



الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

Compendium of Defenses Raised in Customs Disputes and the Committees' Responses for the year 2024



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



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Introduction

Praise be to Allah, the Lord of the Worlds, and prayers and peace be upon the most honorable messengers and the Last Prophet, our Prophet Muhammad, and upon his family, companions and followers.

There is no doubt that the efforts made by the courts and judicial Committees and the Provisions and Decisions issued by them constitute a priceless jurisprudential and judicial heritage, and a result that should be given attention and care. Considering the commercial and industrial revolution that of Saudi Arabia is experiencing under Vision 2030, many people are facing numerous challenges in customs issues. From the perspective of social responsibility that the General Secretariat of the Zakat, Tax, and Customs Committees adopts, it has sought to establish a solid foundation and reference for committee members, taxpayers, and interested parties through the study and analysis of the "Final Decisions Issued by Customs Committees for 2024, by extracting the main defenses raised before the customs committees and their stance thereon which effectively contributes to addressing customs disputes, thereby reducing the prolongation of litigation; as these documents clarify what the appeal committees have settled on in their decisions. This will reflect on shortening the duration of litigation for concerned parties, easing the burden on the judge, and achieving the principle of transparency that the General Secretariat pursues, in addition to providing practical aspects for the relevant authorities in legal and regulatory research, especially academic and training institutions, among others.

We ask Allah, the Almighty, to make our work purely for Him, and to support our efforts and endeavors for what is good, as He is indeed a gracious benefactor.



Speech of His Excellency the Secretary General of the Zakat, Tax and Customs Committees

All praise is due to Allah alone, and thereafter:

Based on the vision and values of the General Secretariat of the Zakat, Tax and Customs Committees -which aims to achieve excellence in resolving zakat, tax, and customs disputes- on the basis of innovation and efficiency, promoting transparency and justice, and developing cooperation among the components of the zakat, tax, and customs system, the Secretariat is actively working to raise legal awareness. This aligns with the goals of Saudi Vision 2030 through enabling judicial guarantees and establishing a framework of transparency and justice. The Secretariat supports the Zakat, Tax, and Customs Committees in addressing unresolved disputes before them, provides assistance to the committees at all stages through conducting studies and research, and offers support to litigants by clarifying relevant regulations, decisions, and precedents, as well as by updating and organizing them regularly.

The General Secretariat has developed a compendium of legal defenses, particularly those raised by litigants, and has analyzed the positions adopted by the appellate and objection committees. This was done in order to build a legal reference that results in practical insights contributing to the realization of several objectives of the Secretariat, including reducing disputes and conflicts, and strengthening the position of the committees in analyzing such defenses and rationalizing the decisions issued by the committees. In conclusion, I extend my sincere thanks and appreciation to the Custodian of the Two Holy Mosques, King Salman bin Abdulaziz, and to His Royal Highness Crown Prince Mohammed bin Salman bin Abdulaziz, Prime Minister -may Allah protect them- for their continued support of judicial and quasi-judicial activities. I also express my gratitude to the distinguished staff of the General Secretariat for their outstanding efforts in producing this output, which I hope will achieve its intended goals and serve as an added value in the legal field.

Secretary-General

Abdullah bin Abdulrahman al-Suhaibani



Methodology:

The General Secretariat has been careful to select judgements with a comprehensive nature of their subjects in order to achieve the desired benefit. In view of the importance of the characterization of the case before the adjudication and appeal committees and its impact on the reasoning and basis for the Decision, which is the result sought by the parties to the case, and because customs cases have different facts and circumstances; it was necessary to tabulate the final decisions issued by the Customs Committees to enable researchers to review the opinion of the Committees on these defenses.

Based on the role of the General Secretariat of Zakat, Tax and Customs Committees in adopting and applying the principles of continuous improvement and development in the management of Zakat, Tax and Customs disputes, with the aim of enabling the speedy resolution of these disputes, the Secretariat paid attention to identifying the customs decisions issued by the customs adjudication and appeal committees that the Secretariat considered important to analyze the defenses made by the parties to the case during their pleadings before the committees and the position of the committees on those defenses; therefore, the work required a solid plan to produce it in an easy and accessible manner, the work was divided into several stages as follows:

- The final decisions issued by the customs committees were thoroughly inventoried during 2024.
- The name of the circuit issuing the decision, the number of the decision, and the date of issuance were listed.
- Keywords have been set to make it easier to search through them.
- A summary of the case which summarizes the most important parts of the case was developed.
- Listing the references that the circuit relied on when issuing the decision, with the presence of hyperlinks to those references.
- Listing the defenses of the parties in the lawsuit.
- Statement of the circuit's position on those defenses.
- The text of the circuit's decision.
- Ensuring the deletion of all data indicating the parties to the lawsuit or other parties without affecting the Decision.
- Verifying the integrity of the Decision from a linguistic and spelling perspective.
- Categorize decisions thematically as appropriate and place them under the most relevant category.



Before starting this project, it is advisable to define the defenses and their sections:

First: Definition of "Defenses" in language and terminology:

"Defenses" in language: The plural of the source (دفع), meaning to remove something, it is said: I pushed (دفعت) the thing, I push it with force. (1)

Defense in jurisprudence: It is "a statement or equivalent made by the Defendant to counter the Claimant's claim". (2)

Defense in the Law: Procedural rights used by the judge or the defendant against the plaintiff's claim to refer it to another judicial authority, or to suspend the dispute, or to terminate it. (3)

Second: Sections of defenses:

Defenses are divided into two main categories based on their subject matter:

First: Procedural Defense: It is "what the defendant raises as an objection to the procedural actions that the plaintiff is required to undertake before and during the proceedings for them to have their effects," such as the objection to the jurisdiction of the court to which the case was brought. (4)

Second: Substantive defense: It is "the defense in which the defendant addresses the very right claimed," such as denying the existence of the right or claiming its expiration. (5)

Defenses also vary in terms of timing into two types:

The first type: Temporary defenses: They are "defenses that are time-bound and must be raised before any request or defense in the case, otherwise they will be forfeited." (6)

The second type: Absolute defenses: They are "defenses that may be raised at any stage of the case, not restricted by time or stage in it". (7)

(1) See: The Dictionary of Language Standards (2/288), Ahmad bin Faris Al-Razi.

(2) See: Ibn Abdeen's Footnote (2/457), Muin al-Hakam al-Tarabulsi (p. 129), Al-Kashif in Explaining the Law of Legal Proceedings (1/29), Abdullah Muhammad Al-Khaneen.

(3) Research titled: Defenses in the Shari'a Pleadings System, Fahd bin Abdulaziz Al-Yahya, published in the Journal of the Saudi Judicial Scientific Society, the ninth issue for the year 1437 AH, (p. 16).

(4) The theory of lawsuits between Islamic law and the Civil and Commercial Procedures Law (576), Mohamed Naim Yassin.

(5) See: The previous reference.

(6) Al-Kashif in explaining the Shari'ah Pleadings Law (1/401).

(7) See: The previous reference (1/401).



procedural defenses raised in custom disputes and committees' responses



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231728

Case No. PC-2024-231728

Keywords:

Customs - Procedural - Lack of jurisdiction

Summary:

Requesting the Zakat, Tax and Customs Authority to cancel the Decision of the Third First Instance Customs Committee No. (CTR-2024-225530), which ruled that the Committee has no jurisdiction to hear the case. Whereas the Appeals Committee determined that the Authority's statement in its statement that the seizure report was prepared before the issuance of the aforementioned royal decree, given that the decree relates to the procedure for accepting the case, and the electronic file of the case proves that it was recorded on a date subsequent to the royal decree, which makes the decree a ruling on jurisdiction without regard to the date of seizure. Consequently: The first instance decision is upheld in all its provisions.

Document

- Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. (25711) dated 08/04/1445 AH.
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The committee argued that the royal decree issued on 06/04/1434 AH does not apply retroactively, and since the report was prepared on 01/01/1434 AH, the committee's jurisdiction remains established.



The Committee's response to the defenses:



This is not affected by what the authority mentioned in its memorandum regarding the preparation of the record of the seizure before the issuance of the aforementioned royal decree, considering that this decree relates to the procedure for accepting the lawsuit, and it is established according to the electronic file records of the lawsuit that it was recorded on a date subsequent to the royal decree, which makes the decree governing regarding jurisdiction without regard to the date of the seizure. Since the reasons for the decision are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal without a supporting basis, necessitating its rejection. Accordingly, the committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally, submitted by the General Authority of Zakat and Tax and Customs, against the first instance Decision No. (CTR-2024-225530) issued by the Third First Instance Customs Committee in Riyadh.
- 2- The appeal is rejected on the merits, and the first instance decision is upheld in all that it ruled, for the reasons and grounds stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CTR-2024-226057

Case No. PC-2023-226057

Keywords:

Customs - Procedural - Death of the taxpayer

Summary:

The importer's request to cancel the initial decision issued by the Third Customs Committee in Riyadh No. (CTR-2023-105787), which ruled not to convict the importer of customs smuggling and to impose a customs fine. And where it was established for the appellate committee that the defendant, may God have mercy on him, passed away according to the death certificate that was attached to the case file. Consequently: Cancellation of the previous decision number (CTR-2023-105787) and the dismissal of the case due to the death of the obligated party.

Document:

- Article 159 of the The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer argued that he was unaware of the details of the case, and that the institution was for his deceased father, may God have mercy on him, who passed away on 03/02/1439 AH, and the initial decision No. (CTR-2023-105787) was issued, which held its session on 02-01-1445 AH. That is, after his father's death.

02-01-1445 AH after the death of the father, may Allah have mercy on him, and did not



The Committee's response to the defenses:



Since the defendant passed away, may God have mercy on him, according to the death certificate attached to the case file, which means that the case has lapsed against him according to Article (159) of the Unified Customs Law, which states the following: Heirs are not liable for the payment of fines imposed on the deceased from their share of the estate unless they are partners in smuggling, and the lawsuit is dropped in the event of the violator's death. Based on the above, and after study and deliberation, the committee unanimously decided the following:

Decision:

1-Acceptance of the lawsuit procedurally, and cancellation of the previous decision No. (CTR-2023-105787) and the dismissal of the lawsuit due to the death of the obligated party.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees..



Subjective defenses raised in custom disputes and committees' responses

Prohibitions



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-230792

Case No. PC-2024-230792

Keywords:

Customs - Prohibited items - Sexual drugs - Valuation - Conviction

Summary:

The importer is requesting the cancellation of the first instance decision No. (CFR-201246-2024) for the year 1445 AH, issued by the first first instance customs committee in Riyadh, which convicted him of customs smuggling due to the seizure of prohibited materials (17 sexual stimulants) in a personal package, and obliging him to pay a customs fine of (17,000) riyals. And since the appellate committee has established that the defenses presented do not affect the outcome of the decision, the appeal is without supporting evidence and must be rejected. Consequently: And support for the first instance Decision.

Document:

- Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. (25711) dated 08/04/1445 AH.
- Article 163 of the The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The Importer defended that the estimated value of the disputed goods is (17,000) riyals, which greatly exceeds its actual value, as its value is only (521) Saudi riyals.



The Committee's response to the defenses:



The committee found that the appellant's argument regarding the valuation of the goods exceeding their actual value is based on the fact that the determination of the amount of customs fines for smuggling prohibited materials is governed by Ministerial Decision No. (2597) dated 24/07/1439 AH, which imposed a customs fine of (1000) one thousand riyals for each piece.

Decision

First: Acceptance of the appeal procedurally, from the applicant/ ... , ... Identity number (...), against the initial decision No. (CFR-201246-2024) issued by the First Customs Committee in Riyadh.

Second: The appeal is rejected on the merits, and the first instance decision is upheld in all that it ruled, for the reasons and grounds stated in this decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231852

Case No. PC-2024-231852

Keywords:

Customs - Prohibitions - Nutmeg - Conviction

Summary:

The importer is requesting the cancellation of the first instance decision No. (CTR-2024-170754) for the year 1445 AH, issued by the Third first instance Customs Committee in Riyadh, which convicted the importer of the crime of customs smuggling and imposed a customs fine and confiscation of the violating item. Since the committee has established that the defenses presented do not affect the outcome of the decision, the appeal is without supporting evidence and must be rejected. Consequently: Supporting the first instance decision in the paragraphs related to the confiscation of the violating item and penalizing the importer, while correcting the material error in the wording of the decision to become: "To convict the corporation in the crime of customs smuggling" as it is responsible for the shipment received under the import declaration.

Document:

- Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. (25711) dated 08/04/1445 AH.
- Article 163 of the The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).



Parties Defenses:

Appellant's

- 1- The importer argued that the letter to initiate the case was not lawful, as it was filed against the institution and its manager instead of the owner of the commercial register who is legally responsible for it.

The Committee's response to the defenses:

The appellate committee noted that the initial decision ruled in paragraph (1) of its text to convict/... Commercial registration number (...), and whereas it was established by the case documents that the shipment subject to the import declaration number (...). On 06/01/1444 AH, it was organized under the name of the Foundation ... Commercial registration number (...), which determines the correction of this material error by stating the correct name of the institution as it will appear in the text of this decision. Accordingly, the committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ institution ... Commercial registration number (...), owned by / ... National ID number (...), against the first instance decision number (CTR-2024-170754) issued by the first First Instance Customs Committee in Riyadh.
- 2- On the merits, the affirmation of the first instance decision regarding what was stated in paragraphs (3, 2), and the amendment of paragraph (1) to be "Conviction/ Institution ... , Commercial Register No. (...) For its owner/ ... National ID number (...) for the crime of customs smuggling, for the reasons and considerations stated in this decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231177

Case No. PC-2024-231177

Keywords:

Customs - Prohibitions - Listening and Tracking Device - Conviction

Summary:

The importer is requesting the cancellation of the first instance decision No. (CFR-2023-156264) issued by the first first instance customs committee in Riyadh, which convicted him in solidarity with the truck driver for smuggling (200) tracking and listening devices hidden within the declared shipment, and obligating them to a customs fine of (200,000) riyals, along with the confiscation of the seized devices. The appellate committee has established that the defenses presented did not affect the outcome of the decision, which means that the appeal has no supporting basis and must be rejected. This means supporting the first instance decision.

Document:

- Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. (25711) dated 08/04/1445 AH.
- Article 163 of the The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer argued that he has no connection to the seized smuggled goods and that he disclosed the order and its invoices, and none of them included the item that violates the regulations.
- 2- The importer argued that the driver exploited the shipment and replaced its contents without his knowledge, according to his statement, which negates the criminal intent, especially since the



invoices did not include the violating item and all the supplied items are commercial and not prohibited.

The Committee's response to the defenses:



The committee found that the appellant's argument regarding the safety of the shipment according to the invoice he provided is based on the presence of an item (mobile phone accessories) in item No. (9) of the invoice, which is not present in the shipment and contradicts what was found of tracking and listening devices without clarifying the reason for that and the nature of the accessories mentioned in the invoice and what proves their validity contrary to the violating item, which necessitates stating that the defenses presented do not affect the outcome of the decision, thus the appeal is without supporting evidence and must be rejected.

Decision

1- Acceptance of the appeal procedurally, from the applicant/ ... , ... National ID number (...), against the first instance decision number (CFR-2023-156264) issued by the first first instance customs committee in Riyadh.

2- The appeal is rejected on the merits, and the first instance decision is upheld in all that it ruled, for the reasons and grounds stated in this decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



Constraints



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-171225

Case No. PC-2024-171225

Keywords:

Customs - Restrictions - Camels and Livestock - No Conviction

Summary:

The importer's request to cancel the decision of the first instance customs committee in Al-Ruqai number (415) for the year 1441 AH, which convicted the importer of customs smuggling and imposed a customs fine equivalent to the value of the camels and required him to pay a confiscation fee. Where it has been established for the appellate committee that the customs' reliance on the mere violation by the importer of the commitment to return the camels within the specified period does not negate the fact of the camels' death, and it results in the impossibility of the appellant returning the camels due to their physical death. This means; the first instance decision overturned everything it ruled.

Document:

- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer argued that the non-return of the camels is due to their death, relying on a statement from the Animal Health Department, confirming that they were not brought into the Kingdom, and he could not provide additional proof due to the total ban that prevented him from attending the initial committee.



Appellee's (Authority's)

- 1- The authority argued that the appellant's permit was for six months, and he was supposed to return the camels before the date (...), but he submitted a subsequent certificate proving his non-compliance with the commitment, confirming the presence of both the material and moral elements of the crime of customs smuggling for not returning the camels within the specified period.

The Committee's response to the defenses:

And since the authority did not provide anything that undermines what was apparent regarding the death of the four camels, which was supported by the attached documents in support of his statements and reinforced by the certificate issued by the Public Authority for Agriculture and Fish Resources in Kuwait dated .../.../... except for what it mentions about the long period between the presumed date for the end of the license to return the camels to the country before the date .../.../... and the issuance of the certificate of the camels' death corresponding to the date .../.../... and that it can be inferred from this that the concerned party did not adhere to the commitment taken upon him to return the camels within six months, which expires on .../.../... and since the customs' reliance on the mere violation by the importer of the commitment to return the camels within the specified period does not negate the fact of the camels' death, it follows that merely relying on the commitment that the concerned party did not adhere to in returning the camels to support what the customs claims regarding the existence of customs smuggling and the validity of its attribution to him is not based on reality, given that the fact of death, for which there is no evidence to refute the apparent indication of the submitted document to prove it, results in the impossibility of the appellant returning the camels due to their death, which means that the first instance Decision did not align with the reality and circumstances of the case, as its outcome was contrary to the truth of its facts as required by the correct application of the law. Since the customs appeal committee concluded that the defenses presented by the appellant included what confirms the invalidity of the appealed first instance Decision, it was decided to annul the first instance Decision in all that it ruled, and thus the committee concluded to report the following:

Decision

- 1- The acceptance of the appeal procedurally from the applicant (...), identity number (...), against the first instance Decision number (415) for the year 1441 AH, issued by the primary customs committee in Al-Ruqai.



2- on the merits to accept it, and the annulment of the first instance Decision regarding everything that was ruled against the appellant, and that is for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-230544

Case No. PC-2024-230544

Keywords:

Customs - Restrictions - Electronic Hookah - Conviction

Summary:

The importer is requesting the cancellation of the decision of the first instance customs committee No. (CSR-2023-120092), which condemned the importer for customs smuggling and obligated him to pay a customs fine and a confiscation of the vehicle. And since it has not been proven to the Appeals Committee through the case documents that the means of transport used in the smuggling operation has been altered. This means; to uphold the first instance decision as ruled and to annul paragraph (5).

Document:

- Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. (25711) dated 08/04/1445 AH.
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer objected to the confiscation of the vehicle as it is owned by the company, and there is no proof of its owner's involvement in the attempt to smuggle, confirming that the seized materials are for personal use and do not carry significant commercial value.



The Committee's response to the defenses:

Since it has been established according to the appeal regulations that the appellant has limited his requests to canceling paragraph five of the first instance decision and ruling against the confiscation of the vehicle, and since the law relied upon for determining the confiscation of the means of transport is inherently linked to the extent to which the means of transport itself is prepared for smuggling the seized materials, such as arranging hiding places or pockets within the means of transport for use in smuggling, based on that, and since it has not been proven through the case documents that the means of transport used in the smuggling operation has undergone the changes previously mentioned, this committee concludes to uphold the first instance decision in paragraphs (4, 3, 2, 1), while canceling paragraph number (5) of its ruling and declaring the non-confiscation of the means of transport as it was no longer used for smuggling. Accordingly, the committee concluded to report the following:

Decision:

- 1- Acceptance of the appeal procedurally, from (...), national ID number (...), against the first instance Decision number (CSR-2023-120092) issued by the second primary customs committee in Riyadh.
- 2- On the merits, the adherence to the first instance decision regarding what was stated in paragraphs (1, 2, 3, 4), and the cancellation of paragraph (5) related to the confiscation of the vehicle, for the reasons and justifications mentioned in this decision.

May Allah's blessings and peace be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-225619

Case No. PC-2024-225619

Keywords:

Customs - Restrictions - Commercial Fraud - Imitation Goods - No Conviction

Summary:

The Zakat, Tax and Customs Authority requested to cancel the decision of the first instance Customs Committee No. (CSR-2023-120092), which ruled not to convict the importer of customs smuggling while obliging him to pay a customs fine. And where it was established for the appellate committee that the statement from the competent authority did not confirm the imitation of the imported goods and there was no explicit examination result proving the violation of intellectual property rights. This means; to uphold the first instance decision as ruled.

Document:

- Article (35/1) of the rules for the work of Zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/04/1445 AH.
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The authority argued that the violation is technical according to the statement of the Ministry of Commerce, as the sample bears an unregistered trademark and a Spanish origin indication, and due to its poor quality, it is considered a violation of the Anti-Commercial Fraud Law.



The Committee's response to the defenses:



What the authority mentions in its appeal statement that the Ministry of Commerce's statement indicated that the sample bears an unregistered trademark and indicates Spanish origin, and that due to the poor quality of the sample, it is considered a violation of the Anti-Commercial Fraud law. This is because that statement from the competent authority did not confirm the imitation of the imported goods, and there was no explicit test result proving the violation of intellectual property rights (imitation). Moreover, that statement indicated that the shipment was of poor quality without referring a sample of it to the laboratory for examination and analysis to ensure that it does not comply with Saudi specifications, and it cannot be definitively stated in this case that the shipment sample does not comply with the specifications without being examined and analyzed by the laboratory. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and thus must be rejected. Accordingly, the appellate committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally, submitted by the General Authority of Zakat and Tax and Customs, against the first instance Decision No. (CSR-111287-2023) issued by the Second First Instance Customs Committee in Riyadh.
- 2- The appeal is rejected on the merits, and the first instance Decision is upheld, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-230454

Case No. PC-2024-230454

Keywords:

Customs - Restrictions - Commercial Fraud - Registered Trademark - No Conviction

Summary:

The demand of the Zakat, Tax and Customs Authority to cancel the decision of the first instance Customs Committee No. (CSR-2022-2347), which ruled not to convict the importer of customs smuggling. Where it has been established for the appellate committee that the indication of origin is one of the requirements for customs clearance that customs authorities address during inspection without the need to refer the sample. This means; to uphold the first instance decision in all that it ruled.

Document

- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The authority argued that the violation is technical and is considered among the prohibited goods, based on the statement of the Ministry of Commerce that the sample is of poor quality and violates the Commercial Fraud Law, and the ministry confirmed that the trademark is not registered and violates the commercial data Law for not explicitly mentioning the country of origin.

The Committee's response to the defenses:

This is not affected by what the authority mentioned in its appeal statement that the violation related to the shipment subject to the case is of the same kind as technical violations, as the customs inspected the



violating item in the case and did not express its observations regarding the establishment of the origin indication. Moreover, it approved the clearance of the shipment without requiring the institution to establish the origin indication before proceeding, considering that the origin indication is one of the requirements for customs clearance that customs addresses during inspection without the need to refer the sample to the laboratory, which negates the crime of customs smuggling against the importer. Therefore, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and necessitates its rejection. Accordingly, the committee concluded to report the following:

Decision:

- 1- Acceptance of the appeal procedurally, from the applicant / the General Authority of Zakat and Tax and Customs, against the first instance Decision No. (CFR-2023-104130), issued by the 1st first instance customs committee in Riyadh.
- 2- He rejected it as a subject and upheld the first instance decision in all that it ruled, and that is for the reasons and grounds stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2023-198457

Case No. PC-2023-198457

Keywords:

Customs - Restrictions - Bond commitment - Disposing of the shipment before it is approved by the competent authority - Conviction

Summary:

The importer's request to cancel the decision of the third first instance Customs Committee in Riyadh No. (CTR-2023-153558), which convicted the importer of customs smuggling and imposed a fine equal to the value of the shipment and required it to pay the value of the shipment as a confiscation substitute. Where it has been established to the appellate committee that what the appellant raised in his list of general defenses does not change the reality of his client's responsibility for the shipment as detailed in the first instance decision, it is necessary to state that the defenses presented do not affect the outcome of the decision. This means; to uphold the first instance decision in all that it ruled, with the amendment of the imposed customs fine to be twice the amount of the customs duties.

Document

- Paragraph (4,2) of Article 145 of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article 176 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer defended that the customs notice was not made until three years later.



The Committee's response to the defenses:

Since there is no reproach on the reviewing authority for accepting the Grounds for the Decision subject to appeal without adding anything whenever it sees that these Grounds are sufficient to negate the need to present anything new, because in its support, based on its Grounds, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those Grounds contained, and this is not diminished by what the appellant argued that the communication from the customs was not made until after three years, as Article (176) of the Unified Customs Law stated that: "... The statute of limitations regarding customs administration, if no prosecution has been initiated, is as follows: Fifteen years for the following two cases: Smuggling activities or similar actions starting from the date of committing the crime", and what the appellant raised in his list of defenses does not change the fact of his client's responsibility for the shipment as detailed in the initial decision, which necessitates stating that the defenses presented do not affect the outcome of the decision, thus the appeal is without supporting evidence and must be rejected.

Decision:

1-Acceptance of the appeal procedurally, submitted by / Company ... For shipping, commercial registration number (...), against the first instance Decision number (CTR-2023-153558), issued by the Third first instance Customs Committee in Riyadh.

