



Australian Government
**Australian Customs and
Border Protection Service**

Quote: 2008/042690-03

24 June 2009

Customs House
GPO Box 2809AA
Melbourne 3001

1010 Latrobe Street
Melbourne Docklands 3008

Ms Yvonne Lockwood
Director
Catalyst Chemicals Pty Ltd
Unit 3, Level 1
29 Grattan Street
PRAHRAN VIC 3181

Dear Ms Lockwood,

I am writing about a debt that has recently been assessed as being owed to the Commonwealth in respect of some of your importations over the last four (4) years.

I have determined that goods covered by the customs import declarations lodged in the Integrated Cargo System listed in the attached Schedule were incorrectly classified resulting in a short payment of customs duty and GST.

The reasons I consider there to be an error are:

- Tariff advice determination Nos. 19349500 and 19350700 indicates that the goods, Kocosol 150 and Solvent 150, are classified to tariff classification 2707.50.00, with a duty rate of \$0.38143/L and GST.
- The correct amount payable is therefore \$189,243.24, resulting in a duty short payment of \$172,039.31 and a GST short payment of \$17,203.93.

Customs Duty

Section 165 of the Customs Act 1901 (Customs Act) provides that an amount of short paid duty is a debt due to the Commonwealth and is payable by the owner of the goods.

I am now writing to demand, under section 165 of the Customs Act, that your company pay the additional duty owing to the Commonwealth in respect of the customs import declaration/s listed in the attached Schedule totalling \$172,039.31.

Infringement Notice

Section 243T in the Customs Act provides that it is an offence to make a false or misleading statement to Customs that results in a loss of duty and penalties may be imposed.

Goods and Services Tax

The A New Tax System (Goods and Services Tax) Act 1999 provides that you are liable for the GST that is payable on any taxable importation that you make. Customs is authorised to collect indirect taxes payable on taxable importations.

Subsection 105-5(2) in Schedule 1 to the Taxation Administration Act 1953 (TAA) allows an assessment to be made of the amount of indirect tax payable on an importation of goods. 'Indirect tax' is defined in section 995-1 of the Income Tax Assessment Act 1997 to include GST. Section 105-5 in Schedule 1 to the TAA provides that an amount of indirect tax that has not been paid continues to be payable for up to four years after the time when the indirect tax first became payable.

The attached Schedule lists 20 taxable importation(s) where there was a GST shortfall. Attached is a notice of assessment for the GST shortfall on the taxable importations listed in the Schedule.

Indirect Tax penalty

Section 284-75 in Schedule 1 to the TAA provides that you are liable to an administrative penalty if you make a statement to Customs that is false or misleading and you have a shortfall amount as a result of the statement.

Payment of the amounts detailed in the attached schedule is required within 14 days of the date of this letter, or recovery action may be commenced. However, it is acknowledged that your broker has lodged a review of the tariff decisions and recovery action will be withheld until the review is concluded.

If you disagree with this assessment or have any questions that you would like answered, you are invited to discuss your circumstances with myself.

You may have the option of paying the duty under protest which enables you to access a review by the Administrative Appeals Tribunal (AAT). Alternatively, if you do not pay the duty and Customs seeks to recover the debt, you can still challenge the lawfulness of the duty assessment when defending any debt recovery action brought by Customs.

Should you have any queries relating to the information provided, please contact Antoinette Failla on 03 9244-8494 or Paul Jordon on 03 9244-8546 or by e-mail antoinette.faila@customs.gov.au or paul.jordon@customs.gov.au.

Yours sincerely

Antoinette Failla
Senior Customs Officer
Audit 1 - Compliance Victoria

Attachments:

Schedule A – Calculation of your revenue shortfall.
Schedule B – Notice of Assessment of GST.