

J U D G M E N T

UNITED STATES COURT OF INTERNATIONAL TRADE
BEFORE: HON. JANE A. RESTANI, CHIEF JUDGE

HORIZON LINES, LLC,

Plaintiff,

v.

UNITED STATES,

Defendant.

Court No. 05-00435

ORDER

This court having jurisdiction pursuant to 28 U.S.C. § 1581(a) to review Protest No. 2002-02-101218 timely filed November 26, 2002, by Horizon Lines, LLC (“Horizon”), contesting the assessment of certain duties by Customs & Border Protection (“CBP”) for Vessel Repair Entry No. C20-0060861-5 for the CRUSADER, Voyage 047; based upon the Findings of Fact, Conclusions of Law and Order dated August 31, 2010 (Slip Op. 10-98), made after a bench trial February 22 and 23, 2010; and Plaintiff having further consulted with Defendant on September 14, 23 and 24, 2010, it is hereby

ORDERED, ADJUDGED AND DECREED:

1. CBP incorrectly assessed duties for lay-up expenses incurred by Horizon at Karimun Sembawang Shipyard (“KSS”) in Indonesia (Items 2, 3, 4, 5, 6a, 6b, 7a, 7b-1, 7b-2, 8a, 8b, 9, 10, 11a-2, 11a-3, 11b-1, 11b-3, 11b-4, 11c, 11d-1 and 11d-2) because such work constitutes neither dutiable repairs, nor dutiable “expenses of repairs,” nor proratable dual purpose expenses pursuant to 19 U.S.C. § 1466(a) and SL Serv., Inc.

v. United States, 357 F.3d 1358 (Fed. Cir. 2004), for the reasons set forth in Slip Op. 10-98.

2. CBP incorrectly assessed duties under 19 U.S.C. § 1466(a) for proratable expenses incurred by Horizon at Jurong Shipyard (“Jurong”) in Singapore because the proration ratio should not have included in its numerator or denominator any expenses incurred at KSS, for the reasons set forth in Slip Op. 10-98.
3. Because of the errors identified above, Horizon is entitled to a refund in the amount of \$97,231.98 plus interest as provided by law.

/s/ Jane A. Restani
Judge

Dated:

9/29/10
New York, New York