UNITED STATES COURT OF INTERNATIONAL TRADE

Zenith Electronics Corp. v. United States

699 F. Supp. 296 (Ct. Int'l Trade 1988) · No. Court No. 88-07-00488 · Decided October 13, 1988

SUMMARY

The United States Court of International Trade held that the Department of Commerce could not unilaterally amend final antidumping-duty review results while those results were subject to judicial review. The court issued a preliminary injunction barring Commerce from altering the final results concerning color television receivers from Korea or related cash-deposit instructions without court authorization. The court also concluded that Zenith had not received a fair opportunity to respond to the asserted ministerial errors.

CASE DETAILS

COURT	United States Court of International Trade
WRITING FOR THE COURT	Watson
JURISDICTION	USA
DECIDED	October 13, 1988
DOCKET	Court No. 88-07-00488
DISPOSITION	other
PROCEDURAL POSTURE	Zenith sought a preliminary injunction during judicial review of the Commerce Department's final results in an antidumping duty administrative review. The Court of International Trade considered whether Commerce could unilaterally amend those final results while they were sub judice.
STANDARD OF REVIEW	Preliminary-injunction analysis, including whether unilateral agency action would impair the court's jurisdiction, whether plaintiff faced immediate and irreparable harm, the balance of hardships, and the public interest.
PRECEDENTIAL VALUE	published
PARTIES	Zenith Electronics Corporation v. United States

TOPICS

judicial review of agency action · administrative law · injunctions · remedies · commercial litigation

PRACTICE AREAS

administrative law | international trade | antidumping duties | judicial review | injunctive relief

QUESTIONS PRESENTED

1. Whether the Commerce Department may unilaterally amend final administrative results while those results are the subject of an action for judicial review without obtaining the reviewing court's approval.
2. Whether Zenith was afforded a fair and reasonable opportunity to present its views regarding the alleged ministerial errors under 19 U.S.C. § 1675(f).
3. Whether a preliminary injunction was warranted to preserve the Court of International Trade's jurisdiction and prevent irreparable harm.

HOLDINGS

1. Once a final administrative determination is the subject of an action for judicial review, Commerce may not unilaterally alter the determination or related cash-deposit requirements; it must obtain the reviewing court's permission and approval before making the amendment.
2. Zenith was not given a fair and reasonable opportunity to present its views regarding the alleged ministerial errors as required by 19 U.S.C. § 1675(f).
3. A preliminary injunction was warranted because unilateral alteration of the final results would impair the court's jurisdiction, cause immediate and irreparable harm to Zenith, and undermine the public interest in preserving the status quo.

KEY QUOTATIONS

> *"alteration of an administrative result while it is under court review cannot be done without the approval of the Court."* (297)

> *"Commerce must apply to the Court for permission to make amendments to the final determinations."* (298)

> *"this injunction shall remain in effect during the pendency of this litigation or until such earlier time as this Court determines that the defects it has found in the proposed amendment of the Final Results have been remedied, that the amendment of the Final Results is appropriate and the Court specifically authorizes and approves such amendment."* (300)

FACTUAL BACKGROUND

Commerce issued final antidumping-duty administrative-review results for color television receivers from Korea, including cash-deposit instructions. After the results were challenged in court, Commerce determined that three ministerial errors had occurred and planned to publish amended results reducing certain dumping margins and cash-deposit rates from 23.30% to 15.23%. Zenith asserted that it had not received a fair and reasonable opportunity to respond and sought to prevent Commerce from altering the results while judicial review was pending.

PROCEDURAL HISTORY

Commerce published final results of its third administrative review concerning color television receivers from Korea on July 1, 1988. Zenith commenced an action challenging the final results, and Commerce thereafter proposed to correct alleged ministerial errors and reduce dumping margins and related cash-deposit rates. The court issued a temporary restraining order, later extended it, granted Daewoo's motion to intervene, and then granted Zenith's motion for a preliminary injunction.

DISPOSITION

other

CASES CITED

- Cooper v. Reynolds, 10 Wall. (77 U.S.) 308, 316, 19 L. Ed. 931 (1870)
- NTN Bearing Corp. v. United States, 684 F. Supp. 1093 (Ct. Int'l Trade 1988)