

DECISION



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

FILE: B-206186

DATE: July 20, 1982

MATTER OF: American Farm Lines, Inc.

DIGEST:

Since dough working machines and bakery ovens mounted on trailers are not specified among the articles enumerated in released-value rate item requiring notation of value on bill of lading as condition of rate tender's applicability, the items shipped were covered by remaining section of item which relieves Government of notation requirements as condition of applicability of rates in released-value tender.

American Farm Lines, Inc. (AFL) requested review by the Comptroller General of settlement actions 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-3231955, K-4604583, and M-3477749.

GSA's action was based on the released valuation rates published in AFL's Tender 345. The agency has advised us that as a result of its reconsideration of its audit position, the carrier's claim for \$16,661.09 on GBL M-3231955 is being allowed in the amount of \$15,369.66, and the carrier's claim on GBL K-4604583 is being allowed in full. We have no objection to these settlements. In relation to GBL M-3477749, we sustain GSA's disallowance of the carrier's claim.

There is apparent agreement between GSA and AFL that the shipment transported on GBL M-3477749 consisted of dough working machines and bakery ovens mounted on trailer vehicles; that they are commodities contained in Tender 345's extensive commodity lists; and that applicability

of the rates therein to this shipment depends on whether the commodities shipped are included among those listed in item 30(B)(2) of the tender. As discussed below, we conclude that the rates in Tender 345 were applicable to the shipment.

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 and missiles, while section (A) applied to commodities not specified in sections (B) and (C).

We held in that case 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, while if the commodity is covered by section (A), Tender 345 rates are applicable in the absence of a valuation on the GBL because section (A) provides that condition 5 of the GBL (41 C.F.R. § 101-41.302-3(e)) applies. Condition 5 provides for release of shipments up to a certain value without a declaration of the value.

Item 30(B) states that:

"Commodity rates published in this tender, to the extent that they apply for the transportation of:

(1) Passenger automobiles, ambulances, hearses, taxis, buses, bus chassis, freight automobiles, trucks, truck chassis, truck trailers, trailers, trucks and trailers combined, tractors, tractors and trailers combined; and

(2) Trucks and/or trailers containing or having mounted thereon radar or other electronic equipment, gun control apparatus, cranes and wrecking equipment, fire-fighting apparatus, hospital, medical and/or rescue equipment, chemical processing and analyzing equipment, maintenance or repair equipment;

will be applicable only when the value declared by the shipper in writing, or agreed to in writing as the released value of the property is as follows * * *."

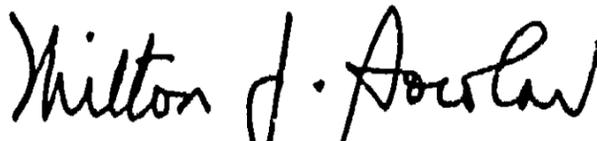
We held in American Farm Lines, B-203639, December 30, 1981, affirmed, April 22, 1982, that since the carrier stated that the list of commodities contained in section (B) of item 30 was adopted from Interstate Commerce Commission Released Rates Order No. MC-369, December 7, 1954, the commodities therein were limited in scope to vehicles designed for over-the-highway use. We determined that the ICC's order contemplated commodities transported by specialized carriers of motor vehicles and these carriers are classified as ones 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). Further, the trucks and other vehicles 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).

Assuming the carrier is correct in its assertion that the vehicles here, stripped of the units mounted thereon, are trailers within the meaning of 30(B)(1), we cannot agree with the statement that the nature of the equipment mounted thereon is irrelevant. AFL states that since the vehicles are trailers, their character is not changed by adding dough working machinery or a baking oven. This position is inconsistent with our previous consideration of item 30(B)(2).

In American Farm Lines, B-200939.2 et al., June 15, 1982, we held that for AFL to prevail under 30(B)(2) it must show that the automobiles, trucks or trailers are designed for over-the-highway transportation of personnel or property, and that the truck or trailer has a specified type of equipment mounted thereon. Dough working machines and bakery ovens are not among the equipment and apparatus specified in item 30(B)(2) for mounting on the vehicles. Under the rule of construction which provides that the enumeration of certain things implies the exclusion of all others, see 55 Comp. Gen. 1077, 1079 (1976), we think it is fair to conclude that the articles shipped were not intended to be encompassed by item 30(B)(2), and therefore were covered by section (A).

As noted, section (A) does not require a notation of declared value on the GBL as a condition of applicability. Therefore, we believe Tender 345 rates were applicable, as determined in GSA's audit.

GSA's audit action is sustained.

for 
Comptroller General
of the United States