

Date received Date 19/9/22  
P.A. to Director (507)

GOVERNMENT OF PAKISTAN  
CUSTOMS APPELLATE TRIBUNAL, BENCH-I  
3<sup>rd</sup> FLOOR JAMIL CHAMBER  
SADDAR, KARACHI

DTE. GEN. of I & I-FBR

C. DY. NO. 2358

Dated: 19/9/22

Before: Mr. Abdul Jabbar Qureshi, Member Judicial-I, Karachi  
Mr. Abdul Basit Chaudhary, Member Technical-I, Karachi.

Customs Appeal No. K-730 / 2022

M/s. Lucky Cement Limited  
6-A, Muhammad Ali Housing Society,  
Karachi

Appellant

Versus

1. The Collector of Customs (Adjudication-II),  
Custom House,  
Karachi.
2. The Director  
Directorate General of Intelligence and Investigation (Customs),  
Regional office, 81/C Block-6, PECHS,  
Karachi.
3. Collector of Customs,  
MCC A&F (East),  
Custom House,  
KARACHI

Respondents

Mr. Agha Shahid Majeed, Advocate present for the Appellants.

Mr. Ilyas Ghichki I/O, present for Respondents.

Date of Hearing : 06.06.2022

Date of Judgment : 01.09.2022

JUDGEMENT

Mr. Abdul Jabbar Qureshi, Member Judicial-I, Karachi : By this Judgment,  
We dispose of appeal No.K-730/2022, filed by the Appellant against Order-in-  
Original No. 874 of 2021-2022 dated 28.02.2022, passed by the Collector of  
Customs (Adjudication-II), Custom House, Karachi, where in the Adjudicating  
Authority ordered to recover of Rs.85,792,115/- of taxes and imposed a penalty of  
Rs.5,000,000/- on the Appellant in terms of clause (14) of section 156(1) of the  
Customs Act, 1969. The Appellant being aggrieved and dissatisfied with the  
Order, filed the instant appeal under section 194A of the Customs Act, 1969.

ATTESTED

2. Brief facts of the case as reported by the Directorate General of Intelligence  
and Investigation, (Customs), Regional Office, Karachi vide its Seizure Report  
No. Appg-196/DCI/R&A/Lucky Cement/Seiz/2021 8532 dated 28-10-2021 has  
reported following facts:-



Chapter 84 or 85 and directs them to be classified in their appropriate heading 73.18 of the Pakistan Customs Tariff. The prices of the structures are variable and are on higher side pertaining to quality structures imported by manufacturers and industries. The value of approximately US \$ 2 per kg is not something unique and is almost at the break even price considering the raw materials. On the contrary, the structures for Cement Plants are listed at Serial 407 of the CGO 02/2017 dated 17.04.2017 in the PCT heading 7308 and are being locally manufactured. The description of Serial 407 is reproduced below:

*"Steel Structure for platforms, Gantries, Steel piles casing for following industries: 1. Oil & Gas fields 2. Oil Refineries 3. Fertilizer Industries 4. Cement Plants 5. Sugar Mills 6. Flood light Masts 7 Lattice type towers 8. Jetties & Terminals 9. Industrial Sheds 10. Multi storied Residential and Commercial Buildings, constructed with Steel Structure. In accordance to AISC, AISI, BS 5400, AWS D.1.1. Masts, towers, plate girders, columns, supports, staging, walkways, factory sheds, grid and yard structures, platforms for all industrial plants (cement, sugar fertilizer, chemical, petrochemical, oil refineries & processing, Sewage water treatment) Industrial buildings, 20x70m to 30 to 100m."*

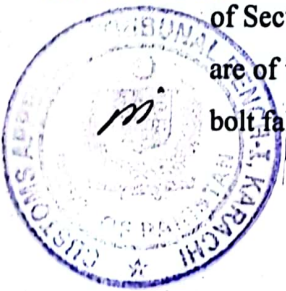
13. The importer by virtue of Section 79 of the Customs Act, 1969 is bound to declare true and correct declaration and in computerized system specifically under Section 79(1) (b) by assessing and paying his liability of duty, taxes and other charges thereon. The declaration under wrong PCT heading in the Customs Computerized System with aim to evade government legitimate revenue is submission of false statement punishable under clause 14 of Section 156(1) of the Customs Act, 1969 which has been proved against the importer / appellant.

14. Heard arguments from both the sides and examined the case record. The core issue involved in this case is classification of imported items as under;

- (i) Whether "pre heater steel structure" falls under PCT heading 8474.8090 or under PCT heading 7308.9090.
- (ii) Whether "anchor bolt" falls under PCT heading 8474.8090 or under PCT heading 7318.1590

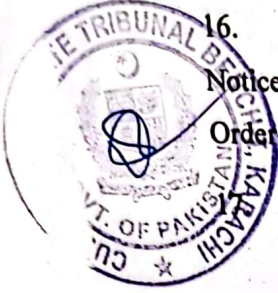
15. That after taking into consideration Explanatory Notes of HS 7308, Note 2(a) of section XV, exclusion (c) of Explanatory Notes to heading 7308, Note 2(b) of Section XVI and considering the report dated 10.03.2022 mentioned above, we are of the firm view that Steel Structure falls under heading 7308.9090 and anchor bolt falls under 7318.1590 respectively.

**ATTESTED**





ATTESTED



16. For what has been discussed above, the charges leveled in the Show Cause Notice stand established beyond any shadow of doubt, therefore, the impugned Order-In-Original is upheld.

The appeal is accordingly dismissed. No order as to cost.

-sd-

(Abdul Basit Chaudhary)  
Member Technical-I  
Karachi.

-sd-

(Abdul Jabbar Qureshi)  
Member Judicial-I  
Karachi.

This order consist of (15) pages and each page bears my initials and office seal.

-sd-

(Abdul Basit Chaudhary)  
Member Technical-I  
Karachi.

-sd-

(Abdul Jabbar Qureshi)  
Member Judicial-I  
Karachi.

GOVERNMENT OF PAKISTAN  
CUSTOMS APPELLATE TRIBUNAL  
BENCH-I, KARACHI

C.A. No(s) K-730/2022 dated 07-4-2022

M/s Lucky Cement Ltd.

against Order-in-Original/Order-in-Revision/Order-in-Appeal No. 874/21-22 dt 28/2/2022

passed by Collector Custom Adj-II Karachi.

Copy forwarded to  
1. M/s Lucky Cement - Ltd.

2. Agha Shahid Law Associates

3. Collectorate of Customs M.C.C, Appraisement/PMBQ, Karachi (East)

4. Collectorate of Customs M.C.C, Preventive/AFU, Karachi

5. Collectorate of Customs M.C.C, Hyderabad

6. Directorate General of PCA/Valuation/IPR, Karachi

7. Directorate General of Intelligence & Investigation, Karachi/Hyderabad

8. Directorate General of Pakistan Coast Guard, Karachi

9. Office record.

Call/SEN/880/DIT-KKI/813-Rep-196

KENB-6752/Lucky Cement/2022

REGISTRAR

CUSTOMS APPELLATE TRIBUNAL  
BENCH-I, KARACHI