

## No. 10.

Department of Trade and Customs, Wellington, 25th March, 1908.

The Collector of Customs, Auckland.

ADVERTING to my letter 118/78, of the 13th ultimo, I have to request you to inform the local director of the Waihi Company that, although the Minister is still of opinion that the heading relating to mining machinery, as it appears in the resolutions, is quite sufficient of itself to bar the free admission of hoisting-skips, he is prepared to accept the company's assurance that no precedent is sought to be established, and to admit free the shipment in question.

RICH. CARTER,

For Secretary and Inspector.

## No. 11.

S. 458.

Audit Office, 15th June, 1908.

(3.) P. 7606 of 30/3/08, skips for hoisting mining-ore, £285; free upon declaration as mining machinery. Please give further particulars, and quote authority for so admitting these articles.

P. PURVIS WEBB,

For C. & A.-General.

The Collector of Customs, Auckland.

(3.) Authority c. 1907/1918, 615/79, of 25/3/1908. The skips are as described on entry and record quoted, being a mechanical contrivance for lifting ore from the mine-workings.

J. MILLS, Collector.

H. R. SPENCE, Ldg. Surveyor.

17/6/08.

## No. 12.

Audit Query S. 458 (3).

For the consideration of the Controller and Auditor-General:—

CERTAIN skips for hoisting mining-ore were delivered upon deposit by the Collector at Auckland upon Sight Entry No. 1474, of 23rd September, 1907. This sight entry was perfected by Prime Entry 7606, of 30th March, 1908, when the skips were passed free upon declaration by the importers that they were imported for mining purposes.

The tariff item under which this exemption is purported to be made is No. 401. This item admits free "Machinery, mining and gold-saving," also certain specified "machines, materials, and appliances, when imported for mining purposes." Skips for hoisting mining-ore are not among the appliances specified.

This case is similar to one which has already been before the Audit Office with regard to the free admission of overhead gear for mining purposes on Audit Query S. 323, which latter query is at present under the consideration of the Secretary and Inspector of Customs. There is, however, the important distinction that in the case in question the Collector, before passing the skips, obtained authority for so doing from the Secretary and Inspector of Customs. Accordingly I do not think that the failure, on the part of the Collector, to collect duty, if duty is due, can be considered either wilful or negligent within the meaning of the Public Revenues Act.

The question which I have to submit for your consideration is whether the Customs Department are, in the circumstances, justified in authorising the Collector to admit the articles in question free. I attach hereto Customs Record 1907/1918.

From the above record it is clear that, in the opinion of the Minister and the Secretary and Inspector of Customs, skips for hoisting mining-ore are not mining machinery, and as such exempt from duty, but manufactured articles of metal n.o.e., and as such liable to duty at 20 per cent. *ad valorem*. This opinion was given, it is to be noted, under the impression that the decision of the Minister was final, under section 23 of "The Tariff Act, 1907," with regard to the importation in question.

It was subsequently pointed out by the importers, and correctly so, that, as the articles were delivered upon deposit before the passing of the Act, the Minister's powers so far as regards them were inoperative. It was then decided to admit the importation in question free as mining machinery, no precedent for the future being thereby established.

Such a course was, I think, expedient, and possibly avoided a recourse to litigation. At the same time I would submit that the case upon the facts is in no way altered by the presence or the absence of power on the part of the Minister of Customs to make a final decision as to the classification of any article. If it is proper to insist upon a duty of 20 per cent. upon skips of the kind in question when the decision of the Minister of Customs thereon is final, I would respectfully submit that it is equally proper to charge 20 per cent. upon them although the decision of the Minister of Customs may be subject to the review of a Court of law.

COSMO A. RALSTON.

22nd June, 1908.

The Secretary and Inspector of Customs.—The skips in question were liable to duty, were deemed by the Department to be so, and the Minister had no authority of law to admit them free. If, then, the duty is not to be accounted for by the Collector, provision should be made for the amount by appropriation.—J. K. WARBURTON, C. & A.-General. 29 June, '08.