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A Legal Newsletter

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The Court: a Private Automobile Importer will not Receive Information on Other Importers

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Background:

Among the most common disputes between importers and the Customs Authority are disputes regarding the valuation of the transaction. In other words, the sides dispute as to the amount subject to import duty, a dispute particularly relevant to goods subject to a relatively high duty rate, such as cars, automobile replacement parts, mobile phones and more.

When an importer is faced with such a case in court, the Customs Order states that even though the Customs Authority was the entity that rejected the importer's declared value and set a new value, the importer is the one burdened with proving his original valuation was the accurate one.

In such a case, will the importer be allowed to view the Customs Authority documentation of the valuation process for other importers of similar goods? Or will the Customs Authority claim of confidentiality take precedence?

In the following article we will review the Rehovot Magistrate Court's ruling, which rejected the importer's request to view the Customs Authority's decisions in similar cases.

Case Facts and Detailed Arguments:

Mr. Yosef Pinto privately imported a car, and was required by the Customs Authority to pay a duty calculated according to the Customs Authority's own information and documentation. The Customs Authority rejected the importer's declared value, and set a higher value for duty purposes, which led to payment of tax discrepancies.

The importer claimed the calculation and the information it was based on for determining the value of the transaction were incorrect, and that the value he declared is the true value of the transaction, as paid by him.

The importer argued that in order for him to be able to prove his claim, he requires access to the Customs Authority information regarding similar or identical cars it has previously valued to for duty purposes.

The Customs Authority argued that the documents were not readily available when it determined the value in this specific case, and revealing them would not aid the process.

The Customs Authority added that transferring the aforementioned documents would require a long bureaucratic process of finding the documents, scanning them, omitting confidential information etc. This would only encumber the procedure needlessly, with the benefit of the entire process remaining unclear.

The Court's Ruling:

The court determined that the importer did not accurately convey which documents he requires, and his request was worded in a vague and unclear manner using the words "and \ or".

In addition, the court noted that the nature of the lawsuit is examining a decision made by the Customs Authority, requiring the court to determine whether the Customs Authority's considerations were reasonable. In such an examination, there is no reason to review documents that were not considered by the Customs Authority at the time.

Finally, the court determined there is no cause to force one party in the case to conduct comprehensive investigations, requiring significant time and effort, in order to disclose documents.

In light of the above, the court rejected the importer's request for an order of disclosure of documents from the Customs Authority, and charged the importer with the cost of submitting the request, 1,000 ILS.

[TA (Rehovot Magistrate Court) 56080-11-13 **Pinto V. The Tax Authority**, ruling given on 13.8.15, presiding judge: Rina Hirsch. Advocates: for the importer: Adv. Demari; for the Tax Authority: the Tel-Aviv District State Attorney's Office, Civilian]

Comments:

This is not the first case in which the court was asked to balance the importer's right to face the Customs Authority "with all the cards on the table", with the Customs Authority's obligation to safeguard the confidentiality of details relating to other entities not directly involved in the legal proceeding.

We believe that if the importer would have worded his request in a more exact and less far reaching, generalized manner, the court may have accepted his request.

**The above review is a summary. The information presented is for informative purposes only,
and does not constitute legal advice.**

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