

Customs Duties – Buying commission

Overland Footwear – Taxpayers Right to a Refund – C 468/03

This taxpayer had inadvertently included buying commission in import values and had been charged duty on it. He sought to correct this and to claim a refund of the duty overpaid, but this was after the goods had been cleared. HMRC said the duty had been properly charged at the time of importation and was properly owed to them, so refused the refund. The issue concerned what details the taxpayer could ask to be amended on the import entry once the goods had cleared, HMRC said they only had to accede to requests to correct arithmetical errors and mistakes in classification or quantities. The Court agreed the duty had been legally charged – at the time of import the buying commission had not been separated out and was therefore properly part of the dutiable value. BUT duties legally charged due to lack of evidence, did not become duties legally owed if the evidence necessary to amend the import valuation could be produced. The taxpayer had not **chosen** to pay duty on the value of the commission – he had made an involuntary error in including the commission in the goods value at importation, and was now choosing to correct it. The ECJ said HMRC had to look at his request to correct the value, and either give a reasoned rejection or reimburse the money overpaid.