

Date: 20090310

Docket: A-570-07

Citation: 2009 FCA 71

**CORAM: DESJARDINS J.A.
DÉCARY J.A.
NOËL J.A.**

BETWEEN:

CANADIAN TIRE CORPORATION LIMITED

Appellant

and

**PRESIDENT OF THE CANADA
BORDER SERVICES AGENCY**

Respondent

Heard at Montréal, Quebec, on March 10, 2009.

Judgment delivered from the Bench at Montréal, Quebec, on March 10, 2009.

REASONS FOR JUDGMENT OF THE COURT BY:

DÉCARY J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Montréal, Quebec, on March 10, 2009)

DÉCARY J.A.

[1] There was ample and cogent evidence upon which the Canadian International Trade Tribunal could reasonably conclude that the goods at issue (a stainless steel step can in two different sizes) were not “machines or mechanical appliances” under tariff item 84.79, but “household articles ... of stainless steel” under tariff item 7323.93.00 (see also, *Sandvik Tamrock Canada Ltd. v. Canada (Deputy Minister of National Revenue, Customs and Excise - M.N.R.)*, 2001 FCA 340).

[2] At the hearing, counsel for the appellant withdrew the argument that the goods fall under tariff item no. 3924. That argument not having been made before the Tribunal, it could obviously not be made before this Court.

[3] The appeal will be dismissed with costs.

“Robert Décary”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-570-07

STYLE OF CAUSE: CANADIAN TIRE CORPORATION
LIMITED v. PRESIDENT OF THE
CANADA BORDER SERVICES
AGENCY

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: March 10, 2009

REASONS FOR JUDGMENT OF THE COURT BY: DESJARDINS J.A.
DÉCARY J.A.
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DELIVERED FROM THE BENCH BY: DÉCARY J.A.

APPEARANCES:

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