2- The appeal is rejected on the merits, and the first instance ruling against the appellant for customs smuggling and the confiscation penalty is upheld, with the amount of the customs fine modified to be twice the customs duties, making the total amounts claimed by the appellant an amount of (146,143) one hundred and forty-six thousand one hundred and forty-three riyals, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-205337

Case No. PC-2022-205337

Keywords:

Customs - Restrictions - Bond Commitment - Incomplete Contract Data - No Conviction

Summary:

The Zakat, Tax and Customs Authority requested to cancel the decision of the Second first instance Customs Committee in Riyadh No. (CTR-2023-140828), which ruled not to convict the importer of customs smuggling while obliging him to pay a customs fine of one thousand riyals. And where it was established for the appellate committee that, considering the commitment not to dispose of the existing case file, it lacks the data of the shipment that the company committed not to dispose of, which confirms that it was signed empty of most of the essential data. The implication of this is to uphold the first instance decision in all that it ruled.

Document:

- Article 24 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The Authority argued that the pledge was attached in the Hayad system, and the customs data does not include the pledge number, as the pledge is submitted to the concerned party electronically based on Circular No. 476/11/M dated 11/9/1438 AH.



Appellee's (Importer's)

- 1- The importing company argued that according to customs declaration number (52219), it did not include any number or reference to the bond commitment on which the authority relies.

The Committee's response to the defenses:

Whereas, upon reviewing the commitment not to dispose of the goods in the case file, it is evident that it lacks the shipment details that the company committed not to dispose of, which confirms that it was signed without most of the essential data. Additionally, the commitment found in the attachments submitted by the authority indicates that the date of the commitment was recently recorded on 19/02/1445 AH, while the shipment is dated 16/08/1439 AH according to the import declaration. Consequently, the importer did not commit to the customs not to dispose of this shipment, and a commitment that does not include any details about the shipment in question cannot be accepted, as it is unclear what the shipment is that was prepared for completing its procedures. Therefore, the importer did not commit not to dispose of this shipment since its description was not specified by customs to determine their responsibility for it. The claim of a customs smuggling crime regarding the disposal of the released shipment under the condition of non-disposal requires the existence of a complete data commitment for the disposed shipment. If this is not available, the importer cannot be convicted for the crime, which leads the committee to reject the appeal and uphold the first instance decision. Accordingly, the appellate committee concluded with the following report:

Decision:

- 1- Acceptance of the appeal procedurally, from the applicant / the General Authority of Zakat and Tax and Customs, against the first instance Decision No. (CFR-2023-140828) issued by the third first instance customs committee in Riyadh.
- 2- The appeal is rejected on the merits, and the first instance Decision is upheld in all that it ruled, for the Grounds and considerations stated in this Decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-190980

Case No. PC-2024-190980

Keywords:

Customs - Restrictions - Bond commitment - Lighting and supplies - Non-compliance with specifications - Temperature testing under normal operating conditions - Conviction

Summary:

The importer is demanding the cancellation of the decision of the First first instance Committee in Riyadh No. (CFR-2022-2884) which condemned (A) and obligated him to pay a customs fine equivalent to the value of the violating item and to pay an amount equivalent to the value of the violating item as a confiscation substitute. And since the appellate committee has established that there is a violation of the type stated in the specification (temperature testing under normal operating conditions), this makes the behavior of the importing company regarding the shipment a realization of the crime of customs smuggling and justifies attributing it to them. This means; to uphold the first instance decision, with the amendment of paragraph (1) of its ruling to become as follows: Conviction of Company (B) in person for customs smuggling.

Document

- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer's agent argued that there was no criminal intent, as the principal (the company) was unaware of the smuggling intention, which undermines the essential element of the crime.



- 2- The importer's agent argued that the violation was minor, as the laboratory report was based on a single sample out of 235, indicating a slight manufacturing defect, especially since it passed 4 out of 5 tests.

The Committee's response to the defenses:

Whereas there is no reproach against the reviewing authority for taking the reasons of the decision subject to the appeal without addition whenever it sees that these reasons suffice to avoid the need to present anything new, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained after confirming the violation of the type stated for the specification (temperature test under normal operating conditions), which makes the action of the importing company regarding the shipment a realization of the crime of customs smuggling and validly attributed to it, which is not affected by what the appellant mentions of defenses as they do not negate the established fact of the importer's action regarding the shipment contrary to the commitment taken regarding it, and that what the company's attorney mentions about the absence of criminal intent is refuted in light of the importing company's knowledge that there is a commitment taken on the company not to act with the shipment except after its clearance, which the company violated knowingly, and it does not affect the result reached by the decision what the appellant argued about the claim that the violation subject to the lawsuit is a minor violation, as such a defense does not contradict the established fact of the violation and the validity of attributing customs smuggling to the importer considering that it does not negate the fact of the importer's non-compliance with the general obligation imposed by the customs law on him not to introduce the shipment except after passing it for clearance, which was not the case with the importer's dealings with the shipment by acting with it before obtaining permission for its clearance after it was established that there were observations made in the laboratory report - as stated in the first instance decision subject to the appeal - which the importer cannot judge himself regarding what is among the customs procedures observations or not in light of his indifference to the fate of clearing the shipment for his intention to act with it, which does not affect the validity of what the decision concluded by claiming that the shipment was for personal use, as the characterization of the violating act that the importer committed as a crime of customs smuggling under what is stated in Article (142) of the Unified Customs Law for the importer's violation of the provisions of prohibition and restriction is not affected by whether the shipment was for personal or commercial use regardless of the validity of that claim or not. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision, which makes the appeal without a supporting basis, necessitating its rejection. Accordingly, the appellate committee concluded to report the following:



Decision:

1-Acceptance of the appeal procedurally, submitted by / Company ... , commercial registration number (...), against the first instance Decision number (CFR-2022-2884) , issued by the 1st first instance customs committee in Riyadh

2- On the merits, to reject it and the affirmation of the first instance decision regarding the imported company's conviction for customs smuggling, the customs fine, and the confiscation fee imposed, with the amendment of paragraph (1) of the first instance decision to read as follows: (Company B, Commercial Register No. (...), was found convicted in absentia of customs smuggling, for the reasons and arguments set forth in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-190848

Case No. PC-2024-190848

Keywords:

Customs - Restrictions - Bond Commitment - Electrical Appliances - Non-compliance with specifications - Electric shock testing during operation - Conviction

Summary:

The importer's request to cancel the decision of the first instance customs committee in Riyadh No. (CFR-2022-2287), which convicted the importer of customs smuggling and imposed a customs fine equivalent to the value of the violating item and obligated him to pay the value of the violating item as a confiscation substitute. Where it has been established to the appellate committee that all the arguments raised by the appellant against the result reached by the decision are rejected; considering that the customs procedure related to the completion of the entry of the shipment into the country requires the importer to take into account the general duty imposed by the customs law on the importer when dealing with the incoming shipment. This means; the affirmation of the first instance Decision in all that it ruled.

Document

- Article (142) of the Unified Customs Law of the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the committee erred in classifying the incident as customs smuggling, asserting that the shipment had been in his warehouses for a long time and could not be removed due to the complete removal of the warehouse.
- 2- The importer argued that the Commission did not produce the letter of notification of the result of the examination and did not prove that he was informed of its content, nor did he prove the



existence of the letter of undertaking not to act, which the Commission claimed to have, and the decision was delayed in the system.

- 3- The importer argued that the elements of tort liability were absent, asserting that the authority's oral defenses lacked evidence, and that the committee's reliance on probabilistic evidence contradicts the legal principle and Article (3) of the Criminal Procedure Law.

The Committee's response to the defenses:



Whereas, upon reviewing the appellate committee, it became clear that it was based on the premise that there was an error in understanding the incident and in correctly classifying it, as the first instance committee interpreted the company's response as indicating that the shipment was in its warehouses and that it was unable to release the shipment due to the site being closed off with concrete walls, considering this as customs smuggling. Furthermore, the authority did not present the notification letter regarding the examination results, and there was a violation of the law due to an error in its application. Additionally, the plaintiff did not prove in her case the existence of a letter (commitment not to dispose) issued by the company. However, the appellate committee, after scrutinizing the reasons on which the appeal was based, found that all the claims raised by the appellant against the result reached by the decision were unfounded; considering that the customs procedure related to completing the entry of the shipment into the country requires the importer to observe the general duty imposed by the customs law regarding the importer when dealing with the incoming shipment, which is embodied in complying with all that the customs law and other related regulations require for the clearance of the shipment, necessitating that the importer does not dispose of it in any way until it is approved and permission is granted for its disposal. Thus, the importer's violation of this duty by disposing of the shipment without regard to the matter of permission for its entry into the country constitutes behavior contrary to that general duty, especially since this duty is something that is necessarily known to him, which does not negate the validity of attributing the crime of customs smuggling to him. Therefore, what he claims regarding the absence of error on his part in dealing with the shipment in light of what the general duty imposes, as previously stated, is worthy of disregard. Moreover, his mention of the absence of any evidence of being notified of the examination results is incorrect; considering that it is established from the documents that there was notification of the laboratory results and the necessity to return the shipment, in addition to the fact that such a claim does not negate the original obligation to observe the general duty of not disposing of the shipment until it is approved. As for what the appellant criticizes about the first instance decision relying on the result it reached despite - according to his claim - the absence of a document proving the commitment not to dispose through the case documents, what the appellant claims in this regard is not valid; considering that what is relied upon in criminal matters - which customs smuggling violations and crimes fall under - is that it is not necessary for the evidence to



be confined to certain methods, nor is it also necessary for the evidence relied upon in the conviction decision for smuggling to be based on the exclusivity of each piece of evidence in every detail of the case; considering that the original principle in those facts when proven is that the evidence regarding them should be supportive of each other, collectively forming the conviction of the examining authority of the case. Thus, it is not appropriate to discuss each piece of evidence in isolation from the other documents, evidence, and indications, but rather it becomes sufficient that the evidence and indications as a whole lead to the formation of that authority's conviction and the completion of its direction in stabilizing its belief and reassurance. This is because the punishable act is not in the fact of holding the importer accountable for violating the commitment taken from him, as the act constituting the crime of customs smuggling is embodied in entering or attempting to enter the shipment without completing its clearance from the competent authority, and what supports the commitment is merely a document from the shipment papers to prepare for the commencement of customs clearance for it, reminding the importer of complying with the general duty, which is necessarily known to the importer, of not disposing of the shipment except after being permitted to do so. Since it is established from the documents that the shipment was prepared in the name of the importer and samples were taken from the shipment for examination by the laboratory, and the customs communicated with him to return the shipment to the customs yard due to its non-clearance through several correspondences without any response from him and without any follow-up on the matter of its clearance, this confirms the validity of his conviction for the crime of customs smuggling against him in the manner specified by the Unified Customs Law in Article (142) by entering the shipment contrary to the prohibitions and restrictions that must be observed for the clearance of the shipment, which was not the case with the importer's dealings with the shipment as previously stated. Therefore, the appellate committee concluded to report the following:

Decision:

1-Acceptance of the appeal procedurally, submitted by/ Company ..., Commercial Register No. (...), against the first instance Decision No. (CFR-2022-2370), issued by the first First Instance Customs Committee in Riyadh.

2-On the merits, to reject it, the affirmation of the first instance Decision in all that it ruled regarding the importer, and that for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-179147

Case No. PC-2023-179147

Keywords:

Customs - Restrictions - Bond Commitment - Dried cake - Non-compliance with specifications - The name of the item does not indicate the nature of the product - Conviction

Summary:

The importer requests the cancellation of the decision of the first instance customs committee in Riyadh No. (CFR-2022-2202), which convicted the importer of customs smuggling. And where it was established for the appellate committee by virtue of the letter from the Food and Drug Authority number (...) dated 19/05/1438 AH, which included the non-compliance of the items in that the name of the item does not indicate the nature of the product, and the ingredients in Arabic differ from those in English, and there is a quality system logo, and there is no country of origin. This means; the affirmation of the first instance Decision in all that it ruled.

Document

- Paragraph (17) of Article (143) of The Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article 176 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer argued that the initial decision was issued in absentia against him.
- 2- The importer argued that the lawsuit is subject to statute of limitations.



The Committee's response to the defenses:



Whereas it is established by the letter from the Food and Drug Authority number (...) dated 19/05/1438 AH, which states that the items do not comply in that the name of the item does not indicate the nature of the product, and the components in Arabic differ from those in English, and there is a quality law logo, and there is no country of origin, and whereas the importer's action regarding the items released temporarily without the approval of the competent authority falls under the definition of customs smuggling specifically according to paragraph (17) of Article (143) of the Unified Customs law, especially since he did not deny his action regarding the non-compliant items. As for the appellant's argument that the Decision was issued in absentia against him, this is rejected; considering that it is established through the narration of the facts of the first instance Decision subject to appeal that the appellant was present before the First Instance Committee in the session dated 15/03/1444 AH, thus the conclusion of the Decision that it was in person is consistent with the correct law. As for the appellant's argument regarding the statute of limitations, this is also rejected; as the law has set a period of (15) years to pursue actions of customs smuggling based on Article 176 of the Unified Customs Law, which stipulates that: "... The statute of limitations regarding customs administration, if no prosecution has been initiated, is as follows: Fifteen years for the following two cases: 1- Smuggling activities or similar actions starting from the date of committing the crime. Since the Grounds for the Decision subject to appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the Decision, which makes the appeal unsupported and must be rejected. Accordingly, the customs appeals committee concluded to report the following:

Decision:

1- Acceptance of the appeal procedurally, from the applicant/..., commercial registration number (...), owned by/..., civil registration number (...), against the first instance Decision number (CFR-2022-2202), issued by the first first instance customs committee in Riyadh.

2- The appeal is rejected on the merits, and the first instance Decision is upheld in all that it ruled, for the Grounds and considerations stated in this Decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-171890

Case No. PC-2023-171890

Keywords:

Customs - Restrictions - Bond Commitment - Electric Diffuser - Non-compliance with specifications - Explanatory data and abnormal operation - Conviction

Summary:

The importer is requesting the cancellation of the decision of the first instance customs committee in Riyadh No. (CFR-2022-750), which condemned the importer for customs smuggling and obligated him to pay a fine equivalent to the value of the contraband item and to pay an amount equivalent to its value as a confiscation substitute. And where it was established for the appellate committee that the fire that destroyed the shipment, assuming the fact of its occurrence, does not prove that the shipment in question was specifically present at the time of the fire, especially since the period between the importation and the temporary permission for clearance and the occurrence of the fire is a long time, during which the usual diligence of the importer to follow up on the clearance from customs was not proven. This means; the affirmation of the first instance Decision in all that it ruled.

Document

- Article (14) of the rules of operation of the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/04/1445 AH.
- Paragraph (1/A) of Article (176) of the Unified Customs Law for the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer's agent argued that this case has exceeded eight years, which does not justify accountability now.



- 2- The importer's agent argued that a fire occurred in the warehouse, which led to the burning of the violating item, and this is evidenced by a report issued by the civil defense.
- 3- The importer's agent argued that the decision was issued in absentia against his client.

The Committee's response to the defenses:



The appellant's attorney argued that the case relates to events that occurred over a long period exceeding eight years, and that this does not justify holding them accountable after that period, as this is rejected, considering what Article (176) in paragraph (1/a) of the Unified Customs Law indicates that the statute of limitations for smuggling and similar acts is (15) fifteen years from the date of the commission of the crime. As for what the appellant's attorney argued that a fire broke out in the company's warehouse, resulting in the destruction of the shipment, and attached is a statement from the Civil Defense proving this, this is also rejected, considering that the fire that destroyed the shipment, assuming its occurrence, does not prove that the shipment in question was specifically present at the time of the fire, especially since the period between the importation and the temporary clearance permission and the occurrence of the fire is long, and during this time, the usual importer did not show diligence in following up on the clearance of the shipment from customs. As for what the appellant's attorney argued that the decision was issued in absentia despite their presence via the sent link and that no one attended, this argument is rejected, considering that it is established from the narration of the facts of the appealed decision that the importer was notified in the hearing held on Monday, corresponding to 10/06/1443 AH, and in the hearing held on Tuesday, corresponding to 23/10/1443 AH for the second time, but the appellant did not attend, and what he mentions to negate what the first instance decision established is nothing but an unsubstantiated claim that lacks evidence to support it for it to be investigated, which makes the decision issued against him in his presence as stipulated in Article (14) of the Rules of Work of Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/04/1445 AH. And since the matter is as mentioned, the defenses presented by the defendant are not influential in the result reached by the first instance decision, which leads the appellate committee to report the following:

Decision:

- 1-Acceptance of the appeal procedurally, submitted by / Institution ..., Commercial Registration No. (...), against the first instance Decision No. (CFR-2022-750) issued by the first First Instance Customs Committee in Riyadh.
- 2- On the merits, to reject it and the affirmation of the first instance Decision in all that it ruled, and that is for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-205412

Case No. PC-2023-205412

Keywords:

Customs - Restrictions - bond commitment - Scooter - Non-compliance with specifications - Explanatory data, instructions, and precautions - Conviction

Summary:

The importer requests the cancellation of the decision of the first instance customs committee in Riyadh No. (CFR-2023-103556), which condemned the importer for customs smuggling and obligated him to pay a fine equivalent to the value of the violating item and to pay an amount equivalent to its value as a confiscation substitute. The shipment has been released with a commitment not to dispose of it, which means that the importer is aware of the prohibition on disposing of the shipment before its approval, and violating this by the importer indicates his disregard for the commitment taken and his intention to dispose of the shipment without considering the condition of its release. This means; to uphold the first instance decision in all that it ruled, with the amendment of the customs fine to be twice the amount of the customs duties.

Document

- Paragraph (2,4) of Article (145) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that he authorized a customs clearance office to import the goods, but the office acted without consulting him and did not implement the agreement, and imported multiple times without his knowledge.



- 2- The importer argued that there was no criminal intent on the part of the institution and its owner, as it was not proven that he was an actor, partner, intervenor, instigator, or possessor, according to Article (144) of the Unified Customs Law on which the committee relied for the conviction.

The Committee's response to the defenses:



This is not affected by what the appellant mentions in his statement that the customs clearance office was authorized to complete the procedures for the shipment subject to the lawsuit and did not fulfill what was agreed upon for importing the goods without his knowledge, as customs has no concern when applying the customs law regarding the clearance of shipments in relation to the importer and the customs clearance agent, as long as those shipments have been organized in the import declaration in the name of the importer, whether this resulted in a smuggling incident related to the violating shipment or the shipment was linked to a violation of customs procedures when the importer violated the commitment taken regarding it and dealt with the shipment that was not cleared by the competent authority. The appellant is free to claim against anyone who claims to have suffered damage by exploiting what he claims to be an authorization that exceeds what was agreed upon with the customs clearance office. The result reached by the Decision is not affected by what the appellant claims that the shipment was introduced in a regular manner, as such a defense is rejected considering that it contradicts reality, as it is established that the shipment was cleared with a commitment not to deal with it except after its approval by the competent authority, which was not the case with the importer's dealings with the shipment. As for what the appellant mentions about the absence of criminal intent on his part, it is rejected, considering that the shipment was cleared with a commitment not to deal with it, thus confirming the importer's knowledge of the prohibition of dealing with the shipment before its approval, and the violation of this by the importer indicates his disregard for the commitment taken on him and his intention to deal with the shipment without regard to the condition of its clearance. Since the Grounds for the Decision subject to the appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the Decision, which makes the appeal without a supporting basis, necessitating its rejection. However, the appellate committee noted that the committee issuing the Decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs law, which applies to prohibited goods. Since the goods in question are not prohibited in their nature and type, but their entry was prohibited due to non-compliance with some required specifications, which is confirmed by the request from the importer to bring the shipment to the customs area for re-export,

this committee decides to apply paragraph (2) of Article (145) of the Unified Customs law contrary to what was ruled by the first instance Decision. Thus, this committee concludes to calculate the amount of the



customs fine at twice the customs duties as will be stated in the ruling. Accordingly, the committee concluded to report the following:

Decision:

1- Acceptance of the appeal procedurally submitted by / Institution ..., Commercial Registration No. (...), owned by / ..., National ID No. (...), against the first instance Decision No. (CFR-2023-103556), issued by the 1st First Instance Customs Committee in Riyadh.

2- On the merits, his rejection and the affirmation of the first instance Decision regarding the conviction of the importer for customs smuggling and the confiscation fee, with the amendment of the customs fine to be twice the customs duties, making the total amount claimed from the importer an amount of (726,000) seven hundred twenty-six thousand, and that for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-174690

Case No. PC-2023-174690

Keywords:

Customs - Restrictions - Bond Commitment - Laptop - Non-compliance with specifications - Plug and explanatory data and prevention of accidental contact - Conviction

Summary:

The importer is requesting the cancellation of the decision of the first instance customs committee at Al-Bathaa Customs No. (1128) for the year (1441 AH), which convicted the importer of customs smuggling and obligated him to pay a fine equivalent to the value of the contraband shipments. And since the appellate committee established the importer's handling of the non-compliant item, as indicated in the laboratory report confirming its violation of the specification related to (protection against accidental contact with electrified parts), and since that observation falls under the category of technical observations, the importer's handling of that item, while burdened with that violation, constitutes a customs smuggling. This means; to uphold the first instance decision in all that it ruled, with the imposition of a customs fine equal to twice the customs duties.

Document

- Article (158) of the Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.
- Article (31/ 6) of the Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.



Parties Defenses:

Appellant's

- 1- The importer argued that the rejection of the samples was procedural and did not harm the consumer, and that Procedural issues are settled with a fine of (1,000) riyals, asserting that he requested a settlement with customs several times.

Appellee's (Authority's)

- 1- The authority argued that the objection memorandum lacked reasons for the objection and requests, making it not compliant with the legal procedure according to Article (188) of the Law of Judicial Procedures.

The Committee's response to the defenses:

Whereas, regarding the response of the authority after giving it the right to respond to the appellant's statement that the submitted list is not drafted as required due to the lack of Grounds for objection and requests therein, which according to its claim necessitates the rejection of the submitted appeal, it is rejected, considering that the list submitted by the appellant included sufficient information to indicate his objections and requests, making his appeal drafted as required. And whereas, concerning the two categories (screens - computers) for which each has a laboratory report, it is established in the rules of litigation that applying the law correctly is an obligation on the authority examining the case, and it must do so on its own without the need for a request from the parties. Therefore, the authority examining the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the claimant or his opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and taking it as a basis for its ruling, as long as the documents related to it within the case file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it reached. This is consistent with what is stated in Article (158) of the Criminal Procedure law, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description in the indictment...". And whereas, according to the report of the sample examination results for the two categories, it has shown that the violation subject to the case relates to (explanatory data - plug shape), and since this violation has been established by the customs appeal court's practice as a non-essential observation that does not affect consumer deception and the safety of using the imported product, especially since the sample has passed other fields of testing, it follows that the importer's action regarding the two problematic categories, which



are burdened with such an observation, constitutes in reality considering it an observation of a procedural nature that does not rise, in the case of dealing with them in its presence, to classify the importer's action as customs smuggling. Therefore, it is decided to annul the first instance Decision in all that it ruled against the appealing institution regarding those two categories. However, since the importing institution violated the commitment taken upon it and acted with the shipment without notifying customs, it is decided to consider the action of the importing institution a violation governed by Article (31/6) of the executive regulations of the customs law, and to impose a financial penalty on it as will be stated in the text of this Decision, in application of what that article stipulates. As for the state of the category (lighting supplies), it is established that the importer acted with the violating category as stated in the laboratory report confirming its violation of the specification related to (protection against accidental contact with electrified parts). Since that observation is of a technical nature, the importer's action with that category, which is burdened with that violation, is considered customs smuggling, and it is established to impose a conviction penalty and a fine equal to twice the customs duties with compensation for the confiscation of that category as will be stated in the total amount in the text of this Decision. Accordingly, the committee concluded to report the following:

Decision:

- 1- Acceptance of the appeal procedurally from the applicant/ corporation..., commercial registration number (...), against the first instance Decision (1128) for the year (1441 AH), issued by the first instance customs committee at the Al-Bathaa customs.
- 2- On the merits to accept it, and supporting the first instance Decision regarding the conviction for customs smuggling and the confiscation fee against the appellant, limiting it only to the category of (lighting supplies) with the imposition of a customs fine equivalent to twice the customs duties, the total amount claimed from the importer for his conviction for customs smuggling is (2,798) two thousand seven hundred and ninety-eight riyals, and this is for the Grounds and considerations stated in this Decision.
- 3- Considering the importer's actions as constituting a penalty for violating customs procedures amounting to (500) five hundred riyals for each of the two violating items (screens - computer), the total amount of the fine demanded from the importer for that violation is (1,000) one thousand riyals, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-224911

Case No. PC-2023-224911

Keywords:

Customs - Restrictions - Bond Commitment - Tile - Non-compliance with specifications - Explanatory data and angular deviation - Conviction

Summary:

The importer requests the cancellation of the decision of the first instance customs committee in Riyadh No. (CFR-2023-125736), which convicted the importer of customs smuggling and obligated him to pay a fine equivalent to the value of the contraband item and to pay an amount equivalent to the value of the contraband item as a confiscation substitute. The appellate committee has established that the importer is not authorized to determine the extent to which the shipment is related to a procedural or technical violation, and it is his duty to follow up on the matter of its approval without considering himself a judge by deciding to act on it, regardless of whether it is approved or not. His failure to fulfill this duty results in him bearing responsibility and consequences. This means; to uphold the first instance decision in all that it ruled, with the amendment of the imposed customs fine to be double the customs duties.

Document

- Article 176 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Paragraph (2,4) of Article (145) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the lawsuit should not be considered or filed as it is an old case due to the passage of more than eight years and the expiration of the statute of limitations.



- 2- The importer argued that the conviction and smuggling pertain to commercial goods, not personal ones.
- 3- The importer argued that the violation of the goods is a Procedural violation, not a technical one.

