Railway or tramway sleepers of wood or that of concrete, or concrete guide-track sections for hover trains (heading 44.06 or 68.10);
- b) Railway or tramway track construction material of iron or steel of heading 73.02.

Thus, in view of Note 1(a) & (b) to Chapter 86, items at Sr. No. 3 of the above table are appropriately classifiable under heading 7302.1100 and items 4 under heading 6810.1900.

3. The representative of the importer explained that M/s Paradize Amusement & Entertainment (Pvt) Limited imported the fairground amusement for Bahria Project at Karachi and there is no dispute regarding classification of locomotives and wagons under heading 9508.9000 as determined by the Customs officials because they are meant for amusement purposes and are not of the type used by railway or tramways which attract classification under heading 86.01 and 86.05 respectively. As regards item No. 3 & 4 of the above table, the importer contested the classification under heading 7302.1000 and 6810.1900 respectively and hence the matter was referred to PCT Committee by the Collectorate.

4. The importer's representative explained that locomotives, wagons and other equipments mentioned in the aforesaid table were imported together. The term of heading 9508 covers 'fair ground amusement'. At page number XX-9508-1 of the Explanatory Notes to HS, the examples of 'fair ground amusement' has been given which at its Sr. No. 4 includes 'scenic railway'. As regards other equipment, the importer's representative draws attention towards the following explanation at page XX-9508-1 of the Explanatory Notes:

"Fairgournd amusements, travelling circuses, travelling menageries and travelling theatres fall in this heading provided they comprise all the essential units required for their normal operation. The heading also includes items of auxiliary equipment provided they are presented with, and as components of, these various amusements, notwithstanding that when presented separately such items (e.g., tents, animals, musical instruments, power plants, motors, lighting fittings, seats, and arms and ammunition) would fall in other headings of the Nomenclature."

5. And from the above explanation, it is evident that the auxiliary equipments mentioned at Sr. No 3 & 4 of the aforementioned table imported along with 'fairground amusements' will also be classified under heading 95.08 even though they are classifiable in their own appropriate headings if imported separately. The importer's representative further explained that products of Chapter 95 have a special treatment in the Explanatory Notes to HS as detailed below:

- i. Note I to Section XVII of the Pakistan Customs Tariff exclude articles of heading 95.08 from the ambit of Section XVII (Chapter 86 to 89). Thus, fairground amusements and its parts and accessories will remain classified in heading 95.08.
- ii. Section Note 1 (I) to Section XV (Chapter 72 to 82) of the Pakistan Customs Tariff excludes articles of Chapter 95 (For example, toys, games, sports requisites) from the ambit of this Section. Thus, the impugned goods are not classifiable under heading 73.02.
- ii. Note 1(I) to Chapter 68 of the Pakistan Customs Tariff excludes articles of Chapter 95 (For example, toys, games, sports requisites) from the ambit of this Chapter. It thereby means that none of the article / component / part/ accessories classifiable in Chapter 95 could be classified under heading 68.10. Even otherwise, toys, games and sports requisites of Chapter 95 have been excluded from the purview of Chapter 68 by virtue of exclusion (e) page XIII-68-2 of the Explanatory Notes.
- iii. Note 3 to Chapter 95 of the Pakistan Customs Tariff describes that subject to Note 1 of this Chapter, parts and accessories which are suitable for use solely or principally with articles of this Chapter are to be classified with those articles. Thus, all the components / parts imported will qualify for classification in Chapter 95 and not under heading 7302.1000 and 6810.1900. It may be mentioned that Note 1 to Chapter 95 does not exclude any article of heading 7302.1900 and 6510.0900 from the ambit of Chapter 95.

6. Another member of the Committee also explained that Note 1(a) (b) to Chapter 86 referred by the Collectorate relates to railway or tramway spellers and railway to tramway track. At page XVII-86 of the Explanatory Notes, the expression 'railway' and 'tramway' refer not only to conventional railways and tramways using steel rails, but also the similar guided systems such as those using magnetic levitation or concrete tracks. The goods under discussion do not constitute conventional railway or tramway and is not covered by Note 1 (a) (b) of Chapter 86. Even otherwise, equipment specially designed for use on roundabouts or other **fairground amusements** are excluded by virtue of exclusion (d) page XVII-86-2 of the Explanatory Notes and falls for classification under heading 95.08.

7. After deliberation, the committee deduced that the classification of products of Chapter 95 has been given a unique treatment in the Harmonized System. Toys, games and sports requisites; parts and accessories thereof attract classification under chapter 95 unless specifically excluded there from by virtue of note 1 to Chapter 95. The Chapter 95 also includes

parts and accessories which are suitable for use solely or principally with articles of this chapter which are to be classified with those articles (Note 3 to Chapter 95).

8. In view of the above discussion, the Committee is of the opinion that classification of the impugned goods [i.e. Switch blades, crossing frogs (Point rods and other crossing pieces) (Item No. 3 of the above table) and railway or tramway fixtures and fittings (Item No. 4 of the above table) under heading 95.08 (9508.9000) by application of Rule 1 and 6 of General Interpretative Rules (GIR) and Pakistan Rule-1 of the First Schedule of the Customs Act, 1969.

9. This Ruling is issued in terms of Chapter – II (Classification) of the CGO 12/2002 dated 15th June, 2002 and shall hold the field as far as present scheme of four dash national headings. Any appeal against this Ruling shall lie only with the Federal Board of Revenue under Rule 2 of Pakistan Rules to the General Rules for Interpretation.



(Muhammad Haris Ansari)
Additional Collector-III

Chairman Classification Committee

Copy for Information to:

1. The Chief Collector of Customs (Appraisalment-South), Custom House, Karachi.
2. The Collector of Customs, MCC Appraisalment (East), Custom House, Karachi.