



Tax News Flash

- Customs

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Samjong KPMG provides readers Customs related recent local issues and trends. This newsletter is a monthly publication of Samjong KPMG. If you need more detailed explanation, please feel free to contact Key contacts.



The following is a recent Customs-related Tribunal case in Korea

1. Whether the plastic toys imported by the claimant should be classified in HSK 9503.00-3300, under the heading "Other construction sets and constructional toys", or in HSK 9053.00-3919, under the heading "Other toys". [Tax Tribunal, 2022-Customs-0029, April 03, 2023]

1) Facts

The claimant is a company whose main business is the manufacture and sale of plastic toys, and the products at issue are divided into four categories: 1) bracelets (hereinafter referred to as "Article 1"), 2) role-playing toys (hereinafter referred to as "Article 2"), 3) unassembled figures (hereinafter referred to as "Article 3"), and 4) assembled figures (hereinafter referred to as "Article 4"). The claimant imported the products at issue and declared them under heading HSK 9503.00-3300 (Other construction sets and constructional toys; WTO agreement tariff rate of 0%), but in May 2020, due to a customs audit, the Korea Customs Service raised a classification issue, and the claimant company applied for a HS classification ruling. Subsequently, the Customs Valuation and Classification Service decided to classify the goods under heading 9503.00-2130, etc. (basic tariff rate of 8%). The Korea Customs Service corrected and notified the additional customs duty accordingly, but the claimant filed an appeal on January 6, 2022.

2) Issue

- Whether the plastic toys imported by the claimant should be classified in HSK 9503.00-3300, under the heading "Other construction sets and constructional toys", or in HSK 9053.00-3919, under the heading "Other toys"

3) Decision

The products at issue have irregularities that allow all parts to be connected to each other and fit together in various shapes; they can be disassembled even if they are already assembled and packaged; they can be reassembled after disassembly by replacing or adding parts that were originally used in a different shape than the one in which they were packaged; and even in the case of the Article 1 which the authorities call one-piece, the dots on the band can be removed to create different designs of wristbands for children, It is difficult to conclude that this process does not constitute assembling and disassembling, as the products at issue are intended to be assembled and disassembled into various shapes for play rather than to be played with as a finished product in a specific model.

In the case of the Article 2,3 and 4, the dolls can be assembled and disassembled to add or change accessories to the basic character, and although the Explanatory Notes to heading 9503 of the Harmonized Tariff Schedule distinguish 'dolls representing human beings' from 'other toys', but it define 'toy soldiers' which can be considered as a doll representing human beings as an item included in 'other toys', while 'lay figures and automata' are excluded from heading 9503, in light of the fact that the term 'Dolls' is used in the description of the heading, it is difficult to see that the figure Articles that are included with non-human creatures and that can be assembled and disassembled with accessories can not be classified as 'Other construction sets and constructional toys'.

4) KPMG's comment

In the HS Classification "Other construction sets and constructional toys" of heading 9503.00-3300, the definition of "constructional" or "assembly" or "set" is not clearly defined, which is often interpreted narrowly by the customs authority. As a result, many toy companies have adopted a conservative classification of their products even though they can be assembled or disassembled. It is necessary to compare the products according to the 'Detailed Application Guidelines for the Classification of Construction Sets and Constructional Toys' decided by the 12th HS Classification Council in 2005 and seek for the professional opinions.

Also, it is highly recommended to evaluate the possibility that whether the toy products declared for import in the past could be classified as 'Other construction sets and constructional toys',

and, if so, explore the opportunity to apply for the tax refunds by receiving an official ruling from the Korea customs authority.



Key Contacts

Samjong KPMG Transfer Pricing & Customs Service Group



Gil-Won Kang
Head of TAX 6
T. +82-2-2112-0907



Seung-Mok Baek
TP Partner
T. +82-2-2112-0982



Sang-Hoon Kim
TP Partner
T. +82-2-2112-7939



Tai-Joon Kim
TP Partner
T. +82-2-2112-0696



Yong-Jun Yoon
TP Partner
T. +82-2-2112-0277



Tae-Joo Kim
Customs Partner
T. +82-2-2112-7448

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home.kpmg/kr/ko/home/services/tax.html

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27th Floor, Gangnam Finance Center, 152, Teheran-ro, Gangnam-gu, Seoul, Korea

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