

COMMISSION DECISION

of 25-03-1997

finding that the remission of import duties in a particular case

is inadmissible

(request submitted by France)

REM 22/96

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 2913/92,² and in particular Article 907 thereof,

Whereas by letter dated 27 September 1996, received by the Commission on 2 October 1996, France asked the Commission to decide, under Article 239 of Regulation (EEC) No 2913/92 whether the remission of import duties is justified in the following circumstances:

In June and July 1995 a French firm imported vehicles originating in Argentina under the inward processing (suspension) procedure.

After conversion of the bodywork, these vehicles were re-exported to Nigeria. However owing to an error on the part of the forwarding agent, these vehicles were exported under EX1 outright export declarations rather than under EX3 declarations for re-export following inward processing (suspension) operations.

¹ OJ No L 302, 19.10.1992, p.1.

² OJ No L 253, 11.10.1993, p.1.

As the inward processing (suspension) procedure was not discharged, duties in the sum of XXXXX fell due on the imported vehicles.

Whereas the firm concerned declares that it has taken note of the dossier sent to the Commission by the French authorities and has nothing to add;

Whereas in accordance with Article Article 907 of Regulation (EEC) No 2454/93, a group of experts composed of representatives of all the Member States met on 10 January 1997 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 firm concerned held an inward processing (suspension) authorization for the operations in question; whereas the vehicles concerned were not used in circumstances other than those provided for by the authorization;

Whereas the firm concerned tried to regularize the operations as soon as it discovered the mistake;

Whereas under Article 204 (1) (a) of Regulation (EEC) No 2913/92 a customs debt does not arise in the case of non-fulfilment of one of the obligations arising, in respect of goods liable to import duties, from the use of the customs procedure under which they are placed if this failure has no significant effect on the correct operation of the customs procedure in question;

Whereas under Article 859(6) of Regulation (EEC) No 2454/93, removal of goods placed under a customs procedure from the customs territory of the Community without completion of the necessary formalities is considered to have no significant effect on the correct operation of the customs procedure in question within the meaning of Article 204 of Regulation (EEC) No 2913/92, provided it does not constitute an attempt to remove the goods unlawfully from customs supervision, does not imply obvious negligence on the part of the person concerned and all the formalities necessary to regularize the situation of the goods are subsequently carried out;

Whereas the firm concerned has provided proof that the goods entered for the inward processing (suspension) procedure were those which left the Community customs territory;

Whereas the case under consideration neither constitutes an attempt to remove the goods unlawfully from customs supervision nor implies obvious negligence on the part of the firm concerned; whereas, moreover, all the formalities necessary to regularize the situation of the goods have subsequently been carried out;

Whereas, therefore, the error committed by the firm concerned has had no significant effect on the correct operation of the customs procedure;

Whereas in this case no customs debt has arisen and the French authorities may therefore remit the duties on their own initiative under Article 236 of Regulation 2913/92,

HAS ADOPTED THIS DECISION:

Article 1

The remission of import duties in the sum of XXXXX requested by France on 27 September 1996 is inadmissible.

Article 2

This Decision is addressed to France.

Done at Brussels, 25-03-1997

For the Commission