The Committee's response to the defenses:



This is not affected by what the owner of the appealing institution argued, that the case is considered an old case and that more than 8 years have passed since it, as the law has set a period of 15 years to pursue customs smuggling activities according to what is stipulated in Article 176 of the Unified Customs Law. As for what he mentioned regarding the conviction for customs smuggling being based on considering the goods as commercial and not personal, this does not change the validity of attributing the crime of customs smuggling to the importer, given that the established fact is that the customs declaration was issued in the name of the institution and for its benefit. As for what he mentions that the violation is procedural and not technical, which results in the validity of the decision convicting him of customs smuggling, this is rejected, considering that the importer is not authorized to determine the extent to which the shipment is related to a procedural or technical violation, and that he is obliged to follow up on the matter of its clearance without considering himself a judge in his decision to act with it without regard to its clearance or not. His failure to fulfill this obligation results in him bearing his responsibility and consequences. However, the appellate committee noted that the committee issuing the decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs Law, which applies to prohibited goods. Since the imported goods are not prohibited in their type and nature, but their entry was prohibited due to non-compliance with some required specifications, which is confirmed by the request from the importer to bring the shipment to the customs area for re-export, it is determined by this committee to apply paragraph (2) of Article (145) of the Unified Customs Law, contrary to what was ruled by the first instance decision. Thus, this committee concludes to calculate the amount of the customs fine at twice the customs duties as will be stated in the ruling. Therefore, the appellate committee concluded to report the following:

Decision:

- 1- Acceptance of the appeal procedurally, submitted by / Institution ..., Commercial Registration No. (...), against the first instance Decision No. (CFR-2023-125736) issued by the first First Instance Customs Committee in Riyadh.
- 2-On the matter, it is rejection, and affirmation of the first instance decision regarding the conviction for customs smuggling and the penalty of confiscation compensation. In addition, amending the imposed customs fine to be double the customs fees, making the total amount claimed from the importer (94,231)



ninety four thousand and two hundred thirty one riyals, based on the grounds and considerations stated in this decision

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-224834

Case No. CR-2024-224834

Keywords:

Customs - Restrictions - Bond Commitment - Lighting Detector - Non-compliance with specifications - Grounding and Labeling - Conviction

Summary:

The authority's request to annul the decision issued by the Third first instance Customs Committee in Riyadh No. (CTR-2023-105294), which ruled not to convict in person for customs smuggling, and to impose a customs fine, as the appeals committee found that the non-compliant item did not pass the grounding test, which is a technical violation affecting the quality and specifications of the product, and that the shipment is considered prohibited goods and handling it contrary to the commitment constitutes customs smuggling. Consequently, the importer is convicted of customs smuggling and is obliged to pay a customs fine amounting to twice the customs duties and the equivalent of confiscation, considering the importer's actions as warranting the imposition of a customs fine thereon.

Document

- Article 191 of the Judicial Procedures law issued by Royal Decree No. (M/1) dated 22/01/1435 AH.
- Article 197 of the Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.
- Article (30/1) of the Executive Regulations of the Customs law issued by Ministerial Decision No. (2748) dated 25/11/1423 AH.



Parties Defenses:

Appellant's

- 1- The authority argued that the sample failed the grounding test, which affects the quality of the product, and that the shipment is considered prohibited goods, and dealing with it violates the commitment and constitutes customs smuggling according to Article (142) of the Unified Customs Law.

The Committee's response to the defenses:

It was found by the appellate committee that the violating item represented by the (fixed lantern) was noted by the laboratory for non-compliance regarding grounding. Since the violation reported by the laboratory is, in fact, treated according to established customs jurisprudence as a technical and substantive violation affecting the quality of the product and its safe use, and since it was established through the documents that the customs authority communicated with the importer to return the violating shipment, which was not the case with the importer's handling of the shipment, this leads to the conviction of the importer for customs smuggling concerning the item (fixed lantern), thus necessitating the imposition of a customs fine and confiscation as will be stated in the ruling.

Decision:

1-Acceptance of the appeal procedurally, submitted by the General Authority for Zakat and Tax and Customs, against the first instance decision No. (CTR-2023-105294), issued by the Third First Instance Customs Committee in Riyadh.

2-On the merits to accept it, and the ruling is as follows:

1-Condemnation of the importer/ ..., Commercial registration number (...) For its owner/ ..., national ID number (...), for customs smuggling regarding the item (fixed lantern), and obliging him to pay a customs fine amounting to twice the customs duties and the confiscation fee, making the total amount demanded (53,693) fifty-three thousand six hundred and ninety-three riyals, for the reasons and details stated in this decision.

2- considering the importer's action regarding the item (lighting fixture) as a basis for imposing a customs fine of (1000) one thousand riyals, for the reasons and justifications stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-197303

Case No. PC-2024-197303

Keywords:

Customs - Restrictions - Bond Commitment - Accessories - Non-compliance with specifications - Location of symbols and assembly - Conviction

Summary:

The importer requests the cancellation of the first instance decision No. (CFR-2023-101775), issued by the first first instance customs committee in Riyadh, which convicted the importer in absentia of customs smuggling, and obligated him to pay a customs fine equivalent to the value of the contraband item, and to pay an amount equivalent to the value of the contraband item as a confiscation substitute. The appeals committee found that the argument assuming the validity of the non-receipt of customs letters to the institution's email does not exempt the importer from following up on the clearance of the shipment, considering that such follow-up represents the usual care and diligence of a trader in managing his business affairs. Consequently, this leads to the affirmation of the first instance decision in all that it ruled against the importer.

Document

- Article 56 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Paragraphs (16, 17) of Article (143) of The Unified Customs Law for the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Paragraph (5,1) of Article (145) of The Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).



Parties Defenses:

Appellant's

- 1- The importer argued that the customs erred in sending the analysis results, as the institution did not receive any notifications or communications, asserting that it is not responsible for that, especially with the repeated imports and regular submission of commitments.
- 2- The importer argued that the initial decision incorrectly relied on Article (145/4) of the Unified Customs Law in penalizing the institution, as this article applies to prohibited goods by their nature, not for reasons separate from their origin.

The Committee's response to the defenses:

This is not affected by what the appellant mentions in his statement about the non-arrival of customs letters to the institution's email and that if the customs were concerned with settling the commitments or informing the importer of the analysis result, it would have only required stopping the institution when it presented the nearest subsequent commitment, which is rejected, considering that it is established from the documents attached to the case file that the importer was notified of the return of the shipment in question to customs through several letters, the last of which was dated 08/07/1439 AH. Moreover, this defense, assuming its validity, does not exempt the importer from following up on the matter of clearing the shipment, considering that such follow-up represents the usual care and diligence of a trader in managing his business affairs. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and thus must be rejected. However, the appellate committee noted that the committee issuing the decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs law, which applies to prohibited goods. Since the imported goods are not prohibited in their nature and type, but their entry was prohibited due to non-compliance with some required specifications, which is confirmed by the request from the importer to bring the shipment to the customs yard for re-export, it is determined by this committee to apply paragraph (2) of Article (145) of the Unified Customs law contrary to what was ruled in the first instance decision, which is not affected by what the appellant claims regarding the inapplicability of paragraph (4/145) of the Unified Customs law when calculating the amount of the customs fine against him, as paragraph (2/145) of the same law, which applies the fine to non-prohibited goods, has set its upper limit at the value of the violating goods, which was the case with the value of the imposed fine, and this is not altered by the error in relying on the correct paragraph for its application on the calculation of the customs fine as long as it did not exceed



the maximum limit applicable under paragraph (2/145) of the law. Accordingly, the committee concluded to report the following:

Decision:

1- Acceptance of the appeal procedurally from the applicant/ corporation..., commercial registration number (...), owned by/ ..., national ID number (...), against the first instance Decision number (CFR-2023-101775), issued by the first First Instance Customs Committee in Riyadh.

2-On the merits, to reject it, the affirmation of the first instance Decision in all that it ruled regarding the importer, and that for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024 -181735

Case No. PC -2024- 181735

Keywords:

Customs - Restrictions - Bond commitment - DVD player - Non-compliance with specifications - Mechanical durability and fire resistance - Conviction

Summary:

The importer is required to cancel the first instance decision No. (CFR-2022-1519), issued by the first instance customs committee in Riyadh, which convicted the importer in absentia of customs smuggling, and obligated him to pay a customs fine equivalent to the value of the contraband item, and to pay an amount equivalent to the value of the contraband item as a confiscation substitute. Since it has been established to the appellate committee that the laboratory report pertains only to the item (sienna 9portabledvdplayer) and not to any other items included in the shipment, the crime of customs smuggling attributed to the importer is limited to what is stated in the laboratory report, without including the rest of the shipment. The value of that contraband item not approved by the laboratory is an amount of (18,300) US dollars. Therefore, the first instance decision is upheld regarding the conviction for customs smuggling, limiting the violation to the item specified in the laboratory report, and ruling him to pay the confiscation substitute for that item and calculating the customs fine based on the value of the violating item.

Document

- Article 56 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article (163) of The Unified Customs Law of the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.



Parties Defenses:

Appellant's

- 1- The importer argued that the lawsuit was not initiated based on a letter issued by the Public Prosecution according to this jurisdiction.
- 2- The importer argued that there is no official seizure report issued by the Customs Commitments Department.
- 3- The importer argued that the case file does not include the original of his commitment not to dispose of the shipment until the customs inspection is completed.
- 4- The importer argued that the committee considered the violation technical and convicted him based on suspicion and conjecture, even though determining the nature of the violation is the laboratory's responsibility, and the laboratory report was limited to one type of the shipment without the other types.

The Committee's response to the defenses:

This does not negate what the appellant argued that the jurisdiction to initiate the lawsuit belongs to the Public Prosecution and not to customs, as stated in the coordination report for transferring jurisdiction dated 11/08/1440 AH, which stipulates in its thirteenth item that: The work of transferring jurisdiction in the crimes and rules stated in this report begins as of the date: 02/09/1440 AH, as for the crimes that occurred before this date, they are handled by the General Authority for Customs. This was how the Authority dealt with the incident related to the shipment in question. As for the appellant's argument regarding the absence of a seizure report for the violation, it is rejected; considering that a seizure report is required to be prepared upon discovering the violation or smuggling crime when preparing the import declaration and submitting it to complete the shipment's procedures. Such an argument does not negate the established fact of the importer's action regarding the shipment by not returning the violating item after being notified by customs. As for the appellant's claim that the original commitment not to dispose of the shipment, which is not included in the case file, must be presented, it is also rejected; as such an argument does not negate the importer's knowledge that the shipment cannot be disposed of except after its approval and clearance, which is the case for imported shipments intended to be brought into the country and are subject to sampling sent to the laboratory for examination according to clearance procedures. Especially since the violation of the commitment is not the customs crime for which the importer is held accountable, as the commitment is merely a reminder to the importer that clearance has not been completed and that it is still considered to be within the customs circle. It is established from the documents that the laboratory



report pertains to the item (sienna 9 portable DVD player) and not to any other items included in the shipment. Therefore, the customs smuggling crime attributed to the importer is limited to what is stated in the laboratory report without including the rest of the shipment. It is established from the documents that the value of that violating item not approved by the laboratory is an amount of (18,300) US dollars, which necessitates calculating the amount of confiscation and customs fine based on the value of the item, as stated in the text of this Decision. The result reached by the appellate committee is not affected by the appellant's claim that there should be no conviction unless it is free from the suspicion of possibility by claiming that the violation is a procedural violation, as this is rejected. Considering that the importer is not authorized to determine the extent to which the shipment is related to a procedural or technical violation, and that it is his duty to follow up on its approval without considering himself a judge by declaring its disposal without regard to its approval or not. His failure to fulfill this duty results in him bearing his responsibility and consequences. Since the Grounds for the Decision under appeal are sufficient to support its ruling regarding the conviction of the importer for customs smuggling, it is necessary to state that the defenses presented do not affect the outcome of the Decision in this regard, with the adjustment of the amount of confiscation and customs fine as achieved. Therefore, the appellate committee concluded to report the following:

Decision:

- 1- Acceptance of the appeal procedurally, submitted by / Institution ..., Commercial Registration No. (...), against the first instance Decision No. (CFR-2022-1519), issued by the first First Instance Customs Committee in Riyadh.
- 2- On the merits to reject it, and the affirmation of the first instance Decision regarding the conviction for customs smuggling, and limiting the violation to the item (SIENNA) (DVD PLAYED-9COLORTFTLCD9) specified in the laboratory report without regard to the rest of the shipment's contents, and ruling him to pay the confiscation fee for that item and calculating the customs fine based on the value of the violating item, the total amount claimed becomes (36,600) thirty-six thousand six hundred US dollars, for the Grounds and considerations stated in this Decision.

May Allah's blessings and peace be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2023-170820

Case No. PC-2023-170820

Keywords:

Customs - Restrictions - Bond Commitment - Electric Stoves - Non-compliance with Specifications - Labeling and Explanatory Data - Conviction

Summary:

The importer is requesting the cancellation of the first instance decision No. (CTR-2022-1675), issued by the Third first instance Customs Committee in Riyadh, which convicted the importer in absentia of customs smuggling, imposing a customs fine equivalent to the value of the contraband item, and obliging him to pay the value of the contraband item as a confiscation substitute. The appellate committee found that the appellant's claims regarding the destruction of the shipment under customs supervision were not substantiated due to his failure to present a destruction report or any document. The meaning of this is to uphold what was decided by the first instance ruling against the importer for customs smuggling and to limit it to the contraband category, while amending the imposed customs fine and the confiscation fee to be equal to the value of the contraband category.

Document

- Paragraph (of Article (145) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Paragraph (5) of Article (145) of Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).



Parties Defenses:

Appellant's

- 1- The importer argued that the shipment was destroyed under customs supervision, but he was unable to present the destruction report or the commitment letter due to their loss over nine years as a result of changes in the company's warehouses in Jeddah.
- 2- The importer argued that he requests to communicate with the Public Prosecution because the case is covered by Royal Pardon No. (61700) dated 01/10/1443 AH under the import declaration issued on 20/03/1435 AH.

The Committee's response to the defenses:

This is not affected by what the appellant mentions regarding the destruction of the shipment under customs supervision, considering that he did not present a destruction report or any document that could be verified by the committee in light of the authority's confirmation that the commitment is still in effect and has not been settled, and its submission of a copy of the electronic law to clarify this, which makes the arguments presented in this regard a mere statement without evidence. As for what the appellant mentions regarding the request to communicate with the Public Prosecution in light of the inclusion of the case facts under the royal pardon issued in 1443 AH, the plaintiff is the public prosecution represented by the Zakat, Tax, and Customs Authority, not the Public Prosecution, considering that the Public Prosecution's jurisdiction to prosecute customs smuggling crimes is limited to import incidents occurring after the date of 02/09/1440 AH, which does not fall within the jurisdiction of the Public Prosecution. Therefore, it is necessary to determine that the defenses presented do not affect the outcome of the Decision that resulted in the conviction of the importer for customs smuggling. However, the appellate committee, after examining the case file, found that the item (Cooking Devices Type H-703) valued at (9,776) US dollars according to the invoices attached to the case file is the one that received substantial remarks from the laboratory, which included non-compliance of the samples in terms of labeling and explanatory data, high temperature, leakage current, and electrical durability at normal temperatures, and abnormal operation. Thus, this committee concludes to uphold the first instance Decision regarding the conviction of the importer for customs smuggling and limit it to the item reported by the laboratory without other items, and to calculate the customs fine and the confiscation fee based on its value according to the documents attached to the electronic case file as will be stated in the text of this Decision. Accordingly, the appellate committee concluded to report the following:



Decision

- 1- Acceptance of the appeal procedurally from the applicant/ Company ..., Commercial Registration No. (...), against the first instance Decision No. (CTR-2022-1675), issued by the Third First Instance Customs Committee in Riyadh.
- 2- The appeal was rejected on the merits, and the first instance Decision regarding the company's conviction for customs smuggling was upheld, limiting it to the contraband category (Cooking Devices of type H-703), with a modification of the imposed customs fine and the confiscation substitute to be equal to the value of the contraband item, making the total amount claimed from the company an amount equivalent to (19,552) nineteen thousand five hundred and fifty-two US dollars, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2023-230250

Case No. PC-2023-230250

Keywords:

Customs - Restrictions - Bond Commitment - Converters - Non-compliance with specifications - Labeling and protection from electric shock - No conviction

Summary:

The importer is requesting the cancellation of the first instance decision No. (CTR-2023-107209), issued by the Third first instance Customs Committee in Riyadh, which ruled not to convict in person for customs smuggling, and to impose a customs fine. Where it has been established to the appellate committee that all that the appellant raises does not contradict the established principle of its jurisdiction over the shipments prepared in the name of the importer and its connection to the violation related to the shipment, and that customs have no concern in the relationship that binds the customs broker with the importer when applying the customs law, whether the incident involves a suspicion of customs smuggling or a violation of customs procedures. This means; the affirmation of the first instance Decision in all that it ruled.

Document

- Article 141 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 154 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 157 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 158 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).



- Paragraph (6) of Article (31) of the Executive Regulations of the Customs law issued by Ministerial Resolution No. (2748) dated 25/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the institution cannot bear responsibility for goods that exploited its name with incorrect documents and may have been subjected to fraud by the customs broker.
- 2- The importer argued that the commitment form prepared by the authority pertains to a single shipment and cannot be used for multiple shipments.
- 3- The importer argued that the commitment must be the original for each import declaration and it is not permissible to attach a copy of the commitment to more than one declaration.

The Committee's response to the defenses:

This is not affected by what the appellant mentioned in its appeal statement regarding its exposure to fraud and deception by the customs broker, and that the commitment was for one time and for one shipment according to the conditions mentioned at customs, and that the existing commitments could be mere copies and not originals, considering that the customs clearance office can take a copy of it. All that the appellant raises does not contradict the established principle of its jurisdiction over the shipments prepared in the name of the institution and its connection to the violation related to the shipment. Customs has no concern in the relationship that binds the customs broker with the importer when applying the customs law, whether the incident involves a suspicion of customs smuggling or a violation of customs procedures according to the provisions of the Unified Customs Law and its executive regulations. The importer is responsible for claiming from whoever alleges that he has been harmed as a result, which leads to the conclusion that the defenses presented do not affect the outcome of the decision, making the appeal unsupported and thus must be rejected. Accordingly, the committee concluded to report the following:



Decision:

- 1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the first instance Decision number (CTR-2023-107209), issued by the third first instance customs committee in Riyadh.
- 2- On the merits, to reject it, and the support of the first instance Decision in all that it ruled, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-186768

Case No. PC-2024-186768

Keywords:

Customs - Restrictions - Bond commitment - Soy sauce - Non-compliance with specifications - Sample not technically valid - Conviction

Summary:

The importer is requesting the cancellation of the first instance decision No. (CFR- 2022- 2394) issued by the 1st first instance customs committee in Riyadh, which convicted him in absentia of customs smuggling, and obligated him to pay a customs fine equivalent to the value of the contraband item, and to pay an amount equivalent to the value of the contraband item as a confiscation substitute. Where it was established for the appellate committee that the customs procedure related to the completion of the entry of the shipment into the country requires the importer to take into account the general duty imposed by the customs law on the importer when dealing with the shipment, as it is evident from the documents attached to the case file that the importer was notified of the return of the shipment in question to customs. Moreover, the contraband item related to the smuggling incident is not of the type of goods prohibited per se, but the prohibition was imposed due to its violation of the required specifications specifically. The implication of this; and the affirmation of the first instance decision regarding the conviction of the appellant for customs smuggling and the penalty of confiscation, with the amendment of the amount of the customs fine to be twice the customs duties.

Document

- Article 56 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Paragraph (of Article (145) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.



- Paragraph (4) of Article (145) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer argued that the criminal intent for the crime of customs smuggling is absent, clarifying that he destroyed the shipment to avoid returning it without official proof of non-compliance, and to avoid municipal and food and drug authority fines due to its nearing expiration.
- 2- The importer argued that the condition of the commitment not to dispose of the shipment is void due to the delay in inspection for more than 10 years, asserting that the burden of proving the non-compliance of the imported goods lies with the laboratory and customs, and that mere violation of the commitment does not constitute a smuggling crime.

The Committee's response to the defenses:

All the defenses raised by the appellant do not affect the validity of the first instance decision and do not undermine the established basis on which the first instance decision concluded its correctness regarding the appellant. This is because the customs procedure related to completing the entry procedures for the shipment into the country requires the importer to observe the general duty required by the customs law regarding the importer when dealing with the incoming shipment, which is embodied in complying with all that the customs law and other related regulations require for the clearance of the shipment, which necessitates not acting upon it in any way until it is approved and permission is granted to act upon it. Therefore, the violation by the importer of that duty by acting upon the shipment without regard to the matter of permission for its entry into the country constitutes a behavior contrary to that general duty, especially since that duty is something that is known by necessity to him, which does not negate the correctness of attributing the crime of customs smuggling to him. Thus, what he claims regarding the lack of intent on his part is worthy of being disregarded. As for what he claimed to deny responsibility, stating that there was no text in the undertaking regulating the duration of delay in the appearance of the sample examination result, but only mentioned not acting, this is a corrupt condition if it extends for many years. This is rejected considering that this defense does not negate the established original act of the importer acting upon the violating shipment after it was proven that it was not cleared. It is established from the documents attached to the case file that the importer was notified to return the shipment in question to



customs. Moreover, that defense, assuming its validity, does not exempt the importer from following up on the matter of clearing the shipment, considering that such follow-up represents the usual care and diligence of the trader in following up on his trade affairs, especially since such a defense does not negate the importer's knowledge that the shipment cannot be acted upon except after it is approved and cleared, which is the case for imported shipments that are intended to be brought into the country and are subject to sampling procedures sent to the laboratory for examination according to clearance procedures. Especially since the violation of the undertaking is not the customs crime for which the importer is held accountable, as the undertaking is merely a warning and reminder to the importer that the clearance has not been completed and that it is still considered to be within the customs circle. Therefore, what the importer claims to deny his responsibility for acting upon the shipment, given the aforementioned circumstances, is worthy of being disregarded. This confirms the correctness of attributing the crime of customs smuggling to him in the manner specified by the Unified Customs Law in Article (142) by introducing the shipment contrary to the prohibitions and restrictions that must be observed for the clearance of the shipment, which was not the case with the importer's dealings with the shipment as previously stated. However, the appellate committee noted that imposing the customs fine by the committee issuing the decision against the importer was based on what was stated in paragraph (4/145) of the Unified Customs Law, considering it to be of the same kind as prohibited goods, while what should have been applied regarding the imposition of the customs fine is to implement what was stated in paragraph (2/145) considering that the violating item related to the smuggling incident is not of the same kind as prohibited goods per se, but the prohibition was imposed due to its violation of the required specifications, especially since this is reinforced by the presumption of the customs' demand - through what is established in the documents - for the importer to return the shipment to customs in preparation for its re-export. Since the matter is as mentioned, this necessitates amending the amount of the customs fine to be twice the customs duties and calculating it along with the confiscation amount in the manner that will be stated in the text of this decision. Therefore, the appellate committee concluded to report the following:

Decision:

- 1- Acceptance of the appeal procedurally submitted by / Institution ..., Commercial Registration No. (...), owned by / ..., National ID No. (...), against the first instance Decision No. (CFR-2022-2394), issued by the first First Instance Customs Committee in Riyadh.
- 2-On the merits, to reject it, and the affirmation of the first instance decision regarding the conviction of the importer for customs smuggling and the penalty of the confiscation substitute, with the amendment of the amount of the imposed customs fine to be twice the customs fees, making the total amount claimed from



the importer an amount of (66,985) twenty-two thousand eight hundred and forty-four riyals, for the reasons and justifications stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-189211

Case No. PC-2024-189211

Keywords:

Customs - Restrictions - Bond Commitment - Urinary Tract Device - Non-compliance with specifications - Non-compliance of the shipment with the requirements of the General Authority for Food and Drug - Conviction

Summary:

The importer is requesting the cancellation of the first instance decision No. (CFR-2022-1229), issued by the 1st first instance customs committee in Riyadh, which convicted the importer of customs evasion in person, and imposed a customs fine equivalent to the value of the contraband item, and required him to pay an amount equivalent to the value of the contraband item as a confiscation substitute. Where it was established for the appellate committee that the objection regarding the non-receipt of notifications related to the shipment issued by the authority does not affect the outcome reached by the decision, it is evident from the documents that the customs communicated with the importer to close the customs declaration subject to the lawsuit without any response from him. Furthermore, the observations mentioned in the laboratory report were limited to the item received from (Canada), which determines that the customs fine should be calculated based on the value of that item. Additionally, the imported goods are not prohibited in their nature and type; rather, their entry was prohibited due to not being authorized by the competent authority. This means; to uphold the first instance decision regarding the conviction for customs smuggling, while amending the amount of the confiscation fee and the customs fine imposed.

Document

- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Paragraph (of Article (145) of The Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Paragraph (4) of Article (145) of The Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.



- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer argued that the committee's decision was based on inference without evidence, due to not reviewing customs or returning the shipment, asserting that he did not receive the notifications, and that the letter from the food and drug authority was not legitimate, and he is ready to complete the procedures and pay the commitment immediately.

Appellee's (Authority's)

- 1- The authority argued that the importer was contacted to complete the procedures for closing the customs declaration, and that not returning the shipment is a presumption of his disposal of it.

