Electricity breakdown at Customs: Hs code 8502 or 8504?

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A recent Israeli court ruling highlights the decisive role of tariff classification in customs compliance and project economics. The importer had obtained advance approval to open a 'secretariat file' - a procedure enabling all components of a single project to be classified under a single HS code - yet the customs authority excluded high-value transformers and sought duties of approximately €400,000 under a separate heading. How the court ultimately resolved this dispute, and the broader implications for classification practice, are examined in the following overview of the ruling [1].

The story

The importer imported transformers into Israel to build a power plant for generating electricity from natural gas near the city of Kiryat Gat (south Israel). A dispute arose between the importer and the Israeli customs authority regarding the customs classification of the transformers. Against this background, the importer sued the customs authority in court for approximately NIS 1.4 million (~ €400,000).

The importer obtained permission from the Israeli customs office to open a ‘secretarial file’ under which all parts intended for the construction of the power plant were approved for classification under HS code 8502, which refers to "electric generating sets and rotary converters", and are duty-free in Israel. Customs authority excluded the transformers and classified them under HS code 85.04-2300, which refers to the following:

"Electrical transformers, static converters (for example, rectifiers) and inductors, having a power handling capacity exceeding 10,000 kVA", are subject to 10% customs duty in Israel.

The complete technical documentation was submitted to the court, which showed that three main components are required to build a power plant for electricity generation: a turbine, a generator and a transformer. The turbine and generator generate electricity from nothing (from scratch), and the transformer's job is to increase the electrical voltage from 15 kilovolts to 400 kilovolts, which is part of the license conditions that the importer received for the construction of the power plant, and also to transmit the electricity to the power plant.

The Israeli customs authority essentially argued that since the transformer does not generate electricity from nothing, but only increases the voltage, it cannot be considered an ‘electric generating set’ within the meaning of HS code 8502, but is in fact a transformer within the meaning of HS code 8504. The Israeli customs authority also relied on explanatory notes of HS code 8502 by the World Customs Organization (WCO):

"The expression 'generating sets' applies to the combination of an electric generator and any prime mover other than an electric motor (e.g., hydraulic turbines, steam turbines, wind engines, reciprocating steam engines, internal combustion engines)" – which mentions generator and turbine, not transformer.

The importer argued that the transformer was an integral part of power generation and should be classified under heading 8502.

The Court’s judgement

Firstly, the evidence showed that although the turbine and generator can generate electricity, without the transformer, it would not be possible to build the station because the electricity does not have the required voltage. Furthermore, it transpired that the transformer is permanently connected to the generator and, in addition to increasing the voltage, also 'outputs' the electricity so that it can be used in the power grid.

The court therefore decided to accept the importer's interpretation and ruled that the transformer is also an integral part of the power generation process. The court rejected the Israeli customs authority's interpretation that electricity generation only takes place ‘out of thin air’ and ruled that the meaning of HS code 8502, which refers to ‘electric generating sets’, is practically usable electricity and not part of a theoretical physical experiment to generate electricity with a generator and a turbine. Since the electricity here became usable for the power plant only thanks to the transformer, which increases the voltage, it was determined that the transformer is an integral part of electricity generation as classified under HS code 8502.

The court also relied on Rule 4 of Section XVI of the HS convention, which states:

"Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function."

The court found that the transformer contributes to the function of the power generation assembly.

The court rejected the Israeli customs authority's reliance on the WCO Explanatory Notes (EN) to HS heading 8502. After reviewing the explanatory notes, it was found that there is no exclusive condition that this heading covers ‘only’ a generator and a turbine, and the court found that the explanatory notes are an interpretative tool only, and have no binding legal force in Israeli law.

Therefore, the court upheld the claim and ordered the customs authority to reimburse the plaintiff and added legal costs and attorney's fees.

Concluding notes

The term ‘secretariat file’ mentioned in the decision refers to a case where an importer intends to implement a project and, as part of this project, imports numerous parts intended for its implementation. Instead of classifying each part separately according to its nature, it is possible to contact the Israeli customs authority in advance, submit documentation and apply for approval to classify all parts of the project under one HS code that refers to the entire project once it has been implemented. This also applies if there are different shipments arriving at different times or from different suppliers. If the classification of the type of project is exempt

from import taxes (customs duties, purchase tax), this should obviously also apply to the classification of the parts that are intended to contribute to its completeness.

In the present case, the complete project was a power plant, which is why the customs authority lawfully accepted the importer's application to open a secretarial file under HS code 8502. One might wonder why the Israeli customs authority decided to expressly exclude the transformer from this ‘secretarial file’, even though it is undisputed that this transformer was and is an integral part of the power plant.

In this case, too, the court decided not to rule in accordance with the WCO EN, stating that although these constitute an interpretative tool, they are not binding in Israel. This is not the first time that the courts have ruled in deviation from the WCO interpretation. We recall past cases in which a relaxing product called ‘rescue remedy’, which contains alcohol, water and plants, was classified by the court as a food preparation in HS code 2106 and not as an alcoholic product in HS code 2208, even though a classification decision by the WCO supported the customs authority [2], and even a case in which a hand lawnmower was classified under HS code 8433, which refers to lawnmowers, and not under HS code 8467, which refers to hand tools, even though the explanatory notes in this case supported the position of the customs authorities [3].

It therefore appears that, in appropriate cases where the final classification result does not meet their expectations, Israeli courts decide to disregard the WCO on the basis of the 'legislative purpose' argument.

References

[1] Civil file (magistrate court, Herzliya) 77066-01-23 Energy junction ltd. Vs. The state of Israel-tax authority- Customs and VAT division. Judgement from January 29th, 2026. Customs may appeal to the District Court

[2] Civil file (District Court of Jerusalem) 7057/05 Phrama Gur ltd. Vs. The state of Israel-tax authority- Customs and VAT division (13.12.11)

[3] Civil appeal (District Court of Tel-Aviv) 1164/03 The state of Israel-Customs and VAT division vs. Agrocal import export and marketing (15.10.06)