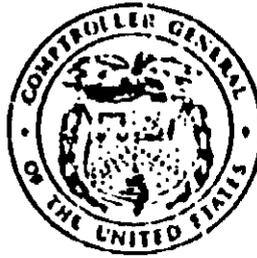


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DECISION



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

FILE: B-203932

DATE: June 15, 1982

MATTER OF: American Farm Lines

DIGEST:

1. Despite the absence of a declaration on Government bills of lading indicating the value of the Army tractor tanks and lift trucks, the lower released value rates published in carrier's Tender 345 are applicable, and GSA's audit action is sustained.
2. While section (B) of item 30 of carrier's tender requires declaration of value on GBL as condition of applicability of rates to shipments of tractors and trucks, Army tractor tanks, designed for combat, and lift trucks, designed for intra-plant industrial use, are not within section (B), because by adopting commodity descriptions identified to operating authority of carriers of motor vehicles, section (B) contemplates vehicles designed for over-the-highway use, and Army tractor tanks and lift trucks are not designed for such use.
3. Army tractor tanks and lift trucks, although commodities outside scope of section (B) of carrier's tender, are covered by section (A), which applies to commodities not listed in section (B) or (C), and section (A) relieves the Government from the requirement of making a declaration of value where GBLs are used.

American Farm Lines, Inc. (AFL), initially requested review by the Comptroller General of settlement actions, TK-038052, S-1021731, and TK-037837, taken by the General Services Administration (GSA) in connection with three

shipments of Government property that were transported on Government bills of lading (GBL) M-6495550, S-1021731, and S-0326954, respectively. By letter of October 14, 1981, the carrier withdrew its request concerning GBL S-0326954 (TK-037837). GSA's action on the remaining two GBLs was based on the released valuation rates published in AFL's Tender 345. The basis for AFL's contention that the rates in Tender 345 are not applicable on the commodities transported is the absence of any notation on the GBLs as to their released value. We find no merit in the carrier's contention.

There is apparent agreement that Army tractor tanks and lift trucks, shipped on GBLs M-6495550 and S-1021731, respectively, are among the commodities contained in the tender's extensive commodity lists, and that the rates therein are applicable, provided the shipper complied with the released value provisions of item 30.

If a commodity is listed in section (B) of item 30, applicability of the tender's rates depends on a declaration of value on the GBL by notation in a specified form, whereas, if the commodity is not listed in section (B) or (C) it is covered by section (A), which, because of a reference to condition 5 of the GBL (now in 41 C.F.R. § 101-41.302-3(e)), relieves the Government of the requirement to declare the property's value. American Farm Lines, Inc., B-200939, May 29, 1981.

AFL contends that Army tractor tanks are tractors, and that lift trucks are trucks within the meaning of those terms as they appear in section (B)(1) of item 30. GSA disagrees, asserting that the commodities are not included therein, but are covered under section (A), which requires no declaration. We conclude that the tanks and lift trucks transported here are not within the scope of the terms, tractors and trucks, in section (B)(1); therefore, despite the absence of a declaration of value on the GBLs, GSA was not prevented from applying the lower released value rates in Tender 345.

Specifically, the Army tractor tanks are heavily armored combat vehicles, while the lift trucks are industrial trucks designed for lifting as well as carrying material within a plant. Despite the capacity to transport personnel (tanks) and property (lift trucks) these commodities clearly are not designed for over-the-highway use. As a result they are

not within the scope of the terms, trucks and tractors, as contemplated by section (B).

Since the carrier states that the list of commodities contained in section (B) of item 30 was adopted from Interstate Commerce Commission Released Rates Order No. MC-369, December 7, 1954, we held in American Farm Lines, Inc., B-203639, December 30, 1981, affirmed April 22, 1982, that the commodities therein were limited in scope to motor vehicles designed for over-the-highway use; therefore, road graders designed for construction work were not tractors within section (B)(1). The list in the ICC's order consisted of commodities transported by specialized carriers of motor vehicles and that classification of carrier is engaged in the transportation of automobiles, trucks, trailers, etc, either by the truck-away or drive-away method. Classification of Motor Carriers of Property, 2 MCC 703, 711 (1937). The trucks authorized for transportation by these carriers are designed for over-the-highway transportation of personnel and property. See Arco Auto Carriers, Inc., Extension-Escanaba, Michigan, 86 MCC 555, 559 (1961).

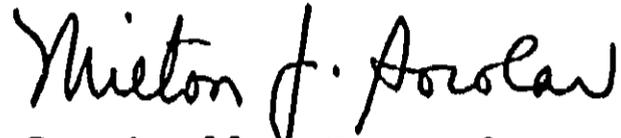
Despite the broad operating authority of AFL, the only reasonable inference that can be drawn from adoption of the list contained in the ICC's 1954 order is that the framers of the tender intended to limit application of section 30(B) to commodities generally understood to be within the operating authority of that specialized class of carriers known as carriers of motor vehicles.

We conclude that the Army tractor tanks and lift trucks transported under GBL's M-6495550 and S-1021731 are included in section (A) of item 30; therefore, the rates in Tender 345 were applicable despite the absence of a declaration of released value on the GBLs.

We sustain GSA's settlement action.

In addition to GBLs M-6495550 and S-1021731, AFL presented several requests for review of settlement actions taken by GSA in connection with bills relating to other shipments described on the GBLs as Army tractor tanks and lift trucks. In view of the apparent similarity of the commodities transported on those bills with the commodities transported on the GBLs which are the subject of this

decision, we did not request reports from GSA. On the basis of the principles stated herein, we conclude the carrier has not shown that GSA was incorrect in its actions on those bills, which are identified in Attachment "A" to this decision. We therefore sustain GSA's actions on those bills, with the understanding that the carrier may request reconsideration within 30 days of the date of this decision provided such request contains evidence that the commodity transported on any bill was in fact a motor vehicle designed for over-the-highway transportation of personnel or property, as that term is generally understood to be within the operating authority of carriers of motor vehicles.



Acting Comptroller General
of the United States

Attachment