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U.S. Court of International Trade Sheds Light on Path to IEEPA Tariff Refunds

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The Supreme Court will soon decide whether the President has authority to impose tariffs under the International Emergency Economic Powers Act (IEEPA). Both the U.S. Court of International Trade (CIT) and the Court of Appeals for the Federal Circuit ruled the tariffs unlawful. If the Supreme Court affirms this holding, importers who paid tariffs under IEEPA may have the right to obtain a refund.

The CIT recently issued an order that sheds light on the path to seeking refunds. According to the CIT's ruling in *AGS Company Automotive Solutions, et al. v. CBP, et al.*, if the Supreme Court strikes down the IEEPA tariffs, refunds should be obtainable through court-ordered reliquidation, including for entries that have already been liquidated. Importers should track all entries that included IEEPA tariffs and consider filing complaints seeking relief in the CIT.

Entry and Liquidation

Merchandise that arrives in the U.S. must be entered with U.S. Customs and Border Protection (CBP). The duties owed upon entry are based on the information included in the entry documents submitted with the merchandise, but this amount is not final until liquidation. Liquidation is the administrative act by which CBP finalizes duty calculations for an entry. CBP aims to liquidate all entries within 314 days of entry. If CBP is unable to do so, liquidation occurs as a matter of law one year after entry.

Before the CIT's ruling in *AGS*, importers were concerned that refunds would not be available for liquidated entries based on statutory and administrative finality principles. To remedy this, importers sought preliminary injunctions to stay liquidation and avoid the irreparable harm of losing access to judicial relief. However, the CIT's ruling denying the importers' motion for a preliminary injunction in *AGS* explicitly concluded that it can order reliquidation and refunds of IEEPA tariffs in constitutional challenges brought under the residual jurisdiction provision, 28 U.S.C. § 1581(i). The CIT also noted that protests with CBP would be futile for IEEPA tariffs, indicating that court-ordered relief is the sole means available for importers in this context.

Preservation of Rights by CIT Lawsuit

Importers will likely be expected to take action to obtain a refund. We do not expect the administration to volunteer refunds, nor do we expect the Supreme Court to formulate a refund mechanism from the bench. Importers should seek refunds by filing a complaint in the CIT soon. This strategy preserves the importers' rights and could result in obtaining refunds more quickly and efficiently.

Challenge to In-Transit Exception

In the event that the Supreme Court rules in favor of the administration, importers may be able to recover duties improperly paid during the in-transit exception for the reciprocal tariffs. The administration implemented a new in-transit exception that differed from the implementation of the fentanyl tariffs and other historical tariff actions. Baker Donelson is seeking relief for clients from this improper implementation.

Our International Trade and National Security Team will continue to monitor developments and provide updates as warranted. If you have any questions or would like to discuss this in further detail, please contact [P.](#)

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