The Committee's response to the defenses:

After reviewing the case file and the documents it contained, and considering the defenses presented by the parties, it is established from the documents according to the customs letter - the authority - issued on 14/07/1441 AH, that the importer was contacted to complete the procedures for closing the customs declaration. Since the importer did not return the shipment, this is evidence of his handling of it; which constitutes one of the forms of customs smuggling. It is evident to this committee that the first instance decision's conclusion of guilt for customs smuggling is correct, and this is not undermined by what the appeal petition raised, claiming that the conviction for customs smuggling against the company was not based on conclusive evidence and verified proofs, and that it cannot be built on suspicion and inference. Such a defense is rejected, considering that the customs transaction related to completing the procedures for bringing the shipment into the country requires the importer to observe the general duty required by the customs law regarding the importer when dealing with the incoming shipment, which is embodied in complying with all that the customs law and other related regulations require for the clearance of the shipment, necessitating not to handle it in any way until it is approved and permission is granted to handle it. Therefore, the importer's violation of this duty by handling the shipment without regard to the permission for its entry into the country constitutes behavior contrary to that general duty, especially since this duty is something he is necessarily aware of, which does not negate the validity of attributing the crime of customs smuggling to him. This confirms the correctness of his conviction for the crime of customs smuggling as defined by the Unified Customs Law in Article (142) by bringing in the shipment contrary to the prohibitions



and restrictions that must be observed for the clearance of the shipment, which was not the case with the importer's handling of the shipment as previously stated. Moreover, the claim that the company did not receive the notifications related to the shipment issued by the authority does not affect the outcome of the decision, as it is established from the documents that customs contacted the importer to close the customs declaration in question without any response from him, which confirms his non-compliance with the general duty imposed on the importer not to handle the shipment except after it is approved by the competent authority. This is not affected by assuming acceptance of what the appellant also argues regarding the disregard for the letter from the Food and Drug Authority as an official document because it is unsigned, as such a defense does not affect the realization of the importer's non-compliance with closing the customs declaration related to the shipment in question after it was not approved by the competent authority. Therefore, it is necessary to state that the defenses presented do not affect the outcome of the decision, making the appeal unsupported and necessitating its rejection. However, the observations mentioned in the laboratory report were limited to the item imported from (Canada) valued at (236,473) riyals according to the documents, which necessitates calculating the customs fine based on the value of that item and the attribution of the customs smuggling crime to the importer concerning this item of the shipment and not others. The appellate committee also noted that the committee issuing the decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs Law, which applies to prohibited goods. Since the imported goods are not prohibited in their nature and type, but their entry was prohibited due to not being approved by the competent authority, which is confirmed by the importer's request to close the customs declaration in question, this committee concludes that paragraph (2) of Article (145) of the Unified Customs Law should be applied contrary to what the first instance decision ruled. Thus, this committee concludes to calculate the customs fine at twice the customs duties as will be stated in the ruling. Accordingly, the customs appellate committee concluded to report the following:

Decision:

- 1- Acceptance of the appeal procedurally from the applicant/ Company ..., Commercial Registration No. (...), against the first instance Decision No. (CFR-2022-1229), issued by the second First Instance Customs Committee in Riyadh.
- 2- On the merits to reject it, and the affirmation of the first instance decision regarding the conviction for customs smuggling, with the amendment of the penalty amount for confiscation compensation and the imposed customs fine to be double the customs duties, making the total amount claimed by the importer an amount of (260,120) two hundred sixty thousand one hundred and twenty riyals, and this is for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2023-92758

Case No. PC-2022-92758

Keywords:

Customs - Restrictions - Bond Commitment - Clothing - Non-compliance with specifications - Non-compliance of samples with specifications - Conviction

Summary:

The importer is requesting the cancellation of the first instance decision No. (273) for the year 1437 AH issued by the first instance customs committee at the Al-Batha customs, which convicted the importer of customs evasion in person, and obligated him to a fine equivalent to twice the customs duties due on the violating item, and obligated him to pay an amount equivalent to its value as a confiscation substitute. Where it has been established for the appellate committee that customs have no concern when applying the customs law regarding the clearance of shipments in relation to the importer and their attorney, as long as those shipments have been organized with an import declaration in the name of the importer, whether this resulted in a smuggling incident or the shipment was linked to a violation of customs procedures. The appellant's claim that the commitment to the shipment is not relevant due to the absence of data on it does not hold, considering that customs documents complement each other. This means; upholding the first instance decision regarding the conviction of the importer for customs smuggling, limiting it to the item ("Indian fabric"), and obliging the importer to pay a customs fine equivalent to twice the customs duties due for that item, as well as a confiscation fine equal to the value of the smuggled item, and considering the importer's actions with the four items as constituting a violation of customs procedures.

Document

- Paragraph (A) of Article (56) of the Unified Customs Law for the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).



- Article (153) of the Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the agent exploited the agency granted to him in importing shipments without his knowledge.
- 2- The importer argued that the customs committee issued its decision in absentia convicting him and imposing a fine, and the decision has become effective without considering his defenses and responses.
- 3- The importer argued that the commitment taken regarding the shipment is merely a copy and not the original, and that the shipment details were not recorded in that commitment.
- 4- The importer argued that based on the principle of non-harm, the suspension of his services by the General Authority for Customs resulted in severe damages to him.

The Committee's response to the defenses:

Whereas, regarding what the appellant mentions in his statement about the issuance of the decision against him in absentia, it is rejected considering that it is established from the narration of the facts of the first instance decision that the owner of the institution was present before the First Instance Committee and responded to what was conducted and investigated in the case before it, which makes this defense not based on a correct foundation from reality. It is established in the rules of litigation that applying the law correctly is an obligation on the authority examining the case, and it should do so on its own without the need for a request from the parties. Therefore, the authority examining the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and taking it as a basis for its ruling, as long as the documents related to it within the case file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it reached. This is consistent with what Article (153) of the Criminal Procedure law states, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description contained in the indictment...". It is established from the documents that the types mentioned in the laboratory reports regarding the type ("Indian fabric") included in the import data related to it, summarized in the laboratory report directed to



customs, which listed the violating items and dated 18/10/2013, detailed that this type did not pass the specification of pH compliance, which is one of the technical violations affecting it, resulting in considering the importer's action regarding this type as constituting the crime of customs smuggling and imposing a customs fine amounting to twice the due fees, in addition to the confiscation fee for that type, which is valued according to the documents at (5,918) five thousand nine hundred and eighteen riyals. As for the other types included in the first instance decision for which the importer was held accountable for violating the required specifications, after the appellate committee examined the case documents, it found only the summary of the aforementioned laboratory report, which proved that only four types did not pass the required specifications - aside from what was previously established regarding the type ("Indian fabric") - and the violation was due to the absence of the explanatory data card and washing instructions, which makes the importer's action regarding them not rise to the level of customs smuggling, and they are burdened with those observations mentioned in the laboratory report regarding them. Therefore, it is necessary to impose a penalty for violating customs procedures amounting to (1,000) one thousand riyals for each of those four types mentioned in the summary of the laboratory report, which are (ready-made clothes "China" - women's clothes "China" - socks "China" - girls' clothes "China"). Since the matter is as mentioned, the uncertainty about the existence of evidence from the laboratory regarding their non-approval, considering the absence of the case documents regarding the remaining types included in the first instance decision, confirms their inclusion of violations with certainty, thus leading to the conclusion of the absence of certainty regarding their non-approval. The response of the authority to the appeal statement was general without clarifying the laboratory report and explaining the documents related to it concerning the types for which no laboratory report was found, as mentioned in the first instance decision. Therefore, it is determined by the appellate committee that the importer cannot be held accountable for acting on a confirmed basis that would establish the crime of customs smuggling and the validity of attributing it to the appellant. This result reached by the appellate committee regarding the submitted appeal is not affected by the claim that the agent of the appellant exploited the agency granted to him in importing shipments without his knowledge, as customs has no concern when applying the customs law regarding the relationship between the importer and his agent, as long as those shipments have been organized in the import declaration in the name of the importer, whether this resulted in a smuggling incident related to the violating shipment or the shipment was linked to a violation of customs procedures when the importer violated the commitment taken regarding it and acted on the shipment that was not cleared by the competent authority. The appellant is free to seek recourse against whoever claims to have suffered damage from the exploitation of what he claims to be an agency that was exploited by the one who caused him harm. Moreover, this result is not affected by the appellant's claim that the commitment taken regarding the shipment is merely a copy and not the original, and that the shipment details were not recorded in that commitment, as such a defense is rejected and does not negate the responsibility of the one who prepared the import declaration in his name, considering the contradiction in the appellant's defenses, which



sometimes deny his jurisdiction over the shipment, while in this defense, he does not deny his jurisdiction over the shipment but disputes the commitment taken regarding it and its connection to the shipment in question. Additionally, what he mentions about the lack of connection of the commitment to the shipment due to the absence of data on it does not hold, considering that customs documents complement each other, and it is established from the documents that the laboratory reports, sampling, and preparation of the import declaration are related to the items in violation. It is also known by necessity to those dealing with customs that any shipment received is subject to inspection and testing, and it is not permissible for the importer to act on it except after being notified by customs of its approval, which was not the case with the shipment, as confirmed by the letters that came with the customs correspondence to the importer to return the violating items, which the importer did not comply with. As for the appellant's request to compel customs to lift the suspension issued by the authority regarding the suspension of his services as he claims, it should be disregarded considering the appellate committee's lack of jurisdiction over it after it was established to the appellate committee, as previously investigated, that the importer was held accountable for his conduct, which resulted in the imposition of customs fines regarding the shipments for which import declarations were prepared in his name. Accordingly, the committee concluded to report the following:

Decision:

- 1- Acceptance of the appeal procedurally from the applicant/ ..., National ID number (...) As the owner/institution ..., commercial registration number (...), against the first instance Decision number (273) for the year 1437 AH, issued by the first instance customs committee in Al-Batha.
- 2- On the merits, to reject it, and the affirmation of the first instance Decision regarding the conviction of the importer for customs smuggling, limited to the item ("Indian fabric"), and obliging the importer to pay a customs fine equivalent to twice the customs duties due on that item, and a confiscation fine equal to the value of the smuggled item, the total amount claimed from the importer for his conviction of customs smuggling amounts to (6,509) six thousand five hundred and nine riyals, and this is for the Grounds and considerations stated in this Decision.
- 3- Considering the importer's actions regarding the four items (ready-made clothing "China" – women's clothing "China" – socks "China" – girls' clothing "China") as constituting a violation of customs procedures, resulting in a fine of (1,000) one thousand riyals for each item, making the total amount demanded (4,000) four thousand riyals, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-192717

Case No. CR-2023-192717

Keywords:

Customs - Restrictions - Bond Commitment - Soaps - Non-compliance with specifications - Moisture content and volatile materials - Conviction

Summary:

The importer's request to cancel the decision of the first instance customs committee No. (CFR-2023-103833), which condemned the importer for customs smuggling and imposed a customs fine and confiscation fee. And since it has been established to the appellate committee that the importer did not provide evidence of his payment, what he raises is an unfounded statement that does not contradict what is established in the documents. This means; to uphold the first instance decision as ruled and to amend the imposed customs fine.

Document

- Paragraph (2,4) of Article (145) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the initial decision calculated the full value of the item subject to the laboratory report contrary to Article (27/2), which requires proving the value with original invoices and documents according to Article (26).



The Committee's response to the defenses:



Moreover, the claim made by the appellant in his statement regarding the non-receipt of notifications from the authority does not affect this, as it is established from the documents that there is a letter No. 1614/35 issued by the General Director of the Jeddah Islamic Port Customs addressed to the importer, stating the unsuitability of the sample and requesting its immediate return to the customs yards according to the commitment. Furthermore, it was necessary for the institution to review the customs and verify the fate of the shipment, especially since it was aware of the existence of that commitment signed by it. As for the appellant's claim that the value of the violating item included in the shipment is 500 pieces at a price of 4219 riyals according to the original invoice, this is rejected, considering that the importer did not provide evidence of his claim, making what he raises an unsubstantiated statement that does not contradict the established documents that the sample examined through the sample withdrawal document relates to the item whose value was (82,533) riyals according to the declaration document and the request for preparation and inspection. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and thus must be rejected. However, the appellate committee noted that the committee issuing the decision calculated the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs Law, which applies to prohibited goods. Since the goods received are not prohibited in their nature and type, but their entry was prohibited due to non-compliance with some required specifications, which is confirmed by the request from the importer to bring the shipment to the customs yard for re-export, this committee decides to apply paragraph (2) of Article (145) of the Unified Customs Law contrary to what was decided in the first instance ruling. Thus, this committee concludes to calculate the amount of the customs fine at twice the customs duties as will be stated in the ruling, and accordingly, the committee concludes to report the following:

Decision:

- 1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the first instance Decision number (CFR-2023-103833), issued by the 1st First Instance Customs Committee in Riyadh.
- 2- On the merits, to reject it, and the affirmation of the first instance Decision regarding the conviction of the appellant for customs smuggling and the penalty of confiscation compensation, with the amendment of the imposed customs fine to be twice the customs duties, making the total amount claimed by the importer an amount of (93,262) ninety thousand one hundred and sixteen riyals, and this is for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR- 2024-171061

Case No. PC -2023-171061

Keywords:

Customs - Restrictions - Bond commitment - Dettol soap - Non-compliance with specifications - Insoluble materials - Conviction

Summary:

The importer's request to cancel decision No. (5) for the year 1442 AH, issued by the first instance customs committee, which convicted the importer of customs smuggling and obligated him to pay a customs fine and confiscation compensation. Where it has been established to the appellate committee that the importer's claim of the small quantity and its deficiency was not of his own volition, it cannot be accepted. This means; to uphold the first instance decision in what it ruled and to amend paragraph (2).

Document

- Paragraphs (3, 4) of Article (145) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that he did not act on the shipment based on official documents and that the goods were returned.
- 2- The importer argued that the shortage in the number of cartons was not his fault, as it is possible that they were received incomplete, which is something that cannot be avoided.
- 3- The importer argued in good faith by returning the goods to customs, confirming that he had no criminal intent.



The Committee's response to the defenses:



The appellant did not provide with his appeal any evidence to support his claim that the shipment was not acted upon and that it was held based on official documents. Moreover, his claim that the material and moral elements for the validity of attributing the crime of customs smuggling are not present is refuted; because the established principle is that the reviewing authority has the right to deduce from the facts of the case what is sufficient to rely on to reach the conclusion it arrived at in its decision, as long as its deduction is reasonable and does not contradict the facts or what is established in the documents after it was proven that the quantity requested by the importer to be returned was deficient and that his claim of the insignificance of the quantity and that the deficiency was not by his will cannot be accepted; because the facts of the case have proven that the quantity was (79) cartons and that does not negate the importer's disregard for the obligations arising from the general duty; considering that the customs procedure related to completing the procedures for bringing the shipment into the country requires the importer to observe the general duty required by the customs law in relation to the importer when dealing with the incoming shipment, which is embodied in complying with all that the customs law and other related regulations require for the clearance of the shipment, which necessitates not acting upon it in any form until it is approved and permission is granted to act upon it. Therefore, the importer's violation of that duty by acting upon the shipment without regard to the matter of permission for its entry into the country constitutes a behavior contrary to that general duty which is necessarily known to him, which does not negate the validity of attributing the crime of customs smuggling to him after the committee that issued the decision scrutinized the facts of the case and was well-informed about them and relied on credible evidence and indications to reach its conclusions without arbitrary inference and without conflicting with what is reasonable and acceptable in sound reasoning. The decision detailed the actions and materials constituting the material element of the crime of customs smuggling, which is generally represented in non-compliance with the obligations and duties established under the customs law for dealing with goods in customs areas for bringing goods into or out of the country. And since the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and necessitates its rejection. Thus, the appellate committee concludes to uphold the first instance decision regarding the conviction for customs smuggling and the penalty of the confiscation substitute imposed. However, the appellate committee noted that the committee that issued the decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs Law, which applies to prohibited goods. Since the incoming goods are not prohibited in their nature and type, but their entry was prohibited due to non-compliance with some required specifications, which is confirmed by the request from the importer to bring the shipment to the customs area for re-export. Therefore, this committee decides to amend the reference to paragraph (3) of Article (145) of the Unified Customs Law, contrary to what was ruled in the first instance



decision, considering that the goods were originally exempt from customs duties. By applying the provisions of return as stated in the first instance decision, the amount of the customs fine will be twice its value, making the total (11,850) riyals. Since such a note does not affect the outcome of this decision in upholding the first instance decision regarding the conviction for customs smuggling and the penalty of the confiscation substitute and the amount of the customs fine imposed after correction based on paragraph (3) of Article (145) of the Unified Customs Law as previously mentioned. The appellate committee also noted the material error in the total amount of the customs fine imposed and the confiscation substitute, which differed in writing from the amount stated in paragraph (3) of the first instance decision. Since such a note does not affect the outcome of this decision regarding the conviction for customs smuggling and the penalties resulting from it, including confiscation and the customs fine that has been corrected as previously mentioned, and what will be the case of the wording of this decision, the appellate committee concluded to report the following:

Decision:

1-Acceptance of the appeal procedurally, submitted by the company (...), commercial registration number (...), against the first instance decision number (...). For the year..., issued by the first instance customs committee in the case of Ammar.

2- On the merits, to reject it, and the affirmation of the first instance decision regarding the conviction for customs smuggling and the confiscation fee and the customs fine imposed, the total amount claimed by the appellant is (11,850) eleven thousand eight hundred and fifty riyals, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-173407

Case No. PC-2023-173407

Keywords:

Customs - Restrictions - Bond Commitment - Fabrics - Non-compliance with specifications - Proceduraldehyde content - Conviction

Summary:

The importer's request to cancel the first instance decision No. (1332/3) for the year 1443 AH, issued by the third first instance customs committee, which convicted the importer of customs smuggling and obliged him to pay a customs fine and a confiscation fee. And where it was established for the appellate committee that the importer's violation of that duty by acting with the shipment without regard to the matter of permission for its entry into the country constituted behavior contrary to that general duty. This means; to uphold the first instance decision in what it ruled and to amend paragraph (2).

Document

- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Paragraph (2,4) of Article (145) of The Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the violation is technical and does not amount to customs smuggling unless specific controls are met.
- 2- The importer argued that the shipment left with a commitment not to act according to the procedures followed, without hiding the goods or exceeding the customs circle, which negates the description of customs smuggling due to the lack of its elements in the incident.



The Committee's response to the defenses:



This is not affected by what the appellant argued that describing the violation as technical is incorrect since there were no specific criteria in the incident to describe a violation as such, considering that the importer is not authorized to determine the extent of the shipment's connection to a procedural or technical violation and that it is his duty to follow up on the matter of its clearance without positioning himself as a judge by deciding to act on it without regard to its clearance or not. His failure to fulfill that duty results in him bearing his responsibility and its consequences. As for what the appellant raises regarding the claim that the shipment was released under a commitment not to act, and thus it was released according to the procedures followed, and there was no introduction of goods by concealing them or not directing them to the customs department, which does not align with the description of customs smuggling of the incident, this is rejected; because the established principle is that the authority reviewing the subject of the case has the right to deduce from its facts what is sufficient to rely on to reach the conclusion it arrived at in its decision as long as its deduction is sound and does not contradict the facts or what is established in the documents. It is evident that the committee issuing the decision has scrutinized the facts of the case and is well aware of them, relying on credible evidence and indications to reach its conclusions without arbitrary inference and without conflicting with what is reasonable and acceptable in sound consideration. The decision detailed the actions and materials constituting the material element of the crime of customs smuggling, which is generally represented in non-compliance with the obligations and duties established under the customs law for dealing with goods in customs areas for entering or exiting goods from the country. Regarding what the appellant mentioned that the criminal intent is not present with the importer since he did not intend when requesting the temporary release of the shipment to dispose of it, this is also rejected; considering that the principle regarding proving intent is a matter of substance that the authority reviewing the case independently assesses as long as its approach to achieving that is sound and leads to the circumstances of the incident and the indications therein, and does not contradict it. What that authority has established from manifestations and signs is sufficient in itself to reveal that intent without the need to discuss it independently to testify to the existence of that intent, especially since the intent in the crime of customs smuggling is of a specific type considering that the customs transaction related to completing the procedures for bringing the shipment into the country requires the importer to observe the general duty required by the customs law regarding the importer when dealing with the incoming shipment, which is embodied in complying with everything required by the customs law and other related regulations regarding the release of the shipment, which necessitates not acting on it in any form until it is cleared and permission is granted to act on it. Therefore, the importer's violation of that duty by acting on the shipment without regard to the matter of permission for its entry into the country constitutes behavior contrary to that general duty, which is also something that is necessarily known to him, which does not negate the validity of attributing the crime of customs smuggling to him. Thus, what he claims regarding the lack of



intent on his part is rightly disregarded, confirming the validity of attributing the crime of customs smuggling to him as defined by the Unified Customs Law in Article (142) by bringing the shipment in violation of the prohibitions and restrictions that must be observed for the release of the shipment, which was not the case with the importer's dealings with the shipment as previously stated. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it must be established that the defenses presented do not affect the outcome of the decision, making the appeal unsupported and thus must be rejected. However, the appellate committee noted that the committee issuing the decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs Law, which applies to prohibited goods. Since the imported goods are not prohibited in their nature and type, but their entry was prohibited due to non-compliance with certain required specifications, which is confirmed by the request from the importer to bring the shipment to the customs area for re-export, it is determined by this committee to apply paragraph (2) of Article (145) of the Unified Customs Law contrary to what was ruled in the first instance decision. Thus, this committee concludes to calculate the amount of the customs fine at twice the customs duties as will be stated in the ruling. Therefore, the appellate committee concludes to report the following:

Decision:

- 1- Acceptance of the appeal procedurally, submitted by/ Company ..., Commercial Registration No. (...), against the first instance decision No. (...). For the year ..., issued by the Third first instance Customs Committee in Riyadh.
- 2- On the merits, to reject it, and the support of the first instance decision regarding the conviction and the confiscation substitute, with the amendment of the customs fine to become twice the amount of the customs duties, the total amount claimed by the importer is (238,565) two hundred thirty-eight thousand five hundred sixty-five Saudi Riyals, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No CR -2024-179180

Case No. PC-2023-179180

Keywords:

Customs - Restrictions - Bond Commitment - Black Tea - Non-compliance with specifications - Presence of coliform bacteria - Conviction

Summary:

The importer's request to cancel the decision of the second first instance customs committee No. (CSR-2022-670), which convicted the importer of customs smuggling. And where it was established for the appellate committee that the importer had introduced a food product whose result was reported by laboratory report number (...) On the date 28/07/1436 AH, it was reported that it does not comply due to the presence of bacteria at a level higher than the maximum permissible limits according to the statement of the Food and Drug Authority, and because the customs had contacted the importer several times about the necessity of returning the shipment and there was no response according to the attachments of the case file. This means; the affirmation of the first instance Decision in all that it ruled.

Document

- Article (142) of The Unified Customs Law of the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that it is incorrect to consider the entire shipment a violation, as the shipment consists of two bills, each bill containing
- 2- The importer argued that he did not act on the shipment as there is a destruction request with customs.
- 3- The importer argued that the case file does not contain a letter to initiate the case from the public prosecution



Appellee's (Authority's) Defenses

- 1- The authority argued that it notified the importer of the non-compliance of the shipment according to the commitment.
- 2- The authority argued that its jurisdiction is valid based on the date of the customs declaration.

The Committee's response to the defenses:



The committee found that the importer had introduced a food item, the result of which was reported under laboratory report number (...). On the date 28/07/1436 AH, it was reported that it does not comply due to the presence of bacteria at a level higher than the maximum permissible limits according to the statement of the Food and Drug Authority. Since the customs had contacted the importer several times regarding the necessity to return the shipment and there was no response according to the attachments of the case file, it has been established that he committed the crime of customs smuggling based on Article (142) of the Unified Customs Law, which states that: Smuggling is the introduction or attempt to introduce goods into the country or to export them, or attempt to export them in violation of the applicable legislation, without paying the customs taxes "fees" either wholly or partially, or contrary to the prohibitions or restrictions contained in this law "law" and other regulations and laws. This is not affected by what the importer raised regarding the shipment being received in two containers and one was examined without the other, as the two containers are related to the same commodity and the same customs declaration. It is also not affected by what he raised about still retaining the shipment and being in the process of destroying it, as it would have been more appropriate for the importer to respond to customs in a timely manner and return the shipment according to the commitment taken regarding it. As for his claim that the authority is not competent to initiate the lawsuit, it is rejected, considering that the date of the customs declaration precedes the transfer of jurisdiction, so the authority has jurisdiction. Since the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, making the appeal without a supporting basis, thus it must be rejected.

Decision

- 1- Acceptance of the appeal procedurally, from the applicant/..., commercial registration number (...), owned by (...), civil registration number (...), against the first instance Decision number (CSR-2022-670), issued by the second First Instance Customs Committee in Riyadh.
- 2- The appeal is rejected on the merits, and the first instance Decision is upheld in all that it ruled, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR - 2024-202065

Case No. PC-2023-202065

Keywords:

Customs - Restrictions - Bond Commitment - Various Foodstuffs - Non-compliance with specifications - Presence of an unauthorized color - Conviction

Summary:

The importer requests the cancellation of the decision of the third first instance customs committee No. (CTR-2023-106145), which convicted the importer of customs smuggling and imposed a customs fine and confiscation compensation. Where it has been established to the appellate committee that the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision. This means; the affirmation of the first instance Decision in all that it ruled.

