CUSTOMS ACT COURT OF REVIEW

Decision

Section 101A (4) *Customs Act* 1986

Title of Matter:	**LOKIA SHOPPING CENTRE LTD**	**(Appellant)**
	v	
	CEO, FIJI REVENUE AND CUSTOMS SERVICES	**(Respondent)**
Section:	**Section 101A(4) *Customs Act* 1986**	
Subject:	**Appeal against Amended Assessment**	
Matter Number(s):	**No 1 of 2018**	
Appearances:	**Mr P Kumar, Mitchell Keil Lawyers for the Appellant** **Mr E Eterika and Mr O Verebalavu, FRCS Legal Unit for the Respondent**	
Dates of Hearing:	**29 January 2019; 24 July 2019.**	
Before:	**Mr Andrew J See, Resident Magistrate**	
Date of Decision:	**1 November 2019**	

KEYWORDS: Section 10 *Customs Tariff Act* 1986; Remission or refund of duty; General Rules for the Interpretation of the Harmonized System; Section 101A (4) *Customs Act* 1986; Appeal against decision of the Comptroller.

CASES CONSIDERED

Finest Liquor (Fiji) Ltd v Fiji Revenue and Customs Authority [2014] FJCOR 1; Matter 06.2013 (4 November 2014),

Background

[1] The Appellant is an incorporated entity engaged in the business of importation and wholesaling of spice products from Pakistan and Malaysia. At the heart of this appeal, is a tariff classification ruling made by the Respondent on 11 July 2018, relating to the fiscal duty to apply on packets of seasoning mix that had been imported into the country by the Appellant. The tariff classification ruling gave rise to the Respondent re-assessing the duty payable in accordance with Section 101A of the *Customs Act* 1986. The re-assessment follows an audit investigation undertaken by the Comptroller in 2017 and 2018.

[2] The circumstances in which the liability to pay import duty is established, arises out of Section 3 of the *Customs Tariff Act* 1986,[1] that in turn makes reference to rates at Schedule 2 of that Act. Central to the dispute between the parties are the Single Administrative Documents that are completed by the Appellant as an importer, when self- assessing its duty in accordance with Schedule 2.

[3] The item at the centre of the dispute is a 60 gram packet of seasoning mix that is used as flavouring in cooking. The packets of mix have been imported into the country by the Applicant and were self- assessed as falling within a Schedule 2- Chapter 9 (Coffee, Tea, Mate and Spices) Tariff Item 9109900 and as a result, believed to attract only a 5 per cent duty. The Respondent on the other hand, claimed that the self-assessment has identified the incorrect Tariff Item and argues that the correct duty is 32 per cent, as the item falls within Schedule 2 – Chapter 21 (Miscellaneous edible preparations) Tariff Item 210390. As a result of the change in classification as made by the Comptroller, the Appellant was advised of a duty shortfall in the amount of $15,227.08 (VAT inc), that it is "a debt due to the government under Section 92 of Customs Act 1986 and shall be recovered under Section 95"[2].

Application 02 of 2018

[4] This case has all of the features of that now decided in COR Application No 02 of 2018. For those same reasons, the application made under Section 101A(4) of the Act must fail.

Decision

[5] It is a decision of this Court, that the appeal under Section 101A (4) of the Act is dismissed.

HIGH COURT OF FIJI
SUVA

Mr Andrew J See
Resident Magistrate

[1] See Section 92 of the *Customs Act* 1986.
[2] See Demand Notice dated 17 July 2018.