

BETWEEN:

FEDERAL COURT OF APPEAL

Charoen Pokphand Foods Canada Inc.

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|----------------------------------------------------------|-------------|
| ID 1 | A-165-22 |
| FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE | |
| F I L E D | 12-AUG-2022 |
| TORONTO, ON | 1 |

Appellant

-and-

Attorney General of Canada

Respondent

NOTICE OF APPEAL

(Section 68(1) of the Customs Act)

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears below.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard in Toronto.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the *Federal Courts Rules* and serve it on the appellant's solicitor, or, if the appellant is self-represented, on the appellant, WITHIN 10 DAYS after being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the *Federal Courts Rules* instead of serving and filing a notice of appearance.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Dated this 12th day of August, 2022.

Issued by: Beatriz Winter
Registry Officer

Address of local office: 180 Queen Street West
Suite 200
Toronto, ON
M5V 3L6

TO: Attorney General of Canada
Department of Justice
Civil Litigation Section
50 O'Connor Street, 5th Floor
Ottawa, ON K1A 0H8

AND TO:

Registrar
Canadian International Trade Tribunal
333 Laurier Avenue West
Ottawa, Ontario, KIA 0G7

APPEAL

THIS APPEAL is pursuant to Section 68 of the *Customs Act* from the tariff classification decision of the Canadian International Trade Tribunal made in AP-2021-008 dated May 17, 2022.

THE APPELLANT ASKS FOR THE FOLLOWING RELIEF:

1. that the Appeal be allowed and the products in issue should be classified under tariff item number 2104.10.00.
2. in the alternative, this Honourable Court should refer the matter back to the Tribunal with instructions.
3. costs of this Appeal, pursuant to Column V of Tariff B, as stipulated under Rule 400 of the *Federal Court Rules*.
4. such further and other relief as this Honourable Court deems just.

THE GROUNDS OF APPEAL ARE AS FOLLOWS:

1. the Tribunal erred in law in classifying the goods in issue labelled and marketed as “Charoen Pokphand Authentic Asia™ Hand Wrapped Shrimp Wonton” as “stuffed pasta, whether or not cooked or otherwise prepared” under tariff item no. 1902.20.00 and not as “soups and broths and preparations therefor” under tariff item 2104.10.00.
2. the Tribunal erred in law in concluding that the goods in issue could not be classified pursuant to Rule 1 of the General Rules for the Interpretation of the Harmonized System (“GRI”) and instead resorting to Rule 3(b), and by deciding on the tariff classification based on the weight of the shrimp wonton relative to the weight of the soup concentrate.
3. the Tribunal erred in law by failing to correctly apply the *Explanatory Notes to the Harmonized Commodity Description and Coding System* in relation to heading 21.04 in finding that the appropriate tariff classification was under heading 19.02.

4. the Tribunal erred in law by failing to have proper regard to the testimony of the Respondent's expert witness qualified in the field of food composition and food analysis who provided evidence that the goods in issue were soups, which would have provided the requisite "sound reason" to deviate from the WCO classification opinion holding that the appropriate tariff classification was under subheading 1902.20.

5. Such further grounds as counsel may advise and this Honourable Court may permit.

The appellant requests the Registrar of the Canadian International Trade Tribunal to send a certified copy of the following material that is not in the possession of the appellant but is in the possession of the tribunal to the appellant and to the Registry: its protected and public record of this proceeding including the transcripts for the hearing.

Dated in Toronto, Ontario on August 12, 2022.

Riyaz Dattu

Riyaz Dattu (LSO # 23665A)
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Court File No.

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