Document

- Paragraph (5,1) of Article (145) of The Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that there was no criminal intent for violating the commitment
- 2- The importer argued that the destruction of the goods was due to the Corona pandemic and the expiration of the goods' validity, with the assistance of the General Administration of Environmental Health of the municipality



The Committee's response to the defenses:



The appellant's claims regarding the Decision, asserting that the destruction of the shipment in question occurred after the goods had piled up in his warehouses and coincided with the events of the COVID-19 pandemic, which forced him into the destruction process carried out by a governmental entity, do not diminish his responsibility, according to his claims. This is because there was a long time between the arrival of the shipment and the laboratory results concerning it, and the occurrence of the pandemic (COVID-19) that the importer claims was the reason for his action of destruction without notifying customs, which does not confirm the importer's diligence in fulfilling the commitment before the alleged circumstances occurred. Furthermore, there is no evidence proving that the destruction was related to the shipment in question, which is not altered by the claimant's assertion that it was done under the supervision of a governmental entity, given the lack of notification to customs of the importer's desire to destroy the shipment in question by another entity, contrary to the commitment taken regarding the shipment in question. It was established from the documents that the laboratory report was concerned with samples of the prohibited type included in the shipment (peanuts with multiple flavors), and it was also established from the documents that the total value amounted to (9,772) riyals, which makes the attribution of the crime of customs smuggling against the importer specific to that type and determines how to calculate the customs penalty based on its value as will be stated in the text of this Decision. However, the appellate committee noted that the committee issuing the Decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs law, which applies to prohibited goods. Since the incoming goods are not prohibited in their nature and type, but their entry was banned due to non-compliance with certain required specifications, this results in treating them when imposing the customs penalty regarding their importation after proving the smuggling crime related to them as previously stated, according to what was ruled by paragraph (2) of Article (145) of the Unified Customs law, contrary to what was ruled by the first instance Decision, as will be stated in the text of this Decision. Therefore, the appellate committee concluded that the appellant's defenses do not alter the validity of the Decision under appeal, which means that the appellant's appeal is based on an incorrect basis and must be rejected concerning the conviction of customs smuggling and the penalty of the confiscation substitute ruled, with the adjustment of the customs fine amount according to what has been achieved. Accordingly, the appellate committee concluded to report the following:

Decision

1 - The acceptance of the appeal procedurally submitted by / Institution ..., commercial registration number (...), owned by / ..., national ID number (...), against the first instance Decision number (CTR-2023-106145), issued by the third First Instance Customs Committee in Riyadh.



2- On the merits to reject it, and the affirmation of the first instance decision regarding the conviction for customs smuggling and the confiscation fee, with the amendment of the customs fine ruled in paragraph (2) of the first instance decision to be double the customs duties of the violating items, making the total amount claimed from the importer an amount of (11,726) nine thousand four hundred and seventy-seven riyals, and this is for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-202693

Case No. PC-2023-202693

Keywords:

Customs - restrictions - bond commitment - lighting bulbs - non-compliance with specifications - labeling of rated power - non-conviction

Summary:

The importer requests the cancellation of the decision of the third first instance customs committee No. (CTR-2023-118745), which convicted the importer of customs smuggling and imposed a customs fine and confiscation compensation. The appellate committee established through the laboratory test results that the sample (lighting bulbs) did not pass the examination due to non-compliance with specifications regarding the labeling of rated power, which is one of the procedural non-essential observations that do not affect the health and safety of consumers. This means; to uphold the first instance decision in what it ruled and to amend paragraph (2).

Document

- Article (30/1) of the Executive Regulations of the Customs law issued by Ministerial Decision No. (2748) dated 25/11/1423 AH.
- Article (31/6) of the Executive Regulations of the Customs law issued by Ministerial Decision No. (2748) dated 25/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that he was a victim of agency exploitation, as the agent established a company in his name and carried out the import process without his knowledge, and there is a lawsuit against the agent in the general court in Jeddah
- 2- The importer argued that the case file lacks the original documents supporting the customs claim, which are (the original customs declaration



The Committee's response to the defenses:



The committee found that what the appellant mentions in his list about the exploitation of the named/ ... does not detract from that. For the agency granted to him by the owner of the institution, and that she was not aware of the institution's activities, and that he exceeded the limits of his agency by carrying out the import process without it being stated in the agency, as such a payment does not negate the established principle of organizing the shipment papers in the name of the owner of the institution. Moreover, customs have no concern when applying the customs law regarding the relationship between the importer and his agent, whether this results in the importer being convicted of customs smuggling or merely a customs violation that does not rise to the level of a smuggling crime. The importer is responsible for claiming from anyone who alleges harm due to him. Additionally, the first instance Decision's integrity is not undermined by the appellant's claim that the case file is devoid of a list to initiate it and also lacks supporting documents for the claim, relying instead on photocopied and non-original documents. This is because it is established through the examination of the case papers that there is a list to initiate it, including all the data of the shipment in question, supported by its attachments according to the number issued in the customs register with the number (...). On 11/05/1436 AH, the appellant's claim regarding the absence of documents proving the accusation and reliance on photocopied and non-original documents does not accept the report attributing the violation to the importer as claimed. This is rejected, as it is established in criminal matters—of which customs smuggling violations are a part—that proof does not have to adhere to specific methods. It is also not necessary for the evidence relied upon in the conviction for smuggling or the attributed violation against the importer to be based on the exclusivity of each piece of evidence regarding every detail of the case. The original principle in proving such facts is that the evidence should be supportive of one another, collectively forming the conviction of the adjudicating body. Therefore, it is not appropriate to discuss each piece of evidence in isolation from the other documents, evidence, and indications. What is relied upon is the sufficiency of the evidence and indications as a whole leading to the formation of that body's conviction and its assurance in what it has reached. This was the case with the shipment in question organized in the name of the importer, and the laboratory report's jurisdiction was established through the documents. It is also unacceptable for the appellant to position themselves as a judge in determining what constitutes a procedural violation or not, without considering the general obligation embodied in the requirement for the importer to refrain from acting on incoming shipments until they are approved by the competent authority, which was not the case with the importer's dealings with the shipment. Moreover, the assessment of the nature of the violation is within the purview of the committee reviewing the case after it has comprehensively understood it and established its conviction regarding its Decision. Since it was established through the laboratory examination results that the sample (lighting bulbs) did not pass the inspection due to non-compliance with specifications regarding the labeling of rated power, which are procedural non-essential observations that do not affect the health and safety of consumers, it is determined that the importer's action regarding the shipment, which was loaded with that observation, constitutes a



customs violation that results in a customs fine of (1000) riyals. This is considering that the appellate committee noted that the primary committee had classified the violation among those subject to the penalty stated in paragraph (30/1) of the executive regulations of the unified customs law and ruled to impose a penalty on the importing entity for the committed violation amounting to (5,000) five thousand riyals, while the ruling of that paragraph limited the application of the penalty to violations related to customs data that would lead to the removal of any condition or restriction related to import or export, which was not the case with the incident under consideration, as the violation was linked to the importer's action regarding the violating shipment contrary to the commitment taken regarding it, without rising to the level of customs smuggling. Since the matter is as stated, it is determined to amend the fine amount to (1000) one thousand riyals, in accordance with what is stipulated in Article (31/6) of the executive regulations of the unified customs law, as this aligns with the correct application of the law to the incident under consideration as previously stated. Accordingly, the committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the first instance Decision number (CTR-2023-118745), issued by the third primary customs committee in Riyadh.
- 2- On the merits to reject it and adherence to the first instance Decision in all that it ruled, with the amendment of the amount of the customs violation fine to be (1000) one thousand riyals, and that for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-230841

Case No. PC-2024-230841

Keywords:

Customs - Restrictions - Bond commitment - Current choke - Non-compliance with specifications - Circuit power factor - Conviction

Summary:

The importer is requesting the cancellation of the decision of the 1st first customs instance committee in No. (CFR - 2023 - 126358), which convicted the importer of customs smuggling. And where it was established for the appellate committee that the importer's claim of lack of criminal intent for smuggling is not valid in light of his knowledge that the shipment was subject to a commitment not to dispose of it before its approval. This means; to uphold the first instance decision in all that it ruled.

Document

- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The appellant argued that her action on the shipment was for the purpose of export outside the Kingdom, confirming that temporarily delivering it for storage does not constitute a final clearance, and that its release was conditional on not acting on it according to the signed commitment

The Committee's response to the defenses:

This is not affected by what the appellant argued, that its action regarding the shipment subject to the commitment was for the purpose of export outside the Kingdom, considering that the delivery of the shipment to the importer temporarily for safekeeping until it is approved by the competent authority does not constitute a clearance for it, but rather it was released in exchange for a commitment from him not to



dispose of it. Therefore, the act concerning the disputed item and the violation of the commitment signed by him constitutes customs smuggling. Moreover, the importer's claim of the absence of criminal intent for smuggling does not hold in light of his knowledge that the shipment was subject to a commitment not to dispose of it before its approval. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and thus must be rejected.

Decision

1- Acceptance of the appeal procedurally, from the applicant/ ..., commercial registration number (...), against the first instance Decision number (CFR-2023-126358) issued by the 1st first instance customs committee in Riyadh.

2- The appeal is rejected on the merits, and the first instance decision is upheld in all that it ruled, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-225231

Case No. PC-2023-225231

Keywords:

Customs - restrictions - bond commitment - metal rolls - non-compliance with specifications - lead in paint - conviction

Summary:

The importer's request to cancel the decision of the 1st first instance customs committee No. (CFR-2023-119210), which convicted the importer of customs smuggling. And where it has been established to the appellate committee that the violation is technical, affecting the quality of the product and causing harm to consumers and their financial resources, considering that the quantity present in the sample exceeds the legally permitted limit. This means; to uphold the first instance decision in what it ruled and to amend the imposed customs fine.

Document

- Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. (25711) dated 08/04/1445 AH.
- Paragraphs (2) and (4) of Article (145/2) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the goods were subjected to laboratory testing and it was found that they comply with the technical regulations and standard specifications approved in the Kingdom of Saudi Arabia.
- 2- The importer argued that the mentioned violation is considered a Procedural violation that does not rise to a conviction for customs smuggling due to its lack of impact on the quality and safety of the product.



Appellee's (Authority's) Defenses

- 1- The authority argued that the report proved that the sample did not comply with the lead standards in the paint, making it a technical violation that affects the quality of the product and causes negative effects on consumers

The Committee's response to the defenses:



The laboratory examination report confirms that the violation regarding the item in question exceeded the required limit in the paint by more than double, as the lead content in the paint sample was (1487 mg/kg). The report stated that the required limit for the paint is (MAX.90 gm/kg), indicating that the violation is technical and affects the quality of the product, causing harm to consumers and their financial resources, considering that the quantity present in the sample is above the legally permitted limit. Additionally, it is difficult to correct the type of violation found in the sample, which confirms the validity of attributing the smuggling offense to the company for handling the shipment, which was loaded with the violation reported by the laboratory. This conclusion is not undermined by what the representative of the appealing company mentions regarding the issuance of a report from the (...) company. It includes that it certifies that the goods have been subjected to laboratory testing and have been found to comply with the technical regulations and standard specifications approved in the Kingdom of Saudi Arabia, considering that this report is not valid as it is issued by an unlicensed entity and does not indicate that the sample has obtained a certificate of conformity with specifications and standards, but rather the report itself included at the bottom what it stated: The issuance of this certificate does not exempt the contracting parties from their responsibilities and fulfilling their obligations ... The Appellate Committee noted that the committee that the committee issuing the decision has ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs Law, which is the paragraph that applies to prohibited goods, and since the imported goods are not prohibited in their type and nature, but the entry of these goods was prohibited due to their non-compliance with certain required specifications. This is confirmed by the request from the importer to bring the shipment to the customs yard for re-export.

Decision

- 1- Acceptance of the appeal procedurally, from the applicant/ ..., commercial registration number (...), against the first instance Decision number (CFR-2023-119210) issued by the first first instance customs committee in Riyadh.
- 2- The appeal is rejected On the merits, and the first instance decision regarding the conviction for customs smuggling and the confiscation fee is upheld, with the customs fine imposed being modified to be twice the amount of the customs duties, making the total amount claimed by the importer an amount of (94,172)



ninety-four thousand one hundred seventy-two riyals, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No CR-2024-226483

Case No PC-2023-226483

Keywords:

Customs - Restrictions - Cheese Balls - Bond Commitment - Non-compliance with specifications - Presence of artificial colors - Conviction

Summary:

The importer's request to cancel the decision of the second first instance customs committee No. (CSR-2023-112037), which convicted the importer of customs smuggling. And where it has been established to the appellate committee that the validity of the first instance decision is not affected by what the appellant raises regarding not being notified of the result of the analysis of the item in question after it has been established that he was notified of it by virtue of letter number ... On 23/12/1436 AH, a copy of it is attached in the case file. This means; to uphold the first instance decision in all that it ruled.

Document

- Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. (25711) dated 08/04/1445 AH.
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer argued that the shipment in question was re-exported through the same outlet from which it was imported.
- 2- The importer argued that the customs prosecution did not provide evidence proving its non-compliance, and did not confirm the receipt of the alleged notification by the institution.



Appellee's (Authority's) Defenses

- 1- The authority argued that the payment of the commitment related to the customs declaration was not proven, which constitutes a smuggling crime according to the Law based on the institution's action.

The Committee's response to the defenses:



Since there is no reproach against the reviewing authority for taking the reasons of the decision subject to appeal without addition whenever it sees that these reasons suffice to avoid presenting anything new, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained, and this result is not affected by what the appellant claims regarding the re-export of the violating item considering that he did not provide what proves that after the authority stated in its response memorandum that the commitment is still in place and has not been settled, which makes that claim a mere assertion that should be disregarded. Moreover, the validity of the first instance decision is not altered by what the appellant raises regarding not being notified of the result of the analysis of the item in question after it was proven that he was notified of that by virtue of letter number ... On 23/12/1436 AH, a copy of it is attached to the case file, and since the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision, which makes the appeal without supporting evidence and must be rejected.

Decision

- 1- Acceptance of the appeal procedurally, from (...) , commercial registration number (...) , owned by (...) , civil registration number (...) , against the first instance Decision number (CSR-2023-112037), issued by the first First Instance Customs Committee in Riyadh.
- 2- The appeal is rejected on the merits, and the first instance decision is upheld in all that it ruled, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-228159

Case No. PC-2023-228159

Keywords:

Customs - Restrictions - Bond Commitment - Non-compliance with specifications - Presence of the pesticide chlorpyrifos - Conviction

Summary:

The importer's request to cancel the decision of the 1st first instance customs committee No. (CFR-2023-105278), which convicted the importer of customs smuggling. Where it has been established to the appellate committee that the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision. This means; to uphold the first instance decision in all that it ruled.

Document

- Regulations for the operation of Zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/04/1445 AH.
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importing company argued that it was not notified by the authority of the sampling date, thus violating the Law.



The Committee's response to the defenses:



This does not detract from what the appellant company mentioned in its appeal regarding not being notified by the authority of the sampling date, thus violating the Law, as it is in accordance with the principles derived from the decisions of the appeal committees that state: "The importer's inability to obtain the results in a timely manner does not affect the outcome of the inspection, as the importer is supposed to communicate with customs to know the fate of the results; otherwise, he bears the responsibility for acting contrary to what he has committed to." Since the reasons for the decision under appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and thus must be rejected.

Decision

- 1- Acceptance of the appeal procedurally, from the applicant/ ..., commercial registration number (...), against the first instance Decision number (CFR-2023-105278) issued by the first First Instance Customs Committee in Riyadh.
- 2- He rejected it as a subject and upheld the first instance decision in all that it ruled, and that is for the reasons and grounds stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-171050

Case No PC-2023-171050

Keywords:

Constraints - Bond commitment - Batteries - Non-compliance with specifications - Verification of rated capacity test - No conviction

Summary:

The importer is requesting the cancellation of the decision of the first instance customs committee No. (CFR-2022-607), which convicted the importer of customs smuggling and obligated him to pay a fine equivalent to the value of the contraband item and to compensate for the value of the contraband item as a confiscation substitute. Where it was established for the appellate committee that the violation in question relates to verifying the specified capacity, and the committee did not consider this observation, which was included in the laboratory report, as one of the substantial observations that affect the safety and quality of the product or deceive the consumer regarding its reality and material, especially since the sample has passed other testing fields. This means; the annulment of the first instance decision in all that it ruled against the appellant.

Document

- Article (31/6) of the Executive Regulations of the Customs law issued by Ministerial Decision No. (2748) dated 25/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that he was not properly notified of the lawsuit, clarifying that the mobile number used for the notification does not belong to the importing company.
- 2- The importer argued that the chargers stored at the company's headquarters in Riyadh were completely damaged due to a fire that spread to several factories, relying on reports from the civil



defense and the legal accountant, which constitutes a force majeure that exempts the company from liability.

The Committee's response to the defenses:



Whereas, upon reviewing the appeal list submitted by the importer, the appellate committee notes the claims regarding the incorrect notification of the lawsuit, as it is mentioned that the mobile number provided for notification does not belong to the importing company, this is rejected. This is based on the attached documents which show that the company submitted a request to amend its contact information after the date of the session held before the primary committee to consider the lawsuit. As for the claims regarding the fire occurring in a warehouse adjacent to theirs and the damage to the company's warehouse and its contents, including the shipment in question, which resulted in total damage to the shipment subject to the lawsuit, this cannot be relied upon, whether it leads to the appellant being charged with customs smuggling or any other violation that may be attributed to them regarding their dealings with the shipment in question, given that the report regarding the fire included in the lawsuit file and referenced in the submitted appeal does not prove its connection to the shipment in question. It is established in litigation rules that the authority reviewing the case has broad discretion in assessing the facts and giving them the appropriate description based on its conviction and the state of the evidence and inferences drawn from it, relying on them and using them as a basis for its ruling, as long as the documents related to it in the lawsuit file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the conclusion it reached. According to the report on the sample examination, the violation in question relates to verifying the specified capacity, and the appellate committee did not find this observation in the laboratory report to be among the substantial observations affecting the safety and quality of the product or misleading the consumer regarding its reality and material, especially since the sample passed other testing fields. This means that the importer's action regarding the item in question, which is burdened with such an observation, constitutes a consideration of it as a procedural observation that does not elevate, in the case of dealing with the shipment, to classify the importer's action with the shipment as customs smuggling. Therefore, it is decided to annul the first instance decision in all that was ruled against the appealing company. It is established that the importing company violated the commitment taken upon it and dealt with the shipment without notifying customs as previously verified. Therefore, the company's action is considered a violation governed by Article (31/6) of the executive regulations of the customs law, and a financial penalty of (1000) one thousand riyals is imposed, in accordance with what that article stipulates. When the appellate committee examined the lawsuit file and the laboratory report issued regarding the shipment in question, it became clear that there was no evidence of the severity of the violation related to the laboratory's observation regarding the specification (specified capacity), as the observation indicated that the specified capacity according to the



specification for the incoming item is (225 amperes). The hour) and that the sample test showed the specification at the specified capacity (214.6 amperes. The time) and since this discrepancy is slight between the required specification and what was reported by the laboratory in light of the sample passing other test fields and the report not disclosing a prohibition on clearance and only stating that the sample is non-compliant, especially since the claiming party did not clarify the extent of the impact of this slight difference on the necessity of preventing the shipment from entering the country.

Decision

1-Acceptance of the appeal procedurally, submitted by / Institution ..., Commercial Registration No. (...), against the first instance Decision No. (CFR-2022-607) issued by the 1st First Instance Customs Committee in Riyadh.

2- To accept it on the merits, and the annulment of the first instance Decision in all that it ruled against the appellant, and that for the Grounds and considerations stated in this Decision.

3-Considering the importer's action regarding the violating shipment as constituting a customs violation amounting to (1,000) one thousand riyals, for the reasons and circumstances stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No CR-2024-204916

Case No PC-2023-204916

Keywords:

Constraints - Bond commitment - Basil seed drink - Non-compliance with specifications - Presence of unauthorized colors - No conviction

Summary:

The importer's request to cancel the decision of the third first instance Customs Committee in Riyadh No. (CTR-2023-104889), which convicted the importer of customs smuggling and obligated him to pay a fine equivalent to the value of the violating item and to compensate for the value of the violating item as a confiscation substitute. And since the appellate committee has established the conformity of the shipment and the fulfillment of the related bond commitment, it has concluded that this entails the collapse of the basis on which the importer was convicted of customs smuggling. This means; to annul the first instance decision in all that it ruled.

Document

- The Unified Customs Law for the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that a re-export declaration for the violating item was attached.

Appellee's (Authority's) Defenses

- 2- The authority argued for the validity of the importer's claims regarding the re-export of the shipment.



The Committee's response to the defenses:



Since the initial decision concluded with a conviction based on the importer's action with the violating shipment, and since it was proven that the shipment matched and the related bond was paid, the appellate committee concluded that this leads to the collapse of the basis on which the importer was convicted of customs smuggling, which results in considering the dispute regarding the shipment resolved with the authority's acknowledgment of the re-export of the shipment and the payment of the commitment taken on the importing institution.

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the first instance Decision number (CTR-2023-104889), issued by the first First Instance Customs Committee in Riyadh.
- 2- To accept it on the merits, and the annulment of the first instance decision in all that it ruled regarding the appealing institution and the confirmation of the end of the dispute between the two parties concerning the shipment in question, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-190799

Case No. PC-2023-190799

Keywords:

Restrictions - bond commitment - Alcohol swab - Non-compliance with specifications - Medical device regulation requirements - No conviction

Summary:

The importer is requesting the cancellation of the decision of the Third first instance Customs Committee No. (CFR-2022-2430), which convicted the importer of customs smuggling and imposed a fine equivalent to the value of the contraband item and required him to pay an amount equivalent to the value of the contraband item as a confiscation substitute. Where it has been established to the appellate committee that the intended non-compliance refers to a technical observation that can be relied upon to confirm the validity of attributing the crime of customs smuggling to the importer concerning the item in question, which means that the behavior of the importer does not rise to the level of a customs smuggling crime. This means; the annulment of the first instance decision in all that it ruled, and considering the actions of the importing company as a violation governed by Article (31/6) of the executive regulations of the customs law.

Document

- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article (31/6) of the executive regulations of the customs law issued by Ministerial Decision No. (2748) dated 25/11/1423 AH.



Parties Defenses:

Appellant's

- 1- The importer argued that the violation is a procedural violation, not a technical one, and does not affect the quality of the product and the health and safety of the consumer in any way.
- 2- The importer argued that the company did not act with the product until after fulfilling the observation of the Food and Drug Authority and re-registering the item, which clarifies the absence of criminal intent on the part of the importing company.

The Committee's response to the defenses:

It has been established through the appellate committee's review of the report from the Food and Drug Authority regarding the item in question that it was vague and did not specify the nature of the violation or describe it, as it only mentioned the non-compliance of the item with the requirements of the medical devices and products control regulations. Furthermore, the appellate committee was not reassured by what was stated in that report, considering it mentioned the non-compliance of other items that were subject to laboratory examination, while the report itself clearly showed their compliance with the specifications. This makes it impossible to definitively assess the report's claim of non-compliance of the item in question with the specifications and to consider it, as the customs prosecution claims, that the non-compliance refers to a technical observation that could be relied upon to establish the validity of attributing the crime of customs smuggling to the importer concerning the item in question. Therefore, the importer's conduct does not rise to the level of a customs smuggling crime as stated in Article (142) of the Unified Customs Law. Customs smuggling is the act of bringing or attempting to bring goods into the country or taking them out or attempting to take them out in violation of the applicable regulations without paying customs duties in whole or in part, or contrary to the provisions of prohibition and restriction in this law and other regulations. It is considered a violation of customs procedures and subject to a customs fine as will be stated in the text of this decision in accordance with Article (31/6) of the executive regulations of the Unified Customs Law.



Decision

1- Acceptance of the appeal procedurally from the applicant/ Company ..., Commercial Registration No. (...), against the first instance Decision No. (CFR-2022-2430), issued by the 1st First Instance Customs Committee in Riyadh.

2- The appeal is accepted on the merits, and the first instance Decision is annulled in all that it ruled, considering the actions of the importing company a violation governed by Article (31/6) of the executive regulations of the customs law, and imposing a financial penalty on it in the amount of (1000) one thousand riyals, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No CR-2024-201837

Case No PC-2023-201837

Keywords:

Customs - Restrictions - Bond Commitment - Hangar - Non-compliance with specifications - Lead in paint - Non-conviction

Summary:

The importer is requesting the cancellation of the first instance decision No. (1787/1) for the year (1443 AH), issued by the first first instance customs committee in Riyadh, which convicted the importer of customs smuggling and imposed a customs fine and confiscation compensation. And where it was established for the appellate committee that there is a destruction report indicating the destruction of the shipment in dispute. This means; to annul the first instance decision in all that it ruled.

Document

- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer's agent argued that the import was done with an attached conformity certificate, and that the shipment is still present and a request for its destruction has been made, confirming good faith in their response to the committee, and that he did not receive notifications of non-conformity, and that the commitment was not broken due to not acting with the goods.

The Committee's response to the defenses:

It was established through the documents that there is a destruction report issued by the authority with the number (...) The date of correspondence is 04/03/2024, and its jurisdiction regarding the import statement prepared for the shipment in question included in its content that the date of destruction occurred for the



shipment on 20/03/2024. This leads to the collapse of the basis on which the importer was convicted of customs smuggling after the existence of a destruction report confirming the destruction of the shipment in dispute; thus, the image of customs smuggling for the importer's action regarding the shipment, contrary to the prohibitions and restrictions established under Article (142) of the Unified Customs Law, is not realized.

