

COMMISSION DECISION

of 22-04-1998

finding that the remission of import duties in
particular cases is justified

(requests submitted by Italy)

Ref. **REM 24/97, 25/97, 26/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code,¹

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Regulation (EEC) No 2913/92, and in particular Article 907 thereof,²

Whereas by letter dated 20 October 1997, received by the Commission on 28 October 1997, Italy asked the Commission to decide under Article 239 of the abovementioned Regulation (EEC) No 2913/92 whether the remission of import duties is justified in the following circumstances:

¹ OJ No L 302, 19.10.1992, p. 1.

² OJ No L 253, 11.10.1993, p. 1.

Three Italian firms were authorised to use the inward processing procedure until 31 August 1996 to import a certain quantity of tomato concentrate from third countries (8 000 tonnes in respect of the firm concerned in case number REM 24/97, 7 000 tonnes for the firm in REM 25/97 and 15 000 tonnes for the firm in REM 26/97) and re-export it after blending and re-packing.

As a result of a check the competent Italian authorities found that totals of 789 tonnes (REM 24/97), 4 878.497 tonnes (REM 25/97) and 824.864 tonnes (REM 26/97) of goods had been imported under the inward processing procedure after expiry of the time limit on 31 August 1996.

As the goods had therefore been entered for inward processing without authorisation, the customs authorities asked the firms concerned to pay sums of XXXXXX(REM 24/97), XXXXX (REM 25/97) and XXXXXX (REM 26/97) in unpaid import duties; these are the sums for which the firms concerned now seek remission.

Whereas the firms concerned state that they have seen the dossier submitted to the Commission by the Italian authorities and have nothing to add;

Whereas in accordance with Article 907 of Regulation (EEC) No 2454/93, a group of experts composed of representatives of all the Member States met on 9 January 1998 within the framework of the Customs Code Committee (Section for General Customs Rules/Repayment) to consider the case;

Whereas, in accordance with Article 239 of Regulation (EEC) No 2913/92, import duties may be repaid or remitted in special situations, other than those laid down in Articles 236, 237 and 238 of that Regulation, resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned;

Whereas the inward processing authorisations of the firms concerned were valid until 31 August 1996 only;

Whereas the goods in question were imported after that date; whereas, therefore, the imports were no longer covered by the said authorisations and the firms concerned thus incurred a customs debt;

Whereas, however, the firms concerned believed that the consignments of goods in question were still covered by the inward processing authorisations as they were either en route or in dockside storage on 31 August 1996; whereas, therefore, it was as a result of an error that the firms concerned failed to request extension of their inward processing authorisations; whereas moreover it is the first time that the firms concerned make such an error;

Whereas all the goods were re-exported and all the required formalities completed; whereas, in particular, the customs laboratory carried out the requisite tests both when the goods were entered for the procedure and on re-export to check on product identification;

Whereas, according to the Italian authorities, the goods concerned were re-exported in accordance with the requirements of the inward processing authorisation, including those relating to time limits for re-exportation;

Whereas the Italian authorities have stated that, had they received the request, there would have been no objection on economic grounds to the extension of the said authorisations;

Whereas these factors are such as to constitute a situation covered by Article 239 of Regulation (EEC) No 2913/92; whereas, moreover, if the same circumstances had occurred after 1 August 1997, Article 859(9) of Regulation (EEC) No 2454/93 would have applied;

Whereas in the special circumstances of the case in question no deception or obvious negligence may be attributed to the firms concerned; whereas they have used the inward processing procedure for several years without any irregularity being detected hitherto;

Whereas, therefore, the remission of import duties requested is justified in these cases,

HAS ADOPTED THIS DECISION:

Article 1

The remission of import duties in the sum of XXXXXX, XXXXX and XXXXX requested by Italy on 20 October 1997 (case numbers REM 24/97, REM 25/97 and REM 26/97 respectively) is hereby found to be justified.

Article 2

This Decision is addressed to Italy.

Done at Brussels, 22-04-1998

For the Commission