

Commission Decision

of 25-01-1998

finding that repayment of import duties in a particular case is justified

(request submitted by Denmark)

Ref. **REM: 13/98**

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 1993² laying down provisions for the implementation of Council Regulation (EEC) No 2913/92, and in particular Article 907 thereof,

Whereas by letter dated 31 March 1998, received by the Commission on 7 April 1998, Denmark asked the Commission to decide, under Article 239 of Council Regulation (EEC) No 2913/92, whether the repayment of import duties is justified in the following circumstances:

On 15 August 1997 a Danish private citizen imported into Denmark 30 pieces of gold jewellery made in Singapore from gold melted down from old family jewellery which he had previously taken out of Denmark. Before leaving Denmark the applicant notified the airport customs authorities that he was taking out the jewellery and would be bringing it back to Denmark after having it melted down and turned into new pieces.

¹ OJ No L 302, 19.10.1992, p.1

² OJ No L 253, 11.10.1993, p.1

When he brought back the jewellery into Denmark the Danish authorities demanded payment of import duty based on the total value of the reimported jewellery. The applicant then applied for repayment of some of the duty paid on the grounds that the jewellery imported had been made from old jewellery which had previously been taken out of Denmark and declared to the customs authorities when it left Danish territory;

Whereas the applicant has declared that he has taken note of the submission sent to the Commission by the Danish authorities and has 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 16 October 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 applicant did not hold an outward processing authorisation when he took the jewellery out of Denmark; whereas a customs debt was therefore incurred by bringing the jewellery into the European Community;

Whereas, however, the applicant had clearly indicated to the customs authorities when taking the jewellery that he intended to bring it back into Denmark after reworking; whereas, despite this the customs authorities did not require an outward processing authorisation when the jewellery left Denmark;

Whereas a request for such authorisation would certainly have been granted and the jewellery thereby covered by the outward processing procedure;

Whereas a private individual cannot be expected to be conversant with customs rules or the outward processing rules;

Whereas these factors together constitute a situation falling within Article 239 of Regulation 2913/92;

Whereas in the special circumstances of the case in question no deception or obvious negligence may be attributed to the person concerned;

Whereas the requested repayment of import duties in the sum of XXXX, i.e. the reduction in duties that would have been granted if the person concerned had been covered by the outward processing procedure, is justified,

HAS ADOPTED THIS DECISION:

Article 1

The repayment of import duties in the sum of XXXXX requested by Denmark on 31 March 1998 is hereby found to be justified.

Article 2

This Decision is addressed to Denmark.

Done at Brussels, 25-01-1999

For the Commission