Decision

- 1- The acceptance of the appeal procedurally, submitted by/ ..., national ID number (...), against the first instance decision number (1787/1) for the year 1443 AH, issued by the first First Instance Customs Committee in Riyadh.
- 2- On the merits to accept it, and the annulment of the first instance Decision in all that was ruled against the appellant, and that for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No CR-2024-204923

Case No PC-2023-204923

Keywords:

Customs - Restrictions - Bond Commitment - Steel Pressure Vessels - Non-compliance with specifications - Actual capacity - No conviction

Summary:

The importer's request to cancel the decision of the first instance customs committee No. (CFR-2023-105154), which condemned the importer for customs smuggling and imposed a customs fine and confiscation fee. And where it has been established to the appellate committee from the laboratory report that the nature of the violation cannot be determined with certainty to consider it a substantive violation. This means; the annulment of the first instance decision regarding what was ruled, with the obligation to impose a fine for violating customs procedures.

Document

- Article (126) of The Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.
- Article (153) of The Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.
- Article (31/6) of The Executive Regulations of the Customs law issued by Ministerial Decision No. (2748) dated 25/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the laboratory result is insufficient for conviction, as it does not prove a substantial violation affecting consumer health, and that the violation falls under customs import violations according to Article (141/1) of the unified customs Law.



- 2- The importer argued that the letter initiating the lawsuit submitted by the authority is unclear due to the lack of completion of the elements and data of the lawsuit according to the text of Article (126) of the Criminal Procedure Law.

The Committee's response to the defenses:



Whereas it is established in the rules of litigation that the proper application of the law is an obligation on the authority examining the case, and it shall rule on its own without the need for a request from the parties. Consequently, the authority examining the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and using it as a basis for its ruling, as long as the documents related to it within the case file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it has reached. This is in accordance with what is stated in Article (153) of the Criminal Procedure law, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description in the indictment...". And whereas, according to the report of the sample examination result, the violation in question relates to five different types of pots in terms of capacity, and it is established from the laboratory report that the nature of the violation cannot be determined with certainty to consider it a substantive violation based on which the importer's action regarding the shipment, which is loaded with the violation mentioned in the laboratory report, is considered customs smuggling. Since dealing with the reality of what the laboratory result indicates in such cases considers this violation related to the non-compliant items, it has been established by the customs appellate court's practice to classify what the laboratory report concluded and what it stated about its non-compliance with specifications as among the non-substantive observations that do not affect consumer deception and the safety of using the imported product. This results in the importer's action regarding the items in question, which are loaded with such an observation, being considered as an observation of a procedural nature that does not rise, in the case of dealing with the shipment with its existence, to classify the importer's action regarding the shipment as customs smuggling. Therefore, it is decided to annul the first instance decision in all that was ruled against the appealing company and to consider the importer's action regarding the items mentioned in the laboratory report as constituting a violation governed by Article (31/6) of the executive regulations of the Customs law, and to impose a financial penalty of five thousand riyals (5,000) for each type of the items mentioned in the laboratory report, in application of what that article stipulates. The result reached by this decision is not affected by what the representative of the appealing company argues that the letter to initiate the case submitted by the authority is unclear due to the lack of completion of the elements and data of the case according to the text of Article (126) of the Criminal Procedure law, as it is



devoid of the number of the seizure report, the specification of the violation, its date, and the subject of the case, as this does not negate the established original fact after considering the case of the importer's action regarding the shipment containing the non-compliant items contrary to the commitment taken regarding it, which the case file proves the existence of the document confirming the importer's correspondence to return the non-compliant items without any response from him.

Decision

1- Acceptance of the appeal procedurally, from the applicant/ ..., commercial registration number (...), against the first instance Decision number (CFR-2023-105154) , issued by the 1st first instance customs committee in Riyadh.

2- To accept it on the merits, and the annulment of the first instance decision regarding the appellant company, obliging it to pay a fine for violating customs procedures amounting to (5,000) riyals, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-225237

Case No. PC-2023-225237

Keywords:

Customs - restrictions - bond commitment - batteries - non-compliance with specifications - electrical capacity - no conviction

Summary:

The importer requests the cancellation of the decision of the 1st first instance customs committee No. (CFR-2023-122746), which convicted the importer of customs smuggling and imposed a customs fine and confiscation compensation. And where it was established for the appellate committee that the violation involves a procedural violation that resulted in the approval of the importer's action regarding the shipment. This means; to annul the first instance decision in all that it ruled.

Document

- Article (24) of The Unified Customs Law for the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer argued that the non-conformity is due to a Procedural observation and does not affect the safety of the import and the quality of the product.
- 2- The importer argued that a customs fine of (1,000) one thousand riyals was collected, which implies that the plaintiff has no right to claim and loses his right in that.



The Committee's response to the defenses:



It was established through reviewing the attached documents in the case file that the import statement in question was among other data included in the report from the General Director of the Al-Batha Customs sent to the Director of the Customs Tariff and Registration Department by its letter number (...). On 13/06/1439 AH, it was stated that a fine for customs procedure violations was collected for each of the statements included with the mentioned report, which confirms to this committee the customs' conviction that the violation associated with the shipment in question is of the nature of procedural violations that resulted in the release of the shipment after the importer paid the fine for that violation. Since it has been established that whoever seeks to overturn what has been done by him will have his efforts rejected, it follows that the lawsuit against the importer for a ruling on customs smuggling is not valid after it has been established that the violation is considered a procedural violation that resulted in the approval of the importer's action regarding the shipment. This is not affected by what the prosecution mentions about the commitment still being unpaid regarding the shipment in question, as such a procedure is an internal matter that does not concern the importer after it has been established through the documents that the importer was allowed to act regarding the shipment by the relevant customs authority.

Decision

1- Acceptance of the appeal procedurally from its presenter (...), commercial registration number (...), owned by (...), national ID number (...), against the first instance Decision number (CFR-2023-122746) issued by the first primary customs committee in Riyadh.

2- on the merits to accept it, and the annulment of the first instance Decision in all that was ruled against the appellant, and that is for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No CR-2024-227758

Case No PC-2023-227758

Keywords:

Customs - Restrictions - Bond Commitment - Fabrics - Non-compliance with specifications - Visual Inspection - No Conviction

Summary:

The importer requests the cancellation of the decision of the Third first instance Customs Committee in Riyadh No. (CTR-2023-107176), which ruled not to convict the importer of customs smuggling and to impose a fine for violating customs procedures. And where it was established for the appellate committee that the importer's violation of that duty by acting with the shipment without regard to the matter of permission for its entry into the country constituted behavior contrary to that general duty. This means; the affirmation of the first instance Decision in all that it ruled.

Document

- Article (163) of the Unified Customs Law of the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that he authorized a customs clearance office to import the goods according to the regulations, but the office exploited the authorization and the commitment not to act, and imported and acted with the goods without his knowledge, which constitutes an exploitation of his agency.



The Committee's response to the defenses:



The appellant's defenses do not contradict the proven fact that the offending consignment was received in the name of the importing organization and that it was disposed of after it was proven that it was not cleared by the laboratory reports linked to the import declaration prepared for the consignment in question, given that the customs transaction associated with finalizing the procedures for entering the consignment into the country requires the importer to recall the general duty that the customs system requires of the importer when dealing with the incoming consignment, which is to comply with everything required by the customs system and other regulations related to the consignment's clearance order by requiring that the importer must not dispose of it in any way until it has been cleared and he is authorized to dispose of it, and the appellant's breach of that duty is embodied in complying with everything required by the customs system and other regulations. The importer's violation of this duty by disposing of the consignment without paying attention to the order authorizing its entry into the country constitutes conduct that violates this general duty, which is also presumed to be necessarily known to him, which does not negate the validity of attributing the violation to the importing establishment, in addition to the fact that the Customs has no interest in the relationship between the customs broker and the importer in its application of the Customs Law, and the importer is alone in claiming damages from him. Since the reasons for the decision under appeal are sufficient to sustain its judgment, it must be determined that the defenses presented have no effect on the outcome of the decision, and therefore the appeal has no basis to be sustained and must be rejected.

Decision

- 1- Acceptance of the appeal procedurally, from (...) , commercial registration number (...) , owned by (...) , civil registration number (...) , against the first instance Decision number (CTR-2023-107176), issued by the first First Instance Customs Committee in Riyadh.
- 2- The appeal is rejected on the merits, and the first instance Decision is upheld in all that it ruled, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-212176

Case No. PC-2023-212176

Keywords:

Customs - Restrictions - Bond Commitment - Hair Dryers - Non-compliance with specifications - Mechanical Durability - No Conviction

Summary:

The importer's request to cancel the decision of the first instance customs committee in Riyadh regarding decision number (CFR-2023-126997), which condemned the importer for customs smuggling and imposed a customs fine and confiscation compensation. And where it was established for the appellate committee that the importer had returned the shipment and fulfilled the commitment taken against him, and this was confirmed by the authority in its response memorandum to the appeal. This means; to annul the first instance decision in all that it ruled.

Document

- Article (56) of The Unified Customs Law of the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article (142) of The Unified Customs Law of the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article (163) of The Unified Customs Law of the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the company did not act with the goods and is committed to re-exporting them after proving non-conformity, relying on the re-export declaration and the inspection report of the released shipments with a commitment not to act, attached in the case file.



Appellee's (Authority's) Defenses

- 1- The authority confirmed the validity of what the appellant argued regarding the re-export of the shipment and the payment of the commitment.

The Committee's response to the defenses:



And whereas the appellate committee, upon reviewing the case file and its attachments, found that the re-export of the shipment subject to the case was carried out under the re-export declaration attached to the case file numbered (...). On the date of 10/07/2013, and since what the appellant mentioned was upheld by the authority in its response memorandum to the appeal submitted by the importing company regarding the validity of the importer re-exporting the shipment and paying the commitment taken against him, which results in the non-establishment of the conviction imposed by the first instance committee against the appellant on a valid basis from reality, it is determined that the dispute between the importer and the authority is considered resolved.

Decision

- 1-Acceptance of the appeal procedurally, from the applicant/ ..., commercial registration number (...), against the first instance Decision number (CFR-2023-126997) issued by the first First Instance Customs Committee in Riyadh.
- 2- To accept it on the merits, and the annulment of the first instance decision in all that it ruled, and considering the dispute between the appealing company and the authority as concluded regarding the shipment in question, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No CR-2024-228756

Case No PC-2023-228756

Keywords:

Customs - Restrictions - bond commitment - non-compliance with specifications - labeling and instructions
- non-conviction

Summary:

The importer requests the cancellation of the decision of the first instance customs committee in Riyadh No. (CFR-2023-124051), which convicted the importer of customs smuggling. And where it was established for the appellate committee that the statement of the Ministry of Trade regarding the shipment for which the import statement is the subject of the lawsuit did not include anything that confirms and asserts that the imported samples are counterfeit or adulterated. This means; to cancel the first instance decision in all that it ruled.

Document

- Article (153) of the Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.
- Article (38) of the Gulf Trademark law issued by Royal Decree No. (M/51) dated 26/7/1435 AH,
- Article (163) of the Unified Customs Law of the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the laboratory report did not state that the sample was counterfeit or violated intellectual property, but only indicated that it bore a registered trademark.



The Committee's response to the defenses:



Furthermore, upon reviewing the customs appellate committee on what was included in the statement of the Ministry of Commerce regarding the shipment for which the import statement is the subject of the lawsuit, which did not include anything that confirms and asserts that the imported samples are counterfeit or adulterated, but rather the ministry's observation regarding it is that they bear registered trademarks; and since what governs the dealing with goods that bear registered trademarks is Article (38) of the Gulf Trademark law approved by Royal Decree No. (M/51) dated 26/7/1435 AH, it is decided by this committee to annul the first instance decision in all that it ruled.

Decision

1- Acceptance of the appeal procedurally, from (...) , commercial registration number (...) , owned by (...) , civil registration number (...) , against the first instance Decision number (CFR-2023-124051), issued by the first first instance customs committee in Riyadh.

2- On the merits, the cancellation of the first instance decision in all that it ruled, and that for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No CR-2024-230318

Case No PC-2023-230318

Keywords:

Customs - Restrictions - Bond commitment - Perfumes - Non-compliance with specifications - Decrease in the percentage of essential oil below the permissible limit - Non-conviction

Summary:

The importer's request to cancel the decision of the Third first instance Committee No. (CTR-2023-102674), which convicted the importer of customs smuggling. And since it has been established to the appellate committee that the authority has communicated with the importer, from which it is clear that the goods are present and have been identified, and it remains to destroy them, which negates the material element constituting the crime of customs smuggling represented in the handling of the shipment subject to the lawsuit. This means; to cancel the first instance decision in all that it ruled.

Document

- Article (163) of the Unified Customs Law of the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the company did not act on the shipment in question.

Appellee's (Authority's) Defenses

- 1- The authority argued that communication had been made with the importer and the destruction request is still under process.



The Committee's response to the defenses:



Whereas the appellate committee, upon reviewing the case file and its attachments, found that the importer claims to have the shipment in his possession and has not disposed of it, and considering the information provided by the authority showing communication with the importer, which indicates that the goods are present and have been identified, and that they remain to be destroyed, thus negating the material element constituting the crime of customs smuggling represented by the disposal of the shipment in question, this committee concludes to annul the first instance decision in all its provisions.

Decision

- 1- Acceptance of the appeal procedurally, from the applicant/ ..., commercial registration number (...), against the first instance Decision number (CTR-2023-102674) issued by the first First Instance Customs Committee in Riyadh.
- 2- On the merits, the cancellation of the first instance decision in all that it ruled, and that for the reasons and considerations stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-174684

Case No. PC-2023-174684

Keywords:

Customs - Restrictions - Bond commitment - Non-compliance with specifications - Clothing - Raw material components and pH testing - No conviction

Summary:

The importer's request to cancel the first instance decision No. (1328) for the year 1439 AH, issued by the first instance customs committee. The judge convicted the importer of customs smuggling. And where the appellate committee established that it could not definitively consider the violation as a substantial violation, and that the importer's violation by acting on the shipment contrary to the commitment taken regarding it only results in considering it a procedural violation, which entails the imposition of a penalty for violating customs procedures. This means; the annulment of the first instance decision in all that it ruled.

Document

- Article (153) of the Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.
- Article (31/6) of the executive regulations of the customs law issued by Ministerial Decision No. (2748) dated 25/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The appellant mentioned that there is an error in the application of the law and reliance on the text of the unified customs law, as Article (142) and Article (38) defined the intended meaning of customs smuggling. The text of the law is clear and explicit, leaving no room for doubt that the goods entered the Kingdom through the Al-Batha customs, and samples were taken from them to be sent to the General Administration for Commercial Fraud based on a commitment not to dispose of them, meaning that the goods were brought in under the supervision of the customs



administration. Otherwise, how were the samples obtained, and how was the temporary permit issued in the decision we are currently facing? Thus, we are not faced with a form of customs smuggling as portrayed by the first instance decision, and the decision is erroneous in stating that the warehouses where the goods were stored are considered an extension of the customs because it did not take into account the delay in reporting the results of the sample tests from 1436 to 1440 AH, which implies an implicit acknowledgment that the imported goods comply with the specifications, especially since the appellant was only made aware of these issues related to the shipments by chance due to service interruptions, while the customs clearance office that was handling the clearance of these goods was the one that sent the letters and also informed them that the goods were compliant with the specifications and that it had obtained all its rights. Furthermore, the relationship was between the customs clearance office and the customs administration, and the importer's actions were in good faith because if he had any doubt that the shipment was not compliant, he would not have acted on it or attempted to import it.

Appellee's (Authority's) Defenses

- 1- The Authority mentioned that the institution's representative argued that the charge of smuggling for items (142, 143) does not apply because the shipment was cleared under the supervision of the customs administration, and the latter delayed informing the institution of the laboratory results, which is considered an implicit approval. Additionally, there was no criminal intent as there was no intention to smuggle. The authority also indicated that the commitment taken from the institution stipulated not to dispose of the shipment in any way without notification from customs regarding its clearance by the competent authority. The institution was also notified by several letters from customs at the addresses registered with the authority, stating that the shipment did not comply and that it must return the shipment according to the commitment signed by it, but it did not respond, indicating its disposal of the shipment, thus violating the signed commitment. It would have been more appropriate for the institution to communicate and respond to customs instead of disposing of the shipment and violating the commitment. Furthermore, violating the commitment by disposing of these items constitutes customs smuggling according to Article (142) of the Unified Customs law. Based on the laboratory results indicating that the sample did not meet the specifications in terms of pH testing and raw material composition testing, the violation is technical due to the commercial fraud it entails for consumers and its impact on their financial resources, resulting from purchasing non-compliant goods.



The Committee's response to the defenses:



And since it concerns the violation related to the item mentioned (clothing) which is the subject of the report of the laboratory number (...). It has been mentioned that the violation is related to (the components of the raw material). It is established in the rules of litigation that applying the law correctly is an obligation on the authority reviewing the case, and it must do so on its own without the need for a request from the parties. Therefore, the authority reviewing the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and using it as a basis for its ruling, as long as the documents related to it are within the case file and do not contradict what has been inferred and what its conviction and belief have settled on to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it has reached. This is in accordance with what Article (153) of the Criminal Procedure law states, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description in the indictment...". Since the decision established its ruling without clarifying the nature of this violation and was satisfied with the unclear content regarding its phrases, and since, considering the lack of attaching the detailed laboratory result within the case file regarding that item to verify the nature of that violation, it is determined that it cannot be definitively considered a substantial violation, and that the importer's violation by acting on the shipment contrary to the commitment taken regarding it only results in considering it a procedural violation, which entails imposing a penalty for violating customs procedures amounting to one thousand riyals under paragraph (31/6) of the executive regulations of the unified customs law. As for the other item (clothing) regarding which laboratory report number (...) was received. It has been mentioned that the violation was related to (pH) without clarifying the nature and extent of this violation. Given the lack of a detailed laboratory result attached to the case file regarding that item to verify the nature of that violation, it is concluded that it cannot be definitively considered a substantial violation. The importer's violation in handling the shipment contrary to the commitment taken regarding it only results in it being considered a procedural violation, which incurs a penalty for violating customs procedures amounting to one thousand riyals under paragraph (31/6) of the executive regulations of the unified customs law. The result reached by the appellate committee is not affected by what was stated in the authority's response to the appeal memorandum submitted in response to the appellant's appeal, as the authority did not attach to its appeal the laboratory reports on which the conviction was based, as previously established. Furthermore, the result is not affected by what the appellant mentions in his request to object in general and in detail to what the decision concluded and not holding him accountable for what was done in handling the shipment containing the two items in question. This is because the customs procedure related to completing the entry procedures for the shipment into the country requires the importer to observe the general duty required by



the customs law concerning the importer when dealing with the incoming shipment, which is embodied in complying with all that the customs law and other related regulations require regarding the clearance of the shipment. This necessitates adhering to all that the customs law and other regulations related to prohibitions and restrictions require, which was not the case with the shipment that the importer attempted to bring into the country, whether this resulted in the importer being convicted of customs smuggling or any other violation covered by the provisions of the law. Accordingly, the customs appellate committee concluded the following report:

Decision

1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), against the first instance decision number (1328) for the year 1439 AH, issued by the first instance customs committee at the Al-Bathaa customs.

2- To accept it on the merits, and the annulment of the first instance Decision in all that it ruled regarding the appellant, for the Grounds and justifications stated in this Decision.

3- Considering the importer's actions regarding the two violating items as sufficient to impose a penalty of a customs violation fine of (1,000) one thousand riyals for each item, resulting in a total amount claimed by the appellant of (2,000) two thousand riyals, based on the Grounds and justifications stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-177452

Case No. PC-2023-177452

Keywords:

Customs - Restrictions - Bond Commitment - Frozen Chicken Shawarma - Non-compliance with specifications - Salmonella Microbe - Non-conviction

Summary:

The importer's request to cancel the decision of the Third first instance Committee No. (CTR-2022-1121), which condemned the importer for customs smuggling and obligated him to pay a customs fine and the value of confiscation compensation. And where it was established for the appellate committee through the attached minutes of the case file that the damage occurred to the shipment and due to the absence of anything that denies that apparent after confronting the authority with the document that the importer claims to prove the damage by means of it. This means; to annul the first instance decision in all that it ruled.

Document

- Article (186) of the Judicial Procedures law issued by Royal Decree No. (M/1) dated 22/01/1435 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the General Secretariat of Environmental Health at the Ministry of Municipal and Rural Affairs confiscated and destroyed the goods based on a destruction report.
- 2- The importer requested to overturn the initial decision and compensate him for the value of the goods for not being notified of the sample result, which deprived him of the opportunity to re-export the goods to the seller and recover his money from him.



Appellee's (Authority's) Defenses

- 1- The authority argued that it reviewed the destruction report submitted by the institution's representative, issued by the General Secretariat of Environmental Health at the Ministry of Municipal and Rural Affairs.

The Committee's response to the defenses:



It is established that the appellant submitted a destruction report dated 30/11/1438 AH, and it is confirmed from the authority's response that it received the destruction report and mentioned in the receipt report that this report pertains to import declaration number (...). Her response did not include anything that would invalidate the validity of the destruction report, which leads to the conclusion that the presumption of innocence should be maintained due to the authority - as the prosecution - not denying what was presented to refute the importer's claim of not having acted on the shipment due to its destruction, as was established in the investigation of the case facts. This is after it was confirmed through the attached report in the case file that the destruction of the shipment occurred, and there is no evidence to the contrary after confronting the authority with the document that the importer claims to prove the destruction with, which leads the appellate committee to accept the appeal procedurally and substance and to annul the first instance decision in all that it ruled against the appellant. As for his request for compensation for the value of the shipment on the grounds that he was not notified of the sample test result, which deprived him of the opportunity to re-export the goods to the seller and recover his money from him, it is noted that according to Article (186) of the Code of Judicial Procedures "new requests in the appeal are not accepted, and the court shall rule on its own not to accept them." Since it was established through the minutes of the sessions before the First Instance Committee that issued the decision subject to the appeal that the defendant did not raise this request, it is concluded that it is not accepted. Therefore, the appellate committee concluded the following report:

Decision

- 1- The appeal is accepted procedurally, submitted by / Institution ..., commercial registration number (...), owned by / Saad ..., national ID number (...), against the first instance Decision No. (CTR-2022-1121) issued by the third First Instance Customs Committee in Riyadh.
- 2- To accept it on the merits, and the annulment of the first instance Decision in all that it ruled, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-227841

Case No. PC-2023-227841

Keywords:

Customs - Restrictions - Bond commitment - Sports shoes - Non-compliance with specifications - Abrasion resistance - No conviction

Summary:

The importer requests the cancellation of the decision of the Third first instance Committee No. (CTR-2023-110539), which ruled not to convict the importer of customs smuggling while imposing a customs fine. Where it has been established to the appellate committee that the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision. This means; to uphold the first instance decision in all that it ruled.

Document

- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer's agent argued that the bond commitment is not original, but merely a stamped copy with the institution's seal and certified by the Chamber of Commerce.
- 2- The importer's agent argued that his client did not provide a commitment not to dispose of the shipment, which negates the possibility of his violation due to insufficient evidence.



The Committee's response to the defenses:



The appellant's defenses do not contradict the proven fact that the offending consignment was received in the name of the importing organization and that it was disposed of after it was proven that it was not cleared by the laboratory reports linked to the import declaration prepared for the consignment in question, given that the customs transaction associated with finalizing the procedures for entering the consignment into the country requires the importer to recall the general duty that the customs system requires of the importer when dealing with the incoming consignment, which is to comply with everything required by the customs system and other regulations related to the consignment's clearance order by requiring that the importer must not dispose of it in any way until it has been cleared and he is authorized to dispose of it, and the appellant's breach of that duty is embodied in complying with everything required by the customs law and other regulations. The importer's violation of this duty by disposing of the consignment without paying attention to the order authorizing its entry into the country constitutes conduct that violates this general duty, which is also presumed to be necessarily known to him, which does not negate the validity of attributing the violation to the importing establishment. Since the reasons for the decision under appeal are sufficient to sustain its judgment, it must be determined that the defenses presented have no effect on the outcome of the decision, and therefore the appeal has no basis to be sustained and must be rejected. The Appellate Customs Committee concluded as follows:

Decision

- 1- Acceptance of the appeal procedurally, from its presenter (...), commercial registration number (...), owned by (...), national ID number (...), against the first instance Decision number (CTR-2023-110539) issued by the first First Instance Customs Committee in Riyadh.
- 2- The appeal is rejected on the merits, and the first instance decision is upheld in all that it ruled, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-192491

Case No. PC-2023-192491

Keywords:

Customs - Restrictions - Bond commitment - Women's shoes - Non-compliance with specifications - Horizontal slip resistance and abrasion resistance and pH - No conviction

Summary:

The importer is requesting the cancellation of the first instance decision No. (543/3) for the year 1443 AH, issued by the third first instance customs committee in Riyadh, which convicted the importer of customs smuggling and imposed a customs fine. And where it was established for the appellate committee that the contravening item had been destroyed and that the laboratory report only pertained to that item and not others, and the authority did not provide evidence contrary to the original regarding the safety of the incoming items from the violations. This means; to cancel the first instance decision in all that it ruled.

Document

- Article 56 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer submitted a document proving the destruction of the non-compliant item that the laboratory noted in the destruction report.



Appellee's (Authority's) Defenses

- 2- The authority argued that the commitment taken from the importer was regarding the entire shipment and not just one item, and that the laboratory report only pertained to that item and not others.

