

Court File No.: T-1295-20

# FEDERAL COURT

**BETWEEN :**

**RONSCO INC.**

Plaintiff

-and-

**HER MAJESTY THE QUEEN**

Defendant

**ACTION UNDER** s. 135 of the *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.).

## REPLY

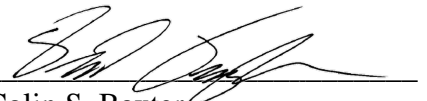
1. The plaintiff Ronsco Inc. (“Ronsco”) denies the allegations in the statement of defence except as expressly set out below.
2. Ronsco denies that it has ever admitted, acknowledged, or failed to dispute any finding that Ronsco had “reason to believe” that its original tariff declaration with respect to forged railway wheels with unfinished bore holes (“rough bore wheels”) was incorrectly classified under tariff item 8607.19.21 (“**Tariff 21**”).
3. In particular, and contrary to paragraphs 20 and 21 of the Statement of Defence, Ronsco did not, in its May 25, 2018 response (the “May 25, 2018 Response”) to the interim report of Canada Border Services Agency (“CBSA”) dated April 20, 2018, admit, acknowledge or fail to dispute CBSA’s finding that Ronsco had “reason to believe” that its original tariff declaration with respect to rough bore wheels was incorrectly classified under Tariff 21.

4. To the contrary, Ronsco was extremely surprised by CBSA's position that rough bore wheels did not fall within Tariff 21 and that Ronsco supposedly had "reason to believe" this was the case based on the wording of Tariff 21 itself. Ronsco has clearly maintained its position throughout that it did not have "reason to believe" that its original tariff declaration was incorrect based on the wording of Tariff 21.
5. The CBSA's administrative policies, including Memorandum D-11-6-10 *Reassessment Policy* and Memorandum D-11-6-6 "*Reason to Believe*" and *Self-adjustments to Declarations of Origin, Tariff Classification, and Value for Duty*, make clear that the CBSA does not always require importers to make corrections for a four-year period and that the re-assessment period for a trade compliance verification is different, depending on whether or not specific information giving the importer reason to believe that their previous declarations were incorrect ("specific information") was available. Where specific information is not available, the CBSA's administrative policies do not require the importer to make corrections going back to the maximum of four years.
6. Given that the wording of Tariff 21 is not *prima facie* evident and transparent, Tariff 21 did not provide specific information giving Ronsco reason to believe that its previous declarations were incorrect, nor did Ronsco have any other sources of specific information prior to the trade compliance verification.

7. The fact that Ronsco asserted in its May 25, 2018 Response that rough bore wheels are properly classified under tariff item number 8607.19.30 is irrelevant to whether Tariff 21 is *prima facie* evident and transparent. Further, if Ronsco developed a “reason to believe” at that time, which is not admitted, it was not as a result of Tariff 21, which is unclear and ambiguous.
8. Contrary to paragraph 36 of the Statement of Defence, the goods imported by Sumitomo Canada Limited (“Sumitomo”) are the same as the rough bore wheels imported by Ronsco. The Advanced Ruling requested by Sumitomo and granted by CBSA classified Sumitomo’s rough bore wheels under Tariff 21 as “Blanks for use in the manufacture of wheel and axle combinations for railway and tramway (including subway cars) passenger coaches; For self-propelled railway vehicles for the transport of passengers, baggage, mail or express traffic; For use in the repair of tramway vehicles (excluding subway cars) with magnetic track brakes”.
9. Ronsco uses the same rough bore wheels for the very same purpose as Sumitomo. Sumitomo does not import wheel blanks for passenger coaches or for any other railway vehicle used to transport passengers.

10. Contrary to paragraph 40 of the Statement of Defence, this Court has jurisdiction to grant the relief sought by Ronsco in this section 135 Appeal.

January 11, 2021

  
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