

UNITED STATES COURT OF INTERNATIONAL TRADE

UNITED STATES SHOE CORPORATION,	)	
	)	
Plaintiff,	)	
	)	Court No. 94-11-00668
v.	)	
	)	
THE UNITED STATES,	)	
	)	
Defendant.	)	
	)	

BEFORE: HON. JANE A. RESTANI, JUDGE

JUDGMENT

Upon consideration of Plaintiff's Motion for an Order Settling Interest and Costs, defendant's response thereto, and all other proceedings had herein; and

WHEREAS, a three-judge panel of this Court entered a judgment for plaintiff on December 4, 1995, declaring the Harbor Maintenance Tax as imposed upon merchandise exported from the United States to be unconstitutional, enjoining the United States Customs Service from the assessment and collection of the Harbor Maintenance Tax in connection with merchandise exported from the United States, and awarding plaintiff a money judgment in the amount of \$8,281.87, together with interest and costs as provided by law; and

WHEREAS this Court determined in Slip Op. 96-32 (February 7, 1996) that plaintiff is entitled to interest on the money judgment awarded in this case, pursuant to 28 U.S.C. § 2411; and

WHEREAS at the time the Court issued Slip Op. 96-32, the Government already had noticed an appeal of this case on February 1, 1996, and Slip Op. 96-32 specifically notes that "notice of

appeal has been filed and the court lacks jurisdiction to alter the judgment;" and

WHEREAS the December 4, 1995 judgment of the Court in this case was affirmed by the United States Court of Appeals for the Federal Circuit on June 3, 1997, in United States Shoe Corp. v. United States, 114 F.3d 1564 (Fed. Cir. 1997); and

WHEREAS the decision of the United States Court of Appeals for the Federal Circuit in United States Shoe Corp. v. United States was affirmed by the Supreme Court of the United States on March 31, 1998, in United States v. United States Shoe Corp., 118 S. Ct. 1290 (1998), which decision is now final; and

WHEREAS the stay of execution of the money judgment awarded to plaintiff and the effect of the declaratory and injunctive relief, ordered by the Court on December 4, 1995, by its terms automatically dissolved upon "the conclusion of any appellate proceedings"; and

WHEREAS defendant expressly reserves any right remaining to appeal the award of interest or any costs in this case;

WHEREAS, the court has previously determined that costs shall be awarded as provided by law, the court has discretion to award costs, and plaintiff pursued diligently this test case of minor principal value; it is hereby

(1) ORDERED that further briefing