

Decisions of the United States Court of International Trade

Slip-Op 08-49

SHERRI N. BOYNTON, Plaintiff, v. UNITED STATES, Defendant.

Before: Poque, Judge
Court No. 06-00095

Decided: May 07, 2008

[Plaintiff's motion for rehearing denied.]

Law Offices of Robert W. Snyder (Robert w. Snyder) for Sherri N. Boynton, Plaintiff.

Gregory G. Katsas, Acting Assistant Attorney General, *Barbara S. Williams*, Attorney in Charge, International Trade Field Office, *Aimee Lee*, Civil Division, Dept. Of Justice Commercial Litigation Branch, *Maritza Tamayo-Sarver*, of council, Office of Associate Chief Counsel, U.S. Customs and Border Protection for U.S. Department of Homeland Security, Customs and Border Protection, Defendant.

MEMORANDUM AND ORDER

Pogue, Judge: Plaintiff, Sherri N. Boynton (“Boynton”) moves for rehearing, claiming that the Defendant’s failure to consider, in prior proceedings, certain judgments that Boynton obtained against various importers renders these proceedings fundamentally unfair.

This Court has jurisdiction to grant a rehearing under USCIT Rule 59(a)(2). *See also Am. Nat’l Fire Ins. Co. v. United States*, 200 Ct. Int. Trade LEXIS 137, *2 (citing *United States v. Gold Mountain Coffee, Ltd.*, 8 CIT 336, 336, 601 F. Supp. 202, 214 (1984)); *Kerr-McGee Chem. Corp. v. United States*, 14 CIT 582, 583 (1990). The purpose of a rehearing is not, however, to retry the case. *See, Belfont Sales Corp. v. United States*, 12 CIT 916, 918, 698 F. Supp. 916, 918 (1988). It is, rather, only to correct significant flaws in the conduct of the proceeding. *Am. Nat’l Fire Ins. Co.* at *2. The Court will not upset its prior decision unless it is “manifestly erroneous.” *See, North American Processing Co. v. United States*, 22 CIT 701, 703, 15 F. Supp. 2d 934, 936 (1998); *Saint Paul Fire & Marine Ins. Co. v. United States*, 16 CIT 984, 807 F. Supp. 792 (1992).

Boynton, however, has not presented any evidence that would warrant the claim that our prior decisions were “manifestly erroneous.” Boynton’s request for rehearing rests entirely on the fact that judgments were entered in her favor by state courts against several importers. These importers were, apparently, connected to some of the transactions that gave rise to several of the charges against Boynton. These judgments, however, are not relevant to this case for two reasons.

First, the judgments Boynton has submitted all concern whether certain payments were or were not made, as between Boynton and the importer involved. However, the charges before Customs, which the Court has sustained, are not about the payment of duties but rather concern Boynton’s failure to follow proper procedures when payments are not made for any reason. Customs provides, via its Bulletin 88 procedures, methods for dealing with cases where Customs Brokers are not paid by importers in a timely manner. Customs Bulletin 88–30. *Boynton v. United States*, ___ CIT ___, Slip-Op 07–146 at 14–5, n.15 (2007). As noted in Charge III Specification 11 and Charge VIII, for example, Boynton failed to follow Bulletin 88 procedures when appropriate. Because this Bulletin provides procedures for Customs Brokers to follow in situations such as those that gave rise to the judgments Boynton now submits, and because Boynton did not follow Customs’ procedures in the situations involved, the judgments which Boynton has gained are not relevant to the charges. Therefore, the evidence provided by Boynton gives us no reason to find that our prior decision contained “manifest error.”

Second, a sub-set of the charges against Boynton which have been found by this court to be supported by substantial evidence involve transactions with importers who had nothing to do with and were not involved in the judgments Boynton now submits. The Secretary held that *any* of the charges against Boynton would individually be sufficient to justify revoking her license. Because certain of the charges against Boynton are not even arguably related to the evidence she offers, and because these charges would be sufficient to justify revoking her license, there is no reason to grant her motion.

For these reasons, Plaintiff’s motion for retrial or rehearing is DENIED. It is so ORDERED.

Slip Op. 08–50

AGRO DUTCH INDUSTRIES LIMITED, Plaintiff, v. UNITED STATES, Defendant, and COALITION FOR FAIR PRESERVED MUSHROOM TRADE, Defendant-Intervenor.

Before: MUSGRAVE, Senior Judge
Court. No. 02–00499

JUDGMENT

The plaintiff having interposed a motion pursuant to USCIT Rule 56.2 for judgment upon the record compiled by the International Trade Administration, U.S. Department of Commerce (“ITA”) *sub nom. Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Admin. Review*, 67 Fed. Reg. 46,172 (July 12, 2002); and the ITA having filed herein its Results of Redetermination Pursuant to Remand, dated April 3, 2008, pursuant to Slip Op. 07–185 (Dec. 26, 2007); and this court having reviewed those results of redetermination and not having received any comments thereon or opposition thereto from any party to this case; now therefore, after due deliberation, it is

ORDERED, ADJUDGED and DECREED that the ITA’s Results of Redetermination Pursuant to Remand dated April 3, 2008 be, and they hereby are, sustained.

