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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-20277

DATE: June 2, 1982

MATTER OF: American Farm Lines, Inc.

DIGEST:

Shipment of projectile or rocket parts packed in cartons and aggregated on pallets are not covered by section (C) of Tender 345. Section (C) covers only those listed commodities which because of size or weight require the use of special equipment, and carrier has not shown that the use of special equipment was required for this shipment.

The Government paid American Farm Lines (AFL) \$1,084 for the transportation of a shipment, weighing 25,838 pounds, on Government bill of lading (GBL) M-6463531 dated April 27, 1978. The GBL described the commodity as 276 fiber boxes (10 pallets) of projectile or rocket parts, NMFC 162813 Sub 5.

The carrier derived its charges from AFL Tender 266, which requires, as conditions of applicability, the shipper to load and the consignee to unload, and the shipper to seal the carrier's vehicle. See American Farm Lines, Inc., B-203929.2, April 9, 1982. Subsequent to payment it was discovered that the shipper did not seal the vehicle, and the parties apparently agreed that Tender 266 was not applicable.

The carrier presented a claim for additional charges of \$968. GSA allowed only \$218.24 on the theory that lower rates, in AFL Tender 345, were applicable. We agree with GSA.

In American Farm Lines, B-200939, May 29, 1981, 81-1 CPD 424, we characterized Tender 345 to be in the nature of a released valuation quotation because item 30 provides that applicability of the various rates and valuation charges therein depend upon the declared or agreed

value of the commodity shipped. We noted that item 30 was subdivided into three sections--(A), (B), and (C)--with section (B) applying to passenger vehicles, trucks, etc., and section (C) to such articles as rockets, missiles and sonar equipment, while section (A) applied to commodities not specified in sections (B) and (C). The significance of the subdivisions relates to requirements for a valuation notation on the GBL. GBL M-6463531 does not contain a notation of the article's value.

We held in B-200939, supra, that if a commodity is included among the lists in section (B) or (C), Tender 345 rates are not applicable where the shipper fails to annotate the GBL to show released valuation, whereas, if the commodity is not included in sections (B) and (C) it is covered by section (A), which provides that Condition 5 of the GBL (41 C.F.R. § 101-41.302-3(e)) relieves the Government of the requirement of declaring the value on the GBL.

AFL contends that B-200939, supra, leads to the legal conclusion that Tender 345 is inapplicable, because, according to the carrier, that decision stands for the principle that missiles (and their parts) are included among the commodities covered by section (C), and since projectile and rocket parts are parts of missiles the failure to annotate the GBL prohibits application of Tender 345 rates.

We agree that section (C) of item 30 does include the commodity description "Missile Components or Parts"; however, B-200939, supra, does not lead to the result advocated by the carrier. While we did identify missiles as an example of the commodities listed generally in section (C), we prefaced the commodity examples with a description of the service that is tied to the commodity. Our decision reflected the language of section (C), which states:

"Rates published herein to the extent that they apply for the transportation of commodities which because of size, weight or structure require specialized equipment, viz:

* * * missiles
 ... missile components or parts
 rockets * * *."

It is clear to us that section (C) of item 30 includes only those listed commodities, the transportation of which because of size or weight requires the use of special equipment for loading, unloading and transportation. See United Transports, Inc. v. United States, 214 F. Supp. 34 (W. D. Okla. 1962); C & H Transportation Co. Inc., Investigation & Revocation of Certificate, 129 MCC 441, 469 (1977), involving the Maverick Missile.

In the absence of a sound basis for concluding otherwise, the ICC presumes that commodities tendered to a carrier in aggregations are within the general rule that special equipment is not required and not within a limited exception. Pre-Fab Transit Co., Extension - 14 States, 131 MCC 167, 188 (1978) affirmed Pre-Fab Transit Co. v. United States, 595 F.2d 384 (7th Cir. 1979). For the exception to apply it must be shown that the palletization was performed for the article's protection or otherwise required by its inherent nature. Black-Investigation of Operations, 64 MCC 443 (1955).

AFL has not shown that the metal, projectile or rocket parts shipped here were missiles of such size or weight that required the use of special equipment within the meaning of those terms in section (C) of item 30 of Tender 345. Therefore, we find that section (A) of item 30 applied.

GSA's audit action is sustained.

for 
Comptroller General
of the United States