The Committee's response to the defenses:



Whereas the appellate committee, upon reviewing the case file and its attachments, as well as what the appellant submitted in his appellate memorandum, and whereas the appellant provided a document indicating the destruction of the violating item that was noted by the laboratory according to the destruction report issued by the King Abdulaziz Port Customs in Dammam, number (...). On the date of 16/10/1441 AH, it was decided that the foundation on which the appellant was convicted of customs smuggling would collapse, based on what was concluded in the first instance decision, which contradicted the reality after it was proven that the contraband item was destroyed and not disposed of. The claim made by the authority in its response that the commitment taken from the appellant was regarding the entire shipment and not just one item of it does not affect this, after it was established that the contraband item had been destroyed and that the laboratory report only pertained to that item and not others, and the authority did not provide evidence to prove otherwise regarding the safety of the incoming items from the violations. Therefore, the appellate committee concluded the following report:

Decision

- 1- The acceptance of the appeal procedurally, submitted by/ ..., national ID number (...), against the first instance decision number (543/3) for the year 1443 AH, issued by the first First Instance Customs Committee in Riyadh.
- 2- To accept it on the merits, and the annulment of the first instance Decision in all that it ruled, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-187379

Case No PC-2023-187379

Keywords:

Customs - Restrictions - bond commitment - Men's shoes - Non-compliance with specifications - Horizontal slip resistance - No conviction

Summary:

The importer is requesting the cancellation of the decision of the first instance committee No. (CFR - 2022 -1688), which condemned the importer for customs smuggling and obligated him to pay a customs fine and a confiscation fee. Since it was established for the appellate committee that the laboratory report is among the non-essential observations that do not affect consumer fraud and the safety of using the product mentioned. This means; to annul the first instance decision in all that it ruled.

Document

- Article (153) of the Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.
- Article (31/6) of the executive regulations of the customs law issued by Ministerial Decision No. (2748) dated 25/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the shipment spoiled after a year and six months of storage due to heavy rainfall on the warehouse.



The Committee's response to the defenses:



This does not affect the defenses raised by the appellant because they do not serve to negate the established principle of the importer's disposal of the shipment in violation of the undertaking given to him in this regard, which is not affected by his claim that the shipment was damaged by the rains that affected the warehouse where the shipment was deposited, given that this damage to the shipment due to the rains, assuming it is true, does not prove that the shipment in question was present at the time of the incident that allegedly damaged the shipment because of it. Especially since the period between importation and the occurrence of this incident is a long period of time during which the trader's usual diligence in following up the customs clearance was not proven. This confirms the responsibility of the trader and the validity of holding him accountable for his negligence in the matter of following up its clearance and determining the violation against him as concluded by this committee's investigation. Accordingly, the Appeals Committee concluded the following:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ Company ..., Commercial Registration No. (...), against the first instance Decision No. (CFR – 2022 -1688) issued by the first First Instance Customs Committee in Riyadh.
- 2- To accept it on the merits, and the annulment of the first instance Decision in all that it ruled regarding the importer, and that is for the Grounds and considerations stated in this Decision.
- 3- Considering the importer's action regarding the shipment violation as a basis for imposing a fine for customs procedure violations amounting to (1000) one thousand riyals, for the Grounds and circumstances stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-179270

Case No. PC-2023-179270

Keywords:

Customs - Restrictions - Sandy Covenant - Men's Shoes - Non-compliance with specifications - Bend resistance and abrasion resistance of the outsole - No conviction

Summary:

The importer is requesting the cancellation of the decision of the first first instance committee in Riyadh No. (CFR – 2022 - 2162), which convicted the importer of customs smuggling. And where it was established for the appellate committee that the observation is of the kind of procedural observations that do not rise, in the case of the action with the shipment, to qualify the action of the importer with the shipment, which is loaded with that observation as a customs smuggling. This means; to annul the first instance decision in all that it ruled and to impose a financial penalty.

Document

- Article (31/6) of the executive regulations of the customs law issued by Ministerial Decision No. (2748) dated 25/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the observation on the shipment is minor and not technical, and that there is a certificate of conformity with specifications under the supervision of the specifications and standards authority in the country of origin.
- 2- The importer argued that the fine is unfair as the shipment was cleared by customs and met all procedures.



The Committee's response to the defenses:



Whereas, according to the report on the sample examination results, the violation in question relates to the non-compliance of the sample with the bending resistance and abrasion resistance of the outer sole. The appellate committee did not consider this observation, as stated in the laboratory report, to be among the substantial observations that affect the safety and quality of the product or deceive the consumer regarding its reality and material, especially since the sample passed other testing fields. This leads to the conclusion that the importer's action regarding the disputed item, which is burdened with such an observation, constitutes, in fact, a consideration of it as a procedural observation that does not rise, in the case of dealing with the shipment with its existence, to qualify the importer's action regarding the shipment as being burdened with that observation as customs smuggling. Therefore, it is decided to annul the first instance decision in all that was ruled against the appealing company. However, since the importing company violated the commitment taken upon it and dealt with the shipment without notifying customs, it is decided to consider the importing company's action a violation governed by Article (31/6) of the executive regulations of the customs law, and to impose a financial penalty of (1000) one thousand riyals, in application of what that article stipulates. Accordingly, the appellate committee concluded to report the following:

Decision

- 1-Acceptance of the appeal procedurally, submitted by / Institution ..., Commercial Registration No. (...), against the first instance Decision No. (CFR - 2022 - 2162), issued by the 1st First Instance Customs Committee in Riyadh.
- 2- To accept it on the merits, and the annulment of the first instance Decision in all that it ruled, for the Grounds and considerations stated in this Decision.
- 3- Considering the actions of the importing entity as a violation governed by Article (31/6) of the executive regulations of the customs law, and imposing a financial penalty of (1000) one thousand riyals on it, for the Grounds and justifications stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-203091

Case No. PC -2023-203091

Keywords:

Customs - Restrictions - Bond Commitment - Noodles and Dietary Supplement - Non-compliance with specifications - Technically unfit - No conviction

Summary:

The importer's request to cancel the first instance decision No. (2319) for the year 1443 AH, issued by the first first instance customs committee in Riyadh, which convicted the importer in person of customs smuggling, and imposed a customs fine on him, and obligated him to pay an amount equivalent to the value of the violating items as a confiscation substitute. The appellate committee has established through the case documents the clear delay of customs in dealing with the follow-up of sending samples of the disputed item included in the shipment to the Food and Drug Authority, which strengthens the presumption of the validity of the importer's claim that he destroyed the shipment. This means; to annul the first instance decision in all that it ruled.

Document

- Paragraph (6) of Article (31) of the Executive Regulations of the Customs law issued by Ministerial Resolution No. (2748) dated 25/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the plaintiff exceeded the legal period for withdrawing the sample and receiving it from the laboratory and notifying him of the result.
- 2- The importer argued that the delay of the technicians in withdrawing and delivering the samples led to exceeding the legal period for the result to appear.
- 3- The importer argued that the shipment was destroyed because it could not be returned and to avoid fines from the municipality and the food and drug authority due to its nearing expiration.



The Committee's response to the defenses:



It has been established through the case documents that the customs clearly delayed in dealing with the follow-up of sending samples of the disputed item included in the shipment to the Food and Drug Authority, as evidenced by what was stated in the first instance decision within the narration of its facts that customs had contacted the laboratory of the Food and Drug Authority to inquire about the result, and the laboratory's response was received on 05/06/1442 AH, which stated (that the results of the statement subject to the lawsuit could not be inferred due to not being referred electronically, and it became clear that the result in the customs automated system was technically invalid). It is inferred from this that customs did not follow up on the examination result and took a long time that contradicts the usual and known practices regarding dealing with laboratory results and commenting on them by customs, which took nearly 4 years from the date of the shipment's arrival until the laboratory notified customs of the outcome of the sample examination. This situation does not allow for holding the importer responsible for that delay, which customs and the laboratory were parties to its occurrence, thus strengthening the presumption of the validity of the importer's claim that he destroyed the shipment out of fear of its spoilage and unsuitability for consumption over time, considering that it is food products that are affected in their suitability for consumption over time. However, since the importer was obliged to comply with the commitment taken regarding the shipment not to dispose of it except after notifying customs, such a mistake on his part should be considered a violation of customs procedures that does not rise to the level of customs smuggling, as the error of customs and the laboratory in dealing with the outcome of the examination of the item exceeds the error of the importer in dealing with the shipment as previously established. Consequently, a penalty for violating customs procedures should be imposed on the importer in the amount of (1000) riyals as stipulated in Article (31/6) of the executive regulations of the Unified Customs Law. Therefore, the appellate committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the first instance Decision number (CFR-2022-2244), issued by the first First Instance Customs Committee in Riyadh.
- 2- To accept it on the merits, and the cancellation of the first instance Decision in all that was ruled against the importer regarding the conviction of customs smuggling and the penalties resulting from it, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-230453

Case No. PC-2024-230453

Keywords:

Customs - restrictions - bond commitment - biscuits and sweets - non-compliance with specifications - no review by the merchant - no conviction

Summary:

The authority's request to annul the first instance decision number (CFR-2023-111673) issued by the first first instance customs committee in Riyadh. And where it was established for the appellate committee that the letter received from the Food and Drug Authority did not mention the phrase (non-compliance of the sample) and that all that the letter concluded was (the final result was not completed due to the merchant's review not being conducted). This means; the appeal is rejected on the merits.

Document

- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The authority argued that the violation is technical and thus falls under prohibited goods.

The Committee's response to the defenses:

This is not affected by what the appellant argued that the violation mentioned in the shipment subject to the lawsuit is of the same kind as technical violations, as it became clear upon reviewing the letter from the Food and Drug Authority that it did not mention the phrase (non-compliance of the sample) and that all that the letter concluded was, in fact, (the final result was not completed due to the merchant's review not being conducted). Since such a phrase cannot definitively assert the existence of a technical violation in the sample, it is necessary to determine that the defenses presented do not affect the outcome of the decision,



which makes the appeal without supporting evidence, necessitating its rejection. Accordingly, the committee concluded to report the following:

Decision

1- Acceptance of the appeal procedurally, from the applicant / the General Authority of Zakat and Tax and Customs, against the first instance Decision No. (CFR-2023-111673), issued by the 1st first instance customs committee in Riyadh.

2- He was rejected On the merits, and this is due to the reasons and circumstances mentioned in this decision. This decision is considered final; in accordance with the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.

May Allah send blessings and peace upon our Prophet Muhammad and upon his family and companions altogether.



The Customs Appeals Committee in Riyadh

Decision No CFR-2024-237366

Case No PC-2024-237366

Keywords:

Customs - Restrictions - Bond Commitment - Cables - Non-compliance with specifications - Labeling and declaration card requirements and connection terminals - No conviction

Summary:

The Tax, Zakat, and Customs Authority's demand to condemn the importer for customs smuggling due to the seizure of a shipment (cables). And where it was established for the first instance committee that the laboratory result includes non-compliance in terms of labeling and the requirements of the data card and connection ends, which is a procedural violation that does not relate to essential specifications affecting the health and safety of the consumer. This means that the importer is not convicted in person of customs smuggling and is obliged to pay a fine for violating customs procedures.

Document

- Article 141 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article (142) of the Unified Customs Law for the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article (143) of the Unified Customs Law for the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article (30) of the Executive Regulations of the Customs law issued by Ministerial Resolution No. (2748) dated 25/11/1423 AH.
- Article (31) of the Executive Regulations of the Customs law issued by Ministerial Resolution No. (2748) dated 25/11/1423 AH.



Parties Defenses:

Plaintiff's (Authority's)

- 1- The authority argued that when the shipment was presented to the laboratory, the response included reports indicating non-compliance regarding labeling and the requirements of the statement card and connection ends.

The Committee's response to the defenses:

Upon reviewing the circumstances and details of the case and the documents attached to its file and the lawsuit filed by the Zakat, Tax, and Customs Authority and the proceedings before the committee, it became clear that the laboratory result sent to customs in reports No. (..) No. (...) and the number (...) The date 13/10/2016, which includes non-compliance in terms of labeling and the requirements of the data card and connection parties, is a procedural violation that does not relate to essential specifications affecting the health and safety of the consumer or user, and does not involve commercial fraud, based on the correspondence received from the General Administration of Customs Affairs No. (...) And the number (...), therefore, the act of dealing with it is not considered to be involved in the crime of customs smuggling described in Articles (143, 142) of the Unified Customs Law, but rather falls under the provisions of customs violations stated in Article (141) of the same law, with penalties specified in Articles (31, 30) of the Executive Regulations of the Unified Customs Law.

Decision

1-Non-condemnation of the importer / (Institution ...), commercial registration number (...), for its owner / ... Saudi nationality - National ID number (...), present at customs smuggling.

2-He is obliged to pay a fine for violating customs procedures amounting to (1000) five hundred riyals in accordance with Article 31/6 of the executive regulations of the unified customs law.

A decision that can be appealed within thirty days from the date it is communicated to the concerned parties.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231532

Case No. PC-2024-231532

Keywords:

Customs - Restrictions - Bond Commitment - Frames - Non-compliance with specifications - Rolling tests - No conviction

Summary:

The importer is requesting the cancellation of the first instance decision No. (CFR-2024-204473) issued by the 1st first instance customs committee in Riyadh, which convicted the importer of customs smuggling and imposed the associated penalties. The appellate committee has established that the trader's act of re-exporting the goods subject to the commitment is considered part of his obligation to the commitment not to dispose of them. This means; the annulment of the first instance decision, and the ruling of not convicting the importer.

Document

- Article (163) of the Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the company adhered to the commitment not to dispose of the shipment by re-exporting it immediately after the laboratory result indicated non-compliance.

The Committee's response to the defenses:

The importing company argued for the re-export of the shipment according to the re-export statement number (...). On 08/11/2021, the customs judiciary has established that the trader's act of re-exporting the goods subject to the commitment is considered part of his obligation to the commitment not to dispose of them, which leads to the collapse of the basis on which the company was convicted of customs smuggling.



Therefore, this committee decides to annul the first instance decision and rule that the importer is not guilty of the crime of customs smuggling.

Decision

1- Acceptance of the appeal procedurally, submitted by / Company ..., Commercial Registration No. (...), against the first instance Decision No. (CFR-2024-204473) issued by the first primary customs committee in Riyadh.

2- On the merits, the cancellation of the first instance Decision, and the ruling of not convicting the importer of the crime of customs smuggling, for the Grounds and considerations stated in this Decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-227731

Case No. PC-2023-227731

Keywords:

Customs - Restrictions - Bond Commitment - Henna - Non-compliance with specifications - High ash content - Conviction

Summary:

The claim of the Zakat, Tax and Customs Authority to annul the first instance decision No. (CFR-2023-111495) issued by the first first instance customs committee in Riyadh. The judge ruled not to convict the importer of customs smuggling, while imposing a fine of one thousand riyals. The appeals committee established that the laboratory result issued by the Food and Drug Authority indicated that the product (henna) in question did not comply due to the high ash content, and it is noted that the sample is not henna but a mixture of plants, including indigo. This observation is considered a substantial technical violation that cannot be rectified or corrected. This means; the annulment of the first instance decision, and ruling again to convict the importer of customs smuggling, and punishing him with a confiscation equivalent to the value of the contraband item, and imposing a customs fine.

Document

- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Paragraphs (2) and (5) of Article (145) of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article (163) of the Unified Customs Law for the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Paragraph (1) of Article (35) of the Rules for the Work of Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/04/1445 AH.



Parties Defenses:

Appellant's

- 1- The authority argued that the item contains technical violations affecting the quality of the product and the health and safety of the consumer, which necessitates a conviction for customs smuggling.

The Committee's response to the defenses:

It is established that the importer committed not to dispose of the shipment and was requested to return it according to the laboratory results from customs without any response from him, which indicates his disposal of the shipment. Furthermore, the laboratory result attached to the case file issued by the Food and Drug Authority under number (...) On the date 19/08/1433 AH, it was indicated that the item (henna) in the lawsuit is non-compliant "due to the high ash content, and it is noted that the sample is not henna but a mixture of plants including indigo." These observations mentioned in the laboratory report are considered substantial technical violations that cannot be rectified or corrected, which means that the importer's action with the shipment, which is laden with the observations mentioned in the laboratory report, constitutes a customs smuggling crime according to Article (142) of the Unified Customs Law, which states that: "Smuggling is the introduction or attempted introduction of goods into the country or their removal or attempted removal from the country in violation of the applicable legislation without the payment of customs duties in whole or in part or contrary to the provisions of prohibition or restriction contained in this Law and other regulations and laws. It is therefore decided to accept the appeal in substance and overturn the first instance decision in its conclusion, and to sentence the defendant to a new conviction. and ruling again to convict the appellant of customs smuggling in accordance with Article (142) of the Unified Customs Law, fine her with a customs fine equivalent to the value of the offending item in accordance with Article (145/2) of the Unified Customs Law, and oblige her to pay a confiscation allowance equivalent to the value of the offending item in accordance with Article (145/5) of the same Law, according to the import declaration which shows that the offending item (Henna) is worth (8, 868) eight thousand, eight hundred and sixty-eight riyals, and is subject to a 5% customs duty. Accordingly, the Appeals Committee concluded the following:

Decision

- 1- Acceptance of the appeal procedurally, from the appellant / Zakat, Tax and Customs Authority, against the first instance Decision No. (CFR-2023-111495) issued by the first First Instance Customs Committee in Riyadh.



2- On the merits, the cancellation of the first instance Decision, and ruling again to convict the importer of customs smuggling, and punishing him with a confiscation equivalent to the value of the contraband item, and imposing a customs fine equivalent to the value of the contraband item, for the Grounds and considerations stated in this Decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.

May Allah pray and peace be upon our Prophet Muhammad, his family and all his companions. The case should be returned to the court for review on the merits, in accordance with the reasons and grounds contained in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-226857

Case No. PC-2023-226857

Keywords:

Customs - Restrictions - Bond Commitment - Foodstuffs - Non-compliance with specifications - Product contamination with plastic pieces - No conviction

Summary:

The importer's request to cancel the decision of the first instance customs committee in Riyadh No. (CFR-2023-103762) which convicted the importer of customs smuggling. And where it was established for the appellate committee that the laboratory report was presented as a possibility and did not definitively conclude that the shipment in question was unfit for human consumption. This means; canceling the first instance decision and obliging him to pay a fine for violating customs procedures.

Document

- Article (153) of the Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.
- Article (163) of The Unified Customs Law for the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article (31/6) of the Executive Regulations of the Customs law issued by Ministerial Decision No. (2748) dated 25/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the analyses conducted by the authority on the goods did not show any violations or non-compliance, and that the inclusion of the term (probability) in the report indicates doubt about its content, and that "if evidence is subject to probability, the inference is invalid."



Appellee's (Authority's) Defenses

- 1- The authority argued that no goods can be destroyed without customs supervision according to the text of Article (56) in paragraph (c) of the Unified Customs Law.

The Committee's response to the defenses:



It is well established in the customs judiciary that an importer cannot be found guilty until the reasons for not authorizing its clearance have been verified. This verification must be made with certainty and certainty and not with doubt and possibility. Since it is proven that the laboratory report was received on a probabilistic basis and did not categorically state that the shipment in question was unfit for human consumption. This does not make it clear that the shipment in question is unfit for human consumption. Since the appellant provided evidence that the "possible" violating items were destroyed according to the company's letter ... (...) The issuance dated 10/02/2020, and that the authority did not dispute the validity of its destruction of the contraband item, but rather disputed its consideration in light of the absence of a customs representative, which collectively indicates the absence of criminal intent on the part of the importer. Therefore, it is decided to accept the appeal procedurally and substance, to annul the first instance Decision subject to the appeal, and to rule again not to convict the appealing company of customs smuggling. However, since the importer violated the commitment taken upon them and acted with the shipment without notifying customs, it is determined that the importer's action constitutes a violation governed by Article (31/6) of the Executive Regulations of the Unified Customs law, and a financial penalty of (1000) one thousand riyals is imposed in accordance with what that article stipulates. Accordingly, the committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally, submitted by / Company ..., Commercial Registration No. (...), against the first instance Decision No. (CFR-2024-103762) , issued by the first first instance customs committee in Riyadh.
- 2- on the merits of revoking the first instance decision, and ruling not to convict the importer of the crime of customs smuggling, and obliging him to pay a fine for violating customs procedures amounting to (1000) one thousand riyals according to Article (6/31) of the executive regulations of the unified customs law, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231028

Case No CF-2024-231028

Keywords:

Customs - Restrictions - Bond commitment - Electric heater - Non-compliance with specifications - Source connection and external flexible cords - No conviction

Summary:

The Zakat, Tax and Customs Authority requested to cancel the decision of the First Third Customs Committee in Riyadh No. (CTR-2023-164226), which ruled not to convict the importer of customs smuggling while obliging him to pay a fine for violating procedures. The appellate committee established that the importer's action with the shipment after being notified by the authority of its clearance demonstrates the good faith of the importer and the absence of any criminal intent on his part according to what the law requires to hold the importer criminally liable. This means; to uphold the first instance decision as stated.

Document

- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The authority argued that the shipment arrived with more than one model, and accordingly, five analysis requests were issued, and the first laboratory report stated that one of the models did not comply.
- 2- The authority argued that the importer did not respond to customs regarding the non-compliance of the sample and did not adhere to the bond commitment.



The Committee's response to the defenses:



This is not affected by what the appellant argued that the shipment consists of (heaters) that came in more than one model, and accordingly, five analysis requests were issued, and the first laboratory report stated that one of the models did not comply, and another report was issued for one of the models confirming compliance with the specifications. The importer acted with the shipment based on the letter sent to him from the Jeddah Islamic Port Customs attached to the case file, which stated that the shipment was cleared and that the importer could dispose of the goods. Since the rulings of conviction are based on certainty and assurance, not on doubt, suspicion, and conjecture, it cannot be held against the appellant the customs error in the notification. Moreover, the importer's action with the shipment after being notified by the authority of its clearance indicates the good faith of the importer and the absence of any criminal intent on his part, as required by the law to hold the importer criminally liable. Therefore, it is necessary to conclude that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and necessitates its rejection. Accordingly, the committee concluded to the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant / the General Authority of Zakat and Tax and Customs, against the first instance Decision No. (CFR-2023-164226) , issued by the third first instance customs committee in Riyadh.

Second: He was rejected On the merits, and that is for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-227436

Case No PC-2023-227436

Keywords:

Customs - Restrictions - Bond Commitment - Plastic Toys - Non-compliance with specifications - Failure to pass the sample for theoretical tests - No conviction

Summary:

The importer requests the cancellation of the decision of the first instance customs committee in Riyadh No. (CSR-111116-2022), which ruled not to convict the importer of customs smuggling while obliging him to pay a fine for violating customs procedures. Where it has been established to the appellate committee that the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision. This means; to uphold the first instance decision as stated.

Document

- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer argued that he authorized a customs clearance office to import the goods according to the regulations, but the office exploited the authorization and the commitment not to act, and imported and acted with the goods without his knowledge, which constitutes an exploitation of his agency.



The Committee's response to the defenses:



The appellant's defenses do not contradict the proven fact that the offending consignment was received in the name of the importing organization and that it was disposed of after it was proven that it was not cleared by the laboratory reports linked to the import declaration prepared for the consignment in question, given that the customs transaction associated with finalizing the procedures for entering the consignment into the country requires the importer to recall the general duty that the customs system requires of the importer when dealing with the incoming consignment, which is to comply with everything required by the customs system and other regulations related to the consignment's clearance order by requiring that the importer must not dispose of it in any way until it has been cleared and he is authorized to dispose of it, and the appellant's breach of that duty is embodied in complying with everything required by the customs system and other regulations. The importer's violation of this duty by disposing of the consignment without paying attention to the order authorizing its entry into the country constitutes conduct that violates this general duty, which is also presumed to be necessarily known to him, which does not negate the validity of attributing the violation to the importing establishment, in addition to the fact that the Customs has no interest in the relationship between the customs broker and the importer in its application of the Customs Law, and the importer is alone in claiming damages from him. Since the reasons for the decision under appeal are sufficient to sustain its judgment, it must be determined that the defenses presented have no effect on the outcome of the decision, and therefore the appeal has no basis to be sustained and must be rejected. The Appellate Customs Committee concluded as follows:

Decision

1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the first instance Decision number (CSR-111116-2022), issued by the first First Instance Customs Committee in Riyadh.

2-The appeal is rejected on the merits, and the first instance Decision is upheld, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-226729

Case No. PC-2023-226729

Keywords:

Customs - Restrictions - Bond Commitment - Mixed Coffee - Non-compliance with specifications - Failure to write the name in Arabic - No conviction

Summary:

The importer requests the cancellation of the decision of the first instance customs committee in Riyadh No. (CSR-112048-2023), which convicted the importer of customs smuggling. And where it was established for the appellate committee that the observations made in the laboratory report are among the non-essential observations that do not affect consumer fraud and the safety of using the product. This means; canceling the first instance decision and obliging him to pay a fine for violating customs procedures.

Document

- Article (153) of the Code of Criminal Procedure issued by Royal Decree No. (M/2) dated 22/01/1435 AH.
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article (31/6) of the Executive Regulations of the Customs law issued by Ministerial Decision No. (2748) dated 25/11/1423 AH.

Parties Defenses:

Appellant's

- 1- The importer argued that the remarks in the laboratory report are Procedural and do not affect consumer health or product quality.



The Committee's response to the defenses:



Whereas, according to the report of the examination result of the sample of (Fitness Coffee Blend), the violation in question relates to the inscription of the phrase "Fitness Coffee Blend", which is an advertising phrase. Also, the result of the examination of the sample of (Original Coffee Blend) was related to the failure to write the name of the variety in Arabic on the package. Since these violations have been settled by the Customs Appeals Court, these observations made by the laboratory report are characterized as non-substantive observations that do not affect consumer fraud and the safety of using the imported product, especially since the samples have passed the other test fields, which entails that the importer's disposal of the item in question while carrying such a note constitutes in fact a note of the type of procedural observations that do not amount in the case of disposal of the shipment with its presence to characterize the importer's disposal of the shipment while carrying such a note as customs smuggling. However, when the importer violated the undertaking given to her and disposed of the shipment without notifying the Customs, the importer's behavior was deemed to be customs smuggling. The importer's behavior is considered an offense governed by Article (31/6) of the Executive Regulations of the Customs Law, which entails the imposition of a fine on the importer in the amount of (500) five hundred riyals for each infringing item. The total amount claimed by the importer is SAR 1,000,000, in accordance with the provisions of Article 31/6 of the Executive Regulations of the Customs Law. Accordingly, the committee concluded the following:

Decision

1- Acceptance of the appeal procedurally from the applicant / institution ..., commercial registration number (...), against the first instance Decision number (CSR-112048-2023) issued . by the second primary customs committee in Riyadh.

