

Bauer Nike Hockey, Inc. v. United States

393 F.3d 1246 (Fed. Cir. 2004)

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Bauer Nike Hockey Inc. (Bauer) unsuccessfully brought suit in the Court of International Trade against the United States for the improper customs classification of ice hockey pants under subheading 6211.33.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Bauer's suit contended that their hockey pants should have been classified under subheading 9506.99.25 which is designated for "ice-hockey equipment" and was duty free during the relevant import years. The United States Court of Appeals for the Federal Circuit found for Bauer and reversed the Court of International Trade's decision.

The United States Court of Appeals for the Federal Circuit exercises complete and independent review of the veracity of tariff classifications of imported merchandise. In making such determinations, the Court must undergo a two-step process. First, the Court must construe the debated terms in the relevant tariff provision(s). Second, the Court must determine which tariff provision(s) as correctly construed most properly encompass the merchandise in question.

At issue in the case was whether Bauer's ice hockey pants qualified as ice hockey articles and equipment under HTSUS 9506.99.25. In considering the classification for Bauer's ice-hockey pants, Customs relied on previous case law in claiming that only items that were "indispensable" to the playing of the sport could properly be classified under the relevant sport. Since Bauer conceded that ice hockey could, in fact, be played successfully without ice hockey pants, customs believed the items were more properly classified as composite goods consisting of man-made fibers under 6211.33.00 of the HTSUS. The Court of Appeals disagreed with the indispensable component of the classification and found that Webster's Dictionary, which defines equipment/equipping as "the equipping of a person or thing" to "provide what is necessary, useful, or appropriate," to be the more appropriate definition for the term. The Court determined that Customs and the Court of International Trade had improperly relied upon the "indispensable" component outlined in previous case law.

The government also claimed that Note 12(a) of 9902.62.01 gave credence to their decision to classify the ice hockey pants as composite goods and not as sports equipment. Note 12(a) specifically classified ice hockey pants as "sports-clothing" and allowed the items to enter the United States duty free. Customs claimed that since the note classified ice hockey pants as sports clothing and not as equipment, it was proper to classify ice hockey pants as sports clothing for all future purposes. The note, however, had expired when the customs board arrived at its decision. The Court of Appeals found that there was no persuasive evidence to expand upon the use of the note for a purpose other than that specifically specified in the note, which was to allow ice hockey pants into the U.S. without tax. Since the government was now trying to use the note in order to impose a tariff on ice hockey pants, the court found this to be an impermissible expansion of the original note's purpose.

The holding bolsters the significance of subheading 6211.33.00 of the HTSUS for ice hockey equipment manufacturers by establishing a broader range of goods that fall under the subheading's purview. The holding, to some degree, also vitiates any remaining significance of Note 12(a) of subheading 9902.62.01 by establishing that

using the now expired note in anyway which would expand upon, or change, the congressional intent in drafting the original note to be improper.