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DECISION



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

FILE: B-204700

DATE: September 7, 1982

MATTER OF: American Farm Lines, Inc.

DIGEST:

1. Under the Classification Mixing Rule, GSA may view different articles in a mixed shipment as two separate shipments and combine a tender and tariff in the computation of lower charges, provided the integrity of each is preserved.
2. In applying a tender to one article of a mixed shipment, GSA did not violate the tender's lineal foot rule by applying the constructive weight of 750 pounds only to the length of the one article and did not improperly ignore the truckload minimum weight of 30,000 pounds provided by the tender's capacity load rule where a shipment uses 32 feet of a trailer's loading space, because by its terms the lineal foot rule provides for application to each incremental foot of space used, and there are no express provisions in the capacity load rule preventing a shipper from viewing the articles as two separate shipments.
3. In applying the mixing rule to one article in a mixed shipment, GSA erred in applying a less than truckload rate to the article's actual weight where the applicable tariff contained a minimum charge rule requiring application of a truckload or volume rate and minimum weight where a shipper orders a vehicle of 32 feet in length, and the Government, without dispute, ordered a 40-foot trailer.

American Farm Lines, Inc. (AFL), requests review of the determination by the General Services Administration (GSA) denying AFL's claims for additional freight

charges of \$259.57 and asserting an overcharge of \$181.76 on a mixed truckload (TL) shipment consisting of rocket motors, weighing 10,445 pounds (including pallets and dunnage), and of rocket heads, weighing 5,248 pounds, transported from Savanna, Oklahoma, to Alameda, California, under Government bill of lading (GBL) M-3,598,429, dated October 9, 1979.

We deny GSA's action in part and sustain it in part.

GSA treated the shipment as two separate shipments, applying a less than truckload (LTL) rate from AFL class and commodity rate Tariff AMFM300 (AFL 300) to the rocket motors and a TL rate at a minimum weight (M/W) of 7,000 pounds from AFL Tender 345 to the rocket heads.

The Truckload Mixing Rule (Rule 645) of National Motor Freight Classification ICC NMF 100-F, under specified circumstances, permits a shipper to treat a mixed shipment for rate purposes as two separate shipments, as a means of determining whether charges would be lower. In American Farm Lines, Inc., B-205368, June 15, 1982, we held that a tender and a tariff could be applied to different articles of a mixed shipment, provided none of the tender's or tariff's provisions was ignored.

Item 150 of AFL 300 provides that certain described shipments are subject to a minimum charge per vehicle used based on the applicable truckload or volume rate and truckload or volume minimum weight. We agree with the carrier's contention that subparagraph (4) describes the circumstances here: the shipper ordered a vehicle of 32 feet or more in length; therefore, the truckload or volume rate and minimum weight were applicable. We conclude that in applying an LTL rate to the actual weight of the rocket motors, GSA improperly ignored the provisions of item 150, which were clearly applicable if GSA decided to apply the tariff under the mixing rule to one article in the shipment.

Concerning the rocket heads, the carrier has failed to show that GSA erred in its application of Tender 345. GSA applied a TL rate to a M/W of 7,000 pounds.

The carrier contends that GSA failed to give proper effect to the tender's lineal foot rule (item 320) and ignored the capacity load rule (item 160). Item 320 provides that shipments will be subject to a M/W of

750 pounds per lineal foot of the loading space used on a trailer, and item 160 provides, among other things, that where a shipment uses 32 feet or more of a trailer's loading space, it is subject to a M/W of not less than 30,000 pounds. It appears that the combined length of the rocket heads and motors was 34 feet, with the rocket heads using 8 feet and the motors using 26 feet.

GSA applied the lineal foot rule to 8 feet and since 750 pounds x 8 resulted in only 6,000 pounds, the agency applied the TL rate to the applicable M/W of 7,000 pounds.

We are not persuaded by AFL's argument that GSA was required to apply the lineal foot rule to the combined length of 34 feet and that, since the combined length was at least 32 feet, the applicable rate should have been based on the M/W of 30,000 pounds, as provided in the capacity load rule.

GSA's action was based on the mixing rule, which, as stated, contemplates viewing different articles in a mixed shipment as two separate shipments. By its terms, the M/W of 750 pounds per foot in item 320 applies to each incremental foot and, since the space used by the rocket heads could be determined in this case, GSA gave appropriate consideration to the rule's application. And, in light of the mixing rule, it was not necessary for GSA to apply the 30,000-pound M/W provided in item 160 to the combined length of the heads and motors, because the rule itself does not require it. There is no provision in the rule similar to item 150 of AFL 300 requiring application of a TL M/W where a vehicle of a specified length is ordered or a provision, such as in the rule involved in Leonard Brothers Trucking Co., Inc., B-196671, June 2, 1981, requiring application of the M/W where the shipper simply tenders a truckload quantity of freight.

In the absence of evidence that any provision of the tender was ignored or violated, we find that GSA's action concerning the rocket heads was proper.

GSA should recalculate the charges consistent with our decision.



Acting Comptroller General
of the United States