

UNITED STATES COURT OF INTERNATIONAL TRADE

POWERTEC SOLUTIONS INTERNATIONAL LLC,

Plaintiff

v.

THE UNITED STATES,

Defendant.

Court No. 22-00322

COMPLAINT

Plaintiff, PowerTec Solutions International LLC (“PowerTec”), through its undersigned attorney, alleges the following as its Complaint to contest the assessment of Section 301 duties on goods exported for repair and returned the United States under HTSUS 9802.00.50.

1. This is a civil action commenced to contest the decision of the United States Customs and Border Protection (“CBP” hereafter) and denial of Protest No. 2007-21-101071, pursuant to 19 U.S.C. §1515.

2. Entry 267-0612347-3, dated February 16, 2021, and the subject of this action, was liquidated on August 6, 2021.

3. The protest was timely filed pursuant to 19 U.S.C. § 1514(a), as amended.

4. PowerTec filed a Summons commencing this action within the time specified, pursuant to 28 U.S.C. § 2636 to contest the denial of its protests by CBP.

5. The Court has jurisdiction over this action, pursuant to 28 U.S.C. § 1581(a).

6. PowerTec has standing to bring this action, pursuant to 28 U.S.C. § 2631(a), as it is the importer of record of the merchandise that is the subject of this action; and is the party who filed the protest, pursuant to 19 U.S.C. § 1514.

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7. All liquidated duties, taxes, and fees on the subject entries were paid prior to the commencement of this action.

8. The imported merchandise to which this action relates is identified or described as power supplies (PS-36L-P7) and cable (PS7P8M-C-1.5).

9. The power supplies (PS-36L-P7) and cable (PS7P8M-C-1.5), were originally entered into the United States and duty paid under CE 267-0620339-5, dated October 7, 2019; CE 267-0610183-4, dated October 2, 2019; and CE 267-0610097-6 of September 17, 2019.

10. The power supplies (PS-36L-P7) and cable (PS7P8M-C-1.5) were subsequently determined to be defective and exported for repair by Plaintiff on May 30, 2020.

11. The power supplies (PS-36L-P7) and cable (PS7P8M-C-1.5), were re-imported under Entry 267-0612347-3, dated February 16, 2021, and classified under HTSUS 9903.88.03, as articles of China at a duty rate of 25%, and under 8504.40.6001, free of duty.

12. At the time of entry, Plaintiff deposited Section 301 duties and fees in the amount of \$33,614.

13. Plaintiff filed a Post Summary Correction to amend the entry to include a claim for 9802.00.50 for the value of the power supplies (PS-36L-P7) and cable (PS7P8M-C-1.5), showing the cost or value of the repairs or alterations outside the United States, as set forth in the invoice and entry papers.

14. Plaintiff's Post Summary Correction Entry was rejected by CBP.

15. The imported merchandise was assessed with duty at liquidation by CBP under HTSUS 9903.88.03, as articles of China at a duty rate of 25%.

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16. Plaintiff timely protested the assessment of Section 301 duties under 19 U.S.C. § 1514 on the full value of the merchandise, claiming that the value of the returning repaired power supplies (PS-36L-P7) and cable (PS7P8M-C-1.5), are entitled to duty free treatment under 9802.00.50; and that Section 301 duties should only be assessed on the value of the repairs or alterations performed abroad.

17. Plaintiff submitted sufficient documentation, pursuant to 19 CFR § 10.8, to establish that the returning repaired power supplies (PS-36L-P7) and cable (PS7P8M-C-1.5), are entitled to duty free treatment under 9802.00.50.

18. Plaintiff contends that it is due a refund of Section 301 duties, in the amount of \$32,991.50, less the assessment of Section 301 duties on the value of rework charges of \$691.

Prayer for Relief

WHEREFORE, Plaintiff, PowerTec respectfully requests this Court to enter judgment in its favor, overruling the denial of Plaintiff's protest;

Order Customs to reliquidate the subject entry and refund the original amount of duties paid under 9903.88.03, plus interest as appropriate, less any Section 301 duties owed on any actual charges paid for rework treatment of the defective power supplies (PS-36L-P7) and cable (PS7P8M-C-1.5).

For such other and further relief as the Court deems just and proper.

Respectfully submitted,

Date: November 25, 2024

/s/ George R. Tuttle, III
George R. Tuttle III
Law Offices of George R. Tuttle, A P.C.
3950 Civic Center Drive, Ste. 310
San Rafael, CA 94903
Tel: (415) 288-0428

CERTIFICATE OF SERVICE

I, Pamela Collins, state that I am an employee of the Law Offices of George R. Tuttle, A P.C., with offices located at 3950 Civic Center Dr, Ste 310, San Rafael, California, 94903, and that on November 25, 2024, I served on behalf of plaintiff herein, the within:

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on the below listed party, in said action or proceedings, through the Court's electronic service under Rule 5(b)(2)(F) as follows:

Monica P. Triana
Senior Trial Counsel
International Trade Field Office
U.S. Department of Justice
26 Federal Plaza, Room 346
New York, NY 10278

Dated: November 25, 2024

/s/ Pamela Collins
Pamela Collins