



[2022] 2 F.C.R. D-19

TRANSPORTATION

Judicial review of Transport Canada decision informing applicant electric vehicles latter wanting to import ineligible for import to Canada because vehicles not complying with safety standards applicable to vehicles designed for use on road — According to applicant, vehicles power-assisted bicycles, excluded from safety regime because designed for off-road use — Applicant adding respondent's interpretation of *Motor Vehicle Safety Regulations*, C.R.C., c. 1038 (MVSR), according to whom old definition of "power assisted bicycle" not relevant, unreasonable — Applicant taking position power assisted bicycles unable to reach maximum speed of 32 km/h not "restricted use-vehicles", fully compliant with laws applicable in Canada — Respondent explaining in decision that according to definition of "restricted-use vehicle", most relevant factor for decision maker is whether vehicle designed for public roads or not — Applying approach to applicant's vehicles, respondent stating vehicles appear capable of mixing with road traffic, equipped with front, rear turn signals, headlight, brake light, licence plate holder, mirrors, etc., appear designed primarily as limited-speed motorcycle, indicating vehicles designed for road use — Issue whether respondent's interpretation of MVSR unreasonable — Key phrase in this case: "is not designed for use on public roads" — Although no statutory definition of term "public roads", defendant's interpretation reflects common use of term — Transport Canada informed public, including importers, of interpretation of "designed" — Interpretation reflects regulatory context, overarching purpose of protecting public, road safety — Transport Canada's interpretation of "is not designed for use on public roads" reasonable — Reference to "designed" reflects legislator's intention to consider manufacturer's original design instead of emphasizing importer's or consumer's intention — Transport Canada's interpretation corresponds to legislator's intention — Interpretation documents respondent published to assist officers with interpretation of related terms show respondent aware new regulatory provisions affect assessment of low-speed vehicles designed for off-road use — However, document stresses maximum speed, intended use of vehicle not decisive in itself — All in all, Transport Canada's interpretation of key phrase corresponds to text, context, purpose of amendments to regulatory regime; decision maker's analysis clear, consistent in light of evidence, submissions filed by applicant — Application dismissed.

KOLO SCOOTER INC. V. CANADA (TRANSPORT) (T-1004-21, 2023 FC 344, Pentney J., reasons for judgment dated March 14, 2023, 24 pp. + 2 pp.)