

UNITED STATES COURT OF INTERNATIONAL TRADE

UNITED STATES SHOE CORP.,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Before: Jane A. Restani, Chief Judge

Court No. 94-11-00668

ORDER

Defendant United States moves for an order establishing a procedure for the final disposition of all pending Harbor Maintenance Tax (HMT) cases. In defendant's view, all HMT issues have been resolved and all HMT claims have been paid pursuant to United States v. United States Shoe Corp., 523 U.S. 360 (1998) or Swisher Int'l Inc. v. United States, 205 F.3d 1358 (Fed. Cir. 2000), cert. denied, 531 U.S. 1036 (2000). Accordingly, defendant maintains that all HMT cases remaining on the Court's docket should be dismissed. Plaintiff opposes this motion. In particular, plaintiff requests that the defendant provide the court with a confidential report listing the paid and unpaid HMT payments in the database maintained by the Bureau of Customs and Border Protection; that, prior to dismissal of any case, defendant be ordered to refund all export HMT payments not previously refunded; and that there be an additional 60-day notice period regarding defendant's motion prior to the court acting on that motion.

Upon consideration of the arguments of the parties, it is hereby

ORDERED that all HMT actions pending after December 1, 2005 be dismissed by the Office of the Clerk without further direction of the court; and it is further

ORDERED that any plaintiff, who believes its action should not be dismissed, file a motion to stay said dismissal by September 26, 2005; and it is further

ORDERED that any plaintiff, who intends to file a motion as to why its action should not be dismissed, and whose action is contained in the Court's CM/ECF System, electronically file its motion using the CM/ECF docket event **Motion to Stay**; and it is further

ORDERED that any plaintiff, who intends to file a motion as to why its action should not be dismissed, and whose action is not contained in the Court's CM/ECF System, file its motion manually titling the document **Motion to Stay**; and it is further

ORDERED that the defendant respond by October 28, 2005 to each motion to stay dismissal filed by a plaintiff; and it is further

ORDERED that any plaintiff, whose action also contains a non-HMT claim, and who intends to pursue that claim, file a motion to sever the non-HMT claim into a new case by September 26, 2005; and it is further

ORDERED that any plaintiff, who intends to file a **Motion to Sever**, and whose action is contained in the Court's CM/ECF System, electronically file its motion using the CM/ECF docket event **Motion to Sever**; and it is further

ORDERED that any plaintiff, who intends to file a **Motion to Sever**, and whose action is not contained in the Court's CM/ECF System, file its motion manually titling the document **Motion to Sever**; and it is further

ORDERED that the Office of the Clerk serve a copy of a notice implementing this order on each plaintiff who has a HMT case pending before the court; and it is further

ORDERED that the Office of the Clerk post a copy of this order on the Harbor Maintenance Tax page on the Court's Website.

/s/ Jane A. Restani

Jane A. Restani
Chief Judge

Dated: New York, New York
This 27th day of July, 2005.