2- On the merits, the cancellation of the first instance decision, and the ruling of not convicting the importer of the crime of customs smuggling, and imposing a fine for violating customs procedures in the amount of (500) five hundred riyals for each violating item, making the total amount claimed by the importer (1,000) one thousand riyals, according to Article (6/31) of the executive regulations of the unified customs law.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-230325

Case No. PC-2024-230325

Keywords:

Customs - Restrictions - Bond Commitment - Fish - Non-compliance with specifications - Sample not found
- No conviction

Summary:

The Zakat, Tax and Customs Authority requested to cancel the decision of the Third first instance Customs Committee in Riyadh No. (CTR-2023-104162), which ruled not to convict the importer of customs smuggling while obliging him to pay a customs fine. And where it was established for the appellate committee that the statement from the Food and Drug Authority came without any specification or detail regarding the sample, making it difficult to assert that the violation mentioned in the report is a technical violation. This means; to uphold the first instance decision as stated.

Document

- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The authority argued that the violation is technical, and thus the shipment is considered prohibited goods.
- 2- The authority argued that the importer's introduction of food materials without approval from the competent authority constitutes an attempt at customs smuggling under what Article (142) of the same Law stipulates.



The Committee's response to the defenses:



This does not affect the appellant's statement in her appeal list that the goods are prohibited goods, given that the goods in question are goods restricted by the clearance permit and are not prohibited by nature. As for her argument that the violation is technical, based on the FDA's statement, it is rejected because the report included that the sample was not found and that the required sample was not reviewed until its date, and therefore the importer's guilt cannot be proven. In light of the absence of the sample at the examiner's office and his failure to review it, and the fact that the FDA's statement came without any specification or detail on the sample, making it difficult to determine that the violation mentioned in the report is a technical violation. Judgments must be based on knowledge and certainty, not speculation and conjecture. Whereas, the Customs Committee has settled on Principle No. (15) of the set of customs principles resulting from the decisions of the customs committees, which states that: "The conviction against the importer is not established except after verifying the reasons for not allowing the clearance," and principle number (37) which states that: The result of the sample shipment issued by the examining authority, which included non-compliance for reasons that the importer can rectify or for not reviewing the examining authority, does not constitute a case of substantial violations and thus does not rise to the level of a customs smuggling crime. Since the reasons for the decision under appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision, making the appeal unsupported and thus must be rejected. Accordingly, the appellate committee concluded to report the following:

Decision

1- Acceptance of the appeal procedurally, from the applicant / the General Authority of Zakat and Tax and Customs, against the first instance Decision No. (CTR-2023-104162) issued by the third first instance customs committee in Riyadh.

2- He was rejected On the merits, and that is for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-170612

Case No. PC-2023-170612

Keywords:

Customs - Restrictions - Dogs - No Conviction

Summary:

The importer's request to cancel the first instance decision No. (89/1) for the year 1439 AH, issued by the first first instance customs committee in Riyadh, which convicted the importer of customs smuggling and obligated him to a customs violation and a confiscation fee. And since the appellate committee has established that the authority did not provide with its response any evidence confirming the appellant's connection to the smuggling operation. This means; to cancel what was decided by the first instance ruling against the appellant without anything else.

Document

- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article (143/6) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article 144 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article (145/4) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article (145/5) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.
- Article 154 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article (31) of the executive regulations of the customs law issued by Ministerial Resolution No. (2748) dated 25/11/1423 AH.



Parties Defenses:

Appellant's

- 1- The appellant argued that the procedure followed in customs during peak traffic times allows for the approval of the cancellation of the transfer form to live means to prevent congestion and pile-up of vehicles, with the approval of the head of the shift.

Appellee's (Authority's) Defenses

- 1- The authority argued that there was a breach by the customs employee of the job duties stipulated during the inspection of the vehicle.

The Committee's response to the defenses:

Whereas the appellate committee, upon reviewing the appeal submitted by the concerned party and the contents of the case file, found that the reasons stated in the first instance decision for convicting the appellant of customs smuggling were based on the employee's failure to fulfill his duties and the instructions communicated to him regarding the completion of the vehicle inspection procedures. The response of the authority to the submitted appeal confirmed what the first instance decision concluded regarding the appellant, referring to the reasons stated in the first instance decision for convicting the appellant by mentioning his failure to follow the necessary duties during the vehicle inspection, especially since the investigation results showed that the cages were exposed and not hidden; thus, what the defendant did was an attempt to smuggle goods as indicated in the authority's response. It is established that for the conviction of the appellant for customs smuggling to be valid, it is necessary to clarify the appellant's involvement in the smuggling operation as either a perpetrator or an accomplice by explaining the relationship that connects him with the owner of the seized goods claimed to be smuggled. Merely failing to fulfill the duties of inspecting the vehicle is not sufficient on its own to prove the appellant's involvement in completing the customs smuggling operation and to consider him a perpetrator or accomplice, as long as the prosecution has not provided strong evidence or indications that prove the appellant's relationship in arranging the smuggling operation as a perpetrator or accomplice with the other person involved in the circumstances of the case. The authority did not provide with its response any evidence that confirms the appellant's relationship with the smuggling operation as previously established, and it merely reiterated what was included in the reasons for the first instance decision regarding the conviction of the employee, considering his failure to fulfill his duties, which proved insufficient to establish the conviction against the appellant. The authority is responsible for holding its employees accountable



disciplinarily and behaviorally if it sees their failure to perform their duties and follow its instructions. Therefore, the appellate committee concluded the following report:

Decision

1- The acceptance of the appeal procedurally, submitted by/ ..., national ID number (...), against the first instance decision number (89/1) for the year 1439 AH, issued by the first first instance customs committee in Riyadh.

2- To accept it on the merits, and the annulment of what was decided by the first instance ruling against the appellant, without anything else, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



Customs duties



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-225744

Case No. AC-2023-225744

Keywords:

Customs - Customs fees - Collection - The costs of operations added to the product included in the shipment are not included in the calculation of the estimated value - Lack of integrity in customs procedures.

Summary:

Demanding the General Authority of Zakat, Tax and Customs to cancel the decision issued by the Third first instance Customs Committee in Riyadh No. (CTR-136687-2023), which ruled that the Authority's approach in demanding the customs duties subject to the collection decision is not valid. Since the authority did not provide with its appeal any evidence that would reassure the committee of the validity of the authority's claim that the costs of the operations added to the product included in the shipment do not count towards the estimated value for considering the final product as exempt, given that the product is exempt from fees due to its Gulf origin. This means; upholding the first instance decision.

Document

- Article 19 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 47 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 127 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 176 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).



Parties Defenses:

Appellant's

- 1- The authority argued that it exercises its right to subsequent auditing to facilitate import procedures, and that the importer did not take advantage of the facilities due to the lack of submission of correct documents when organizing the customs declaration.
- 2- The authority argued that the packaging, wrapping, and assembly of the incoming item, which is (oud oil), do not constitute activities based on a real manufacturing process that would classify the product as having Emirati origin.

Appellee's (Importer's) Defenses

- 1- The importer argued that the authority acknowledged that the imported goods were limited to packaging, wrapping, and assembly, and that the Gulf agreement did not exclude these operations from customs exemption, which confirms that the decision to collect customs differences was contrary to this agreement.

The Committee's response to the defenses:

The Committee found that what the authority mentions about its right to subsequent review was not the subject of the dispute, but rather the subject of the dispute was the extent to which the description of the product as (a product of Emirati origin or not) applies in order to enjoy the exemption or to withhold the exemption from it. And since the authority did not provide with its appeal what reassures the committee's conviction of the validity of the authority's claim that the costs of the operations added to the product included in the shipment do not fall within the calculation of the estimated value for considering the final product as exempt, given that the product is exempt from fees because it is of Gulf origin as was achieved in the narration of the facts and reasons for the first instance decision subject to appeal, it is established that the reviewing authority of the case has the power to collect and understand the facts in the case by assessing the evidence presented in it and balancing it without oversight as long as its ruling has come on valid reasons sufficient to support it, and it is not required to adhere to tracking the statements and arguments of the parties and responding to them independently as long as the truth it was convinced of and presented the evidence of its acceptance implicitly refutes those statements and arguments.



Decision

1-Acceptance of the appeal procedurally, submitted by the General Authority for Zakat and Tax and Customs, against the first instance decision No. (CTR-136687-2023), issued by the Third First Instance Customs Committee in Riyadh.

2- On the merits, to reject it, and the support of the first instance Decision in all that it ruled, for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CTR-2024-232966

Case No. AC-2024-232966

Keywords:

Customs - Customs fees - Administrative - Refund of fees - The industrial exemption is governed by a mechanism that must be fully adhered to obtain the exemption - Rejection of refund requests

Summary:

The Importer requests the first instance customs committee to cancel the decision of the Zakat, Tax and Customs Authority rejecting the objection submitted by the plaintiff number (144506010854) dated 25/12/2023, related to the request for a refund of customs duties amounting to (12,403.13) twelve thousand four hundred and three riyals and thirteen halalas for the customs declaration number (115516) dated 02/06/1444 AH. Where it has been established to the first instance committee that the industrial exemption is governed by a mechanism that must be fully adhered to in order to obtain the exemption, and it has been established to the committee that the plaintiff has violated this mechanism in her procedures. This means; to uphold the defendant's decision.

Document

- Paragraph (2) of Article (3) of the Rules for the Work of Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/04/1445 AH.
- Article (47) of the Unified Customs Law of the Gulf Cooperation Council States issued by Royal Decree No. (M/41) dated 03/11/1423 AH.

Parties Defenses:

Plaintiff's

- 1- The importer argued that the names of the items were amended to match the names on the invoice according to the ministerial decision issued by the Ministry of Industry No. (6386/S) dated 23/02/1445 AH, and the authority was notified of the aforementioned decision.



Defenses of the defendant (the authority)

- 1- The authority argued that upon reviewing the names of the descriptions and the unit of measurement between (import invoices, the customs declaration, and the exemption decision), it became clear that there was a discrepancy in the items (description) in English on the import invoice compared to the exemption decision, and thus the exemption was withheld.

The Committee's response to the defenses:



Since the Committee established that the industrial exemption is governed by a mechanism that must be fully adhered to in order to obtain the exemption, as clarified and published under Circular No. (325/63/M) dated 26/07/1439 AH (which regulates the industrial exemption mechanism), which explicitly stated that no shipment recorded in the import declaration in a general manner will be exempted, as the exemption requires sorting the items of the declaration according to the attached invoice, and that the information recorded in the import declaration and the attached invoice must match the exemption decision completely. In case of submitting an incomplete declaration compared to what is stated in the decision (such as not specifying the size or weight, etc.), and this circular was issued in 1439 AH, and the shipment in question was received under import declaration No. (115516) dated 02/06/1444 AH. Since the plaintiff has full knowledge of the imported item and its commercial and technical names, she is the one who made the first instance mistake by recording the name in the application submitted to the Ministry of Industry, which issued the exemption decision under the name "Blue Polycarbonate Plastic Material," and she stated in the import declaration that the incoming item is Polycarbonate, and in the invoice that the incoming item is (POLYCARBONATE). The plaintiff neglected to ensure accuracy in the names, and she is the one who bears the responsibility for these mistakes that she committed, which led to the withholding of the exemption. Accordingly, the committee was convinced of the validity of withholding the exemption due to the discrepancy between the names of the item stated in the invoice, the import declaration, and the exemption decision according to Circular No. (325/63/M) dated 26/07/1439 AH. Regarding the plaintiff's defenses that the names of the items were modified to match the names on the invoice, the committee responds that Circular No. (325/63/M) dated 26/07/1439 AH explicitly states that no shipment recorded in the import declaration in a general manner is exempted, as exemption requires sorting the items in the declaration according to the attached invoice, and that the information recorded in the import declaration and the attached invoice must fully match the exemption decision. In the case of submitting an incomplete declaration compared to what is stated in the decision (such as not specifying the size or weight, etc.), this leads to the exemption being withheld. This circular was issued in the year 1439 AH, and the shipment for which the plaintiff is requesting a refund of customs fees arrived about five years after the circular, specifically on 02/06/1444 AH. The plaintiff was required to fully comply with the exemption organization



mechanism. Additionally, the plaintiff is at fault as they recorded the name in the request that was issued with the exemption decision under the name of the plastic material "Blue Polycarbonate." The plaintiff also stated in the import declaration that the incoming item is polycarbonate, and in the invoice that the incoming item is (POLYCARBONATE), and it is the plaintiff who made the error that led to the withholding of the exemption. They did not provide any official document that permits the modification of previous shipments, and merely submitting a modification from the Ministry of Industry does not mean it applies to previous shipments. Furthermore, the plaintiff's objection to the modification of the industrial ministerial decision was written by hand and did not clarify the name of the person who made the modification, their signature, and their position, and it was not stamped with the ministry's seal to be considered an official document. Regarding the email, it did not explicitly mention what was modified, but rather was general and may apply to import data other than the data in question. Based on the above, and after study and deliberation, the committee unanimously decided the following:

Decision

- 1- Acceptance of the lawsuit procedurally.
- 2- On the merits, to affirm the Defendant's request for rejecting the requests for the refund of customs duties in this case and on the aforementioned import statement.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CFR-2024-233795

Case No. AC-2024-233795

Keywords:

Customs - Customs fees - Refund of fees - Fulfillment of the conditions stipulated in the rules for entitlement to a refund - Acceptance of fee refunds

Summary:

The Taxpayer requests the first instance customs committee to cancel the decision of the Zakat, Tax, and Customs Authority rejecting the objection related to the refund of customs duties. The first instance committee has established that the plaintiff has met the apparent conditions stipulated in the rules for entitlement to the refund. This is not undermined by the basis on which the defendant rejected the claim, which is that accepting a certificate of origin issued after the date of clearance may lead to manipulation of the percentages. This means; to cancel the decision of the defendant.

Document

- Article (20) of the rules for the work of the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/04/1445 AH.

Parties Defenses:

Plaintiff's

- 1- The importer argued that the authority's rejection of the refund requests is not based on a legal or factual basis, as it misinterpreted the rules of origin despite his compliance with all requirements, including proving national origin.

Defenses of the defendant (the authority)

- 1- The authority argued that the date of the origin report submitted by the plaintiff is later than the date of the customs declarations.



The Committee's response to the defenses:



It became clear to the committee that the dispute is limited to the recovery of customs duties or not. Based on paragraph (c) of Article (5) of the rules and conditions for verifying the proof of origin, it states that: The submitted request must include the following terms and documents: A report from a certified and licensed accountant in the country of origin, who has a branch in the Kingdom from the Saudi Organization for Certified Public Accountants, provided that the certified accountant is different from the preparer of the annual financial statements for the factory in the country of origin, clarifying the following: 1- The value-added tax rate according to national origin rules. 2- The localization rate for industrial establishments is documented by the competent authority in the country of origin, provided that the rate is for an average of 26 weeks. When the committee found that the plaintiff had attached a certificate of origin, it became clear from reviewing the report that the plaintiff had achieved the localization rates and added value according to the rates mentioned in the reports of the certified accountants, which are (... /...) The two who agreed on the same entitlement, and with the committee's review of the rules and conditions for verifying the proof of origin, it became clear to the committee that the rules and conditions did not include what necessitates the defendant's interpretation that the date of the origin report must be prior to the date of the customs declaration. Since the principle is that if the words are stated in an unrestricted manner, they should remain unrestricted and not be limited by any restriction or description unless there is credible evidence to restrict them. Since the defendant's response did not include anything indicating a requirement that the date of the origin report be prior to the date of the customs declaration, and since it became clear to the committee that the defendant's rejection merely represents its understanding and interpretation of the rules, and since its interpretation of the text constitutes a restriction of an unrestricted text that is not supported by credible evidence, and because the principle is to act according to the apparent texts of the regulations and not to deviate from them except with evidence that diverts from them, and since it became clear to the committee that the plaintiff has fulfilled the apparent conditions included in the rules for entitlement to a refund, and this is not undermined by what the defendant based its rejection on, which is that accepting an origin report issued on a date later than the date of the clearance may lead to manipulation of the percentages stipulated in Article (5) of the rules and conditions for verifying the proof of origin; since Article (9) of the rules and conditions for verifying the proof of origin granted the defendant the right to verify the validity of what was included in the refund request through several means stipulated in Article (9) of the rules; thus, the committee concludes by accepting the plaintiff's objection and canceling the defendant's decision regarding the rejection of the refund of customs duties. Based on the above, the committee unanimously decided the following.



Decision

1- Acceptance of the lawsuit procedurally.

2- Objectively:

Cancel the defendant's decision to reject the refund of the customs duties paid from (...) Commercial Register No.: related to customs declaration number: (191) On 02/01/2023, in the amount of (13,387.14) thirteen thousand three hundred eighty-seven riyals and fourteen halalas.

This decision was issued in the presence of both parties, and the date of depositing the decision in the electronic law of the General Secretariat of Zakat, Tax, and Customs Committees is considered the date of receipt of a copy of the decision. This decision is considered final under Article (33) of the Rules of Procedure of the Zakat, Tax, and Customs Committees.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-202010

Case No. PC-2023-202010

Keywords:

Customs - Customs fees - Customs differences - Submitting invoices with low value - Collecting fee differences

Summary:

The Zakat, Tax and Customs Authority requested to cancel the decision of the Third first instance Customs Committee in Riyadh No. (CTR-2023-139531), which ruled not to convict the importer of customs smuggling, and where the appellate committee found the evidence insufficient, and to suffice with the collection of the customs duty differences amounting to (70,054.73 riyals) for (23) import declarations. The authority stated that the institution submitted invoices with low values for the shipments, which led to the loss of customs duties. It also attached documents proving the existence of discrepancies in value, including bank transfers and account statements indicating the low declared value. The institution also missed the hearings and did not provide evidence to support its position. Consequently: Acceptance of the appeal procedurally and rejection of its subject, while upholding the first instance decision of non-conviction for customs smuggling and obliging the institution to pay the differences in customs fees.

Document

- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Paragraph (11) of Article (143) of the Unified Customs Law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH.



Parties Defenses:

Appellant's

- 1- The authority argued that its claim was initially filed as a customs smuggling case for (23) import declarations, and that mentioning (21) declarations was a mistake, which it clarified in all sessions and memoranda, asserting that the incident constitutes customs smuggling according to articles (142) and (143/11) of the Unified Customs Law, and that the importer deliberately evaded customs duties in clear violation of the Law.

The Committee's response to the defenses:

Whereas there is no reproach against the reviewing authority for taking the reasons of the decision subject to the appeal without adding anything whenever it sees that these reasons are sufficient to negate the need for any new arguments, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. This is not undermined by what the authority mentions regarding an objection to the decision by stating that the first instance committee included in the decision that the authority attached a new lawsuit that included that the basis of the lawsuit against the importer is a request to convict him of customs smuggling, confirming that this was its first instance request in the lawsuit. This is similar to the fact that this defense does not change the outcome reached by the decision, considering that it is established through the narration of its facts and reasons that the outcome reached by the first instance committee of not convicting the importer of customs smuggling was due to the insufficiency of the evidence to convict the importer. This outcome was after the first instance committee established in its decision that it addressed the lawsuit ultimately after it encompassed the lawsuit and was aware of it, that it was regarding a customs smuggling lawsuit filed by the authority against the appellant concerning what it claims is the failure to pay the due fees for the imports related to the facts of the lawsuit. It has been established to it after investigating the lawsuit that it does not include what proves the authority's demand to convict the importer of customs smuggling for fees that have not been paid for those imports, and it was satisfied with obligating him to pay what he failed to pay of those fees without the failure to pay them being sufficient to justify attributing the crime of customs smuggling to him as the authority was demanding. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and thus must be rejected. Therefore, the appellate committee concluded to report the following:



Decision

1- Accepting the appeal procedurally, submitted by / The Zakat, Tax and Customs Authority, against the first instance decision No. (CTR-2023-139531), issued by the Third first instance Customs Committee in Riyadh in the case filed by it against / The Institution ..., Commercial Registration No. (...).

2- On the merits, to reject it and the affirmation of the first instance Decision in all that it ruled, and that is for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-175022

Case No. PC-2023-175022

Keywords:

Customs - Customs fees - Carpets - Submitting incorrect invoices— Conviction

Summary:

The importer requests the cancellation of the first instance decision issued by the Third first instance Customs Committee in Riyadh, No. (CTR-2022-1729), which convicted the importer of customs smuggling and imposed a customs fine and the value of confiscation compensation. Where it was established for the appellate committee that the committee issuing the decision was aware of the facts of the case and issued its decision in light of its conviction, relying solely on what was presented to it to reach the conclusion that its decision arrived at. Consequently: And the affirmation of the first instance Decision in all that it ruled.

Document

- Article 142 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).
- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer argued that the post-audit management did not address the details of the documents submitted by the informant and the discrepancies contained within them.
- 2- The importer argued that the company submitted all the documents it had to customs and did not conceal them, especially since the informant did not prove that the company received any of the invoices that were in his possession.



The Committee's response to the defenses:



Since there is no reproach against the appellate authority for taking the reasons of the decision subject to appeal without adding anything whenever it sees that these reasons are sufficient to negate the need for any new submissions, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. As for what the appellant mentions regarding his requests for a written interpretation from the General Administration for Subsequent Audits in Customs on how to determine the assessment, as well as an explanation for why the invoices submitted by the informant are considered the correct invoices, in addition to providing him with the study of the valuation committee and all related documents, these are new requests that were not previously raised before the first instance committee, and they are also requests that do not concern the customs judiciary after it has settled its conviction regarding its ruling on the importer after confirming that the committee issuing the decision was aware of the facts of the case and issued its decision in light of what it was convinced of, being satisfied with what was presented to it to reach the conclusion that its decision arrived at. Therefore, the appellate customs committee concluded to disregard these requests, and thus the committee concluded to report the following:

Decision

1-Acceptance of the appeal procedurally, from the applicant/ Institution ..., commercial registration number (...), against the first instance Decision number (CTR-2022-1729) issued by the second First Instance Customs Committee in Riyadh.

2- On the merits, to reject it and the affirmation of the first instance Decision in all that it ruled, and that is for the Grounds and considerations stated in this Decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231386

Case No. PC-2024-231386

Keywords:

Customs - Customs fees - Petroleum derivatives - Diesel - The percentage exceeds the allowed limit - Conviction

Summary:

The importer's request to cancel the decision of the Third first instance Customs Committee in Riyadh No. (CTR-2024-226611), which convicted the importer of customs smuggling. The appellate committee has established that the appellant's claim in its statement regarding the customs not adhering to the principles of value calculation is unfounded, considering that the pricing of diesel was set at (2.8 Saudi Riyals) per liter, which is the price approved by the producing company after excluding the value of subsidies. Furthermore, customs is the technical authority qualified to determine the value of the imported item, which is not affected by a mere objection sent. This means; to uphold the first instance decision in all that it ruled.

Document

- Article 163 of The Unified Customs Law of the Gulf Cooperation Council issued by Royal Decree No. M/41 (03/11/1423 AH).

Parties Defenses:

Appellant's

- 1- The importer argued that there was a contradiction in the results of the laboratory analysis, as the reports showed a variation in the diesel percentage, which confirms the difference in the samples sent and that they do not belong to a single importer, as the technical evidence only varies with the difference in the samples subject to analysis.
- 2- The importer argued that customs violated the principles of value calculation by estimating it arbitrarily and did not indicate any result relied upon in determining the diesel percentage.



The Committee's response to the defenses:



After reviewing the case file and the documents it contained, and considering the defenses presented by the appellant, it is noted that there is no reproach against the reviewing authority for adopting the reasons for the decision subject to appeal without adding anything new, whenever it finds in these reasons sufficient justification to refrain from introducing any new evidence. This is because its support is based on its reasons, indicating that it did not find in the objections raised against it anything that warrants a response beyond what those reasons included. The appellant's claim regarding the inaccuracy of the laboratory analysis results does not undermine this, given that it is established that all samples exceeded the permissible limit of (5%) based on the royal order No. (355/M B) dated 25/04/1429 AH. Furthermore, the discrepancy between the two laboratory results is not significant, as both results were significantly above the permissible limit, which necessitates disregarding the appellant's argument in this regard. As for the appellant's mention in her statement regarding the customs not adhering to the principles of value calculation, this is refuted considering that the pricing of diesel was set at (2.8 Saudi Riyals) per liter, which is the price approved by the producing company after excluding the value of support. Moreover, customs is the competent technical authority to determine the value of the imported item, which is not affected by mere objections sent. Since the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to conclude that the defenses presented do not affect the outcome of the decision, rendering the appeal unsupported and necessitating its rejection. Accordingly, the committee concluded to report the following:

Decision

1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the first instance Decision number (CTR-2024-226611), issued by the third First Instance Customs Committee in Riyadh.

2- The appeal is rejected on the merits, and the first instance decision is upheld in all that it ruled, for the reasons and considerations stated in this decision.

May Allah's peace and blessings be upon our Prophet Muhammad and upon his family and companions.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

