

# Customs & Trade in Israel

## A Legal Newsletter

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### **The Court Rejected a Request for Information regarding Disclosure of Identity of Importer**

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The Jerusalem District Court rejected a claim filed under the Freedom of Information Law, 1998. The claim was filed by the owner of an oil and gas exploration company ("the company owner").

#### **Case Facts:**

The company owner submitted a request under the Freedom of Information Law to the Tax Authority, requesting that the Tax Authority disclose the identity of entities who import or imported sulfur from Kazakhstan. In addition, the company owner sought information regarding the percentage of sulfur imported by these entities out of the total amount of sulfur imported from Kazakhstan during that year, as well as information regarding the identity of the entities in Kazakhstan which sold the sulfur to the importers.

The Tax Authority rejected the request, claiming that specific information regarding companies and importers is confidential under the Customs Ordinance.

The company owner filed a claim against the Tax Authority, arguing that privacy concerns are irrelevant to his request, as it involves information on corporations, which lack a right to privacy. In addition, the company owner argued that the confidentiality orders of the Customs Ordinance do not apply to information gathered and created by the Tax Authority, so long as it did not obtain the information while acting to implement the ordinance.

#### **Legal Deliberation:**

The court rejected the company owner's argument regarding the method in which the Tax Authority obtained the requested information on the importers. The court ruled in favor of the Tax Authority's argument, which argued that the basis for the information it possesses regarding sulfur imported to Israel are the import entry forms submitted by the importers, and the confidentiality orders of the Customs Ordinance apply.

The court continued to examine the applicability of the confidentiality orders of the Customs Ordinance vis-à-vis the Freedom of Information Law, and determined that where there is an order of confidentiality the information is not to be disclosed, despite the authority given to the court under the Freedom of Information Law.

As a side remark, the court noted that the information requested by the company owner does not constitute a public interest, and that the company owner chose not to justify his request for information, except for noting it was for research purposes. The court further criticized the company owner for avoiding to mention that he requires the information in order to examine the possibility of submitting lawsuits against various entities.

In conclusion, the court rejected the company owner's claim and set upon him the Tax Authority's legal costs, amounting to 15,000 ILS.

It should be noted that our firm previously represented Pharma Guri Ltd. in a similar request vis-à-vis the Customs Authority. Pharma Guri sought at the time to receive information regarding the classification of various products, including its competitors' products, as part of a document discovery and enquire answer request.

As in the case presented above, the Customs Authority refused to supply the requested information, arguing that the information is confidential. In contrast, in the Pharma Guri case the court ruled that tax rates set according to the Customs Tariff Order are technical information and not confidential. Moreover, the court ruled that the information constitutes a public interest, and ordered the Customs Authority to disclose the information to Pharma Guri.

[TA 12395-12-18, **Greenberg V. The Tax Authority**, ruling given on 19.9.19 by honorary judge Avraham Rubin]

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

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