

18721

DECISION



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

FILE: B-203529

DATE: July 8, 1981

MATTER OF: ABF Freight Systems, Inc.

DIGEST:

Item 120824 of National Motor Freight Classification, providing for application of released value ratings and liability limits to accessories, attachments and parts attached to internal combustion engines, presents no basis for distinguishing B-185283, June 22, 1978, holding that carrier's liability for damage to engines transported on released value ratings in item 120820 is limited to weight of entire engine and not to weight of damaged parts.

ABF Freight System, Inc. (ABF), requests a review of our Claims Group's (file No. Z-2825760) disallowance of ABF's claim for \$818.68. The claim represents the amount deducted by the Government by setoff to satisfy the Government's claim against ABF for damage sustained by two internal combustion engines while in transit under Government bill of lading (GBL) No. K-3427606. That amount constitutes the actual cost to repair the damage to the oil pan of one of the engines and to the oil pan and cold start coil of the other engine.

In its request for review, ABF admits liability, but argues that under the released valuation provisions of the contract of carriage, its liability is limited to an amount less than the actual cost of repairs.

The applicable general rule is that where liability is limited by a released valuation, the carrier's liability for damages depends on the particular language of the valuation conditions set forth in the contract of carriage, including the applicable tariff. The Ansaldo San Giorgio I v. Rheinstrom Brothers Co., 294 U.S. 494, 496 (1935). The conditions determining the carrier's liability for damages to internal combustion engines, NOI (not otherwise indicated), appear in item

[Carrier Request for Review of Claim Disallowance]

115718

DI7493

120820 and related notes in items 120822 and 120824 of the governing National Motor Freight Classification (Classification).

The parties do not dispute that the carrier's liability for damage to other than mounted engines is limited by item 120820 sub 1 of the Classification to \$2.50 per pound per article when, by declaration on the GBL, the shipper releases the shipment at a value not exceeding that amount. The issue is whether the \$2.50 per pound limitation is fixed to the relatively light weight of replacement parts, such as the oil pans and coils, as contended by ABF, or to the far greater weight of the entire engine, as contended by the Government. As noted by our Claims Group in its settlement of March 31, 1981, we held in B-185283, June 22, 1978, that the term, article, refers to one complete internal combustion engine, NOI, and not to the separate parts.

ABF, however, apparently believes that the effect of item 120824 on this issue was not considered in that case. Item 120824 provides in pertinent part: "Also applies on accessories, attachments or parts attached to engines."

Item 120824 is inapposite here. It provides no basis for concluding that its purpose was to define accessories, attachments and parts as separate articles, as a basis for computing the carrier's liability. Its purpose was to clarify the point that the released value ratings and liability limits in item 120820 are applicable to the listed items even though ratings may appear on them elsewhere in the Classification. Since item 120824 has no bearing on the scope of the term, "article," our decision, B-185283, *supra*, requires that the \$2.50 per pound limitation be applied to the weight of the entire engine (including its parts).

We conclude that the carrier's liability was properly computed as \$818.68, equal to the actual cost of repairs (\$597.07 for one engine and \$221.61 for the other), since that amount does not exceed the limitation of \$2.50 per pound on the total weight of each engine which was subject to the released value limitation under the GBL.

Accordingly, the action taken by our Claims Group disallowing the carrier's claim is sustained.

Milton F. Aroskar

Acting Comptroller General
of the United States