Customs Valuation of Returns, Repairs, and Other Atypical Imports

October 21, 2008
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Methods Of Appraisement

• What are acceptable “methods of valuation”?
• The Customs Value Statute (19 U.S.C. 1401a) provides in order of preference:
  – Transaction value
  – Transaction value of identical or similar merchandise
  – Deductive value
  – Computed value
  – a method derived from the above reasonably adjusted to circumstances
• Any other method is inappropriate
Returns & Repairs

• What is transaction value?
  "Total price paid or payable for the merchandise imported"

• In order for transaction value to apply
  – Must be a sale between a buyer and seller
  – a sale for exportation to the United States.
Transaction Value
Sale for Exportation

• Is there a “sale”?
  – the word "sale" is generally defined as a transfer of ownership in property from one party to another for a price or other consideration.
Importing Used Articles

• CBP has issued several rulings on the subject of importing articles for evaluation or repair
  – In each case, value was determined using the fallback method derived from a prior method, e.g.:
    – transaction value or deductive value
    – adjustments to take into account the fact that the goods were imported to be repaired and were used goods.
Articles Imported For Repaired

• HRL 547877, dated January 23, 2002
  – CBP held that for equipment imported into the U.S. for repair could be based on price list for new products, less reductions for:
    • Cost of repair and
    • Value of depreciation.
HQ H019722: products re-imported to be entered into inventory

• HQ H019722, March 21, 2008
  – Importer rotating aircraft parts from one repair facility or line station to another, either domestically or foreign.

• CBP Rules Out First Four Methods of Valuation
  – There is no sale for exportation to the U.S. when the goods are imported into the U.S. to be placed in inventory
  – No transfer of ownership and no financial consideration is offered
  – No sales of identical or similar merchandise for purposes of 19 U.S.C. 1401a(c) could be identified
HQ H019722: products re-imported to be entered into inventory

- Imported goods are not being resold in the United States, they cannot be appraised under the **deductive value method**.

- Exporter did not manufacture the parts, there is insufficient information available to value based **computed value**.

- Value was determined under "fallback" method.
HQ H019722: Products Imported to be entered into inventory

- Company used both cost and market approaches, or a combination thereof, to the fair market value.
- The cost approach:
  - For older parts, the purchase price of each part in its inventory management system ("IMS") was multiplied by an inflationary price index obtained from Bureau of Labor Statistics.
  - Each part was then reduced by economic depreciation value.
- For other items, company sampled a data base to determine the sales price, or asking prices, of the sampled parts and then adjusted value in its.
- The Customs value of each item was then determined by using a rolling weighted average.
Articles Imported For Evaluation or Repair

• HRL 548688, dated October 20, 2005
  – Addressed valuation of merchandise imported into US for evaluation, repair, or recalibration
  – Units were imported at no charge to the customer under a "depot exchange program".
  – Importer could not determine the unit's original selling price or determine the nature or extent of repairs required at time of importation
HRL 548688, dated October 20, 2005

– Importer maintained records of costs of all products repaired or recalibrated.

– Could determine the current standard cost of new units.

– CBP agreed that the value of returned units could be based on
  • the current standard cost of new units less
  • average cost of the repair per product line for a given period.
Other Rulings on Valuation of Returns

- Other important rulings on valuation of returns
  - HRL 548211, dated July 2, 2003
    - valuation of PCBA for IC testers returned as a part of upgrade program or because of failure at 40% or 10% of new list price
  - HRL 544377, dated September 1, 1989
    - use of inventory value in the importer's accounting records to appraise telephone equipment returned for repair. inventory value was based on % of the standard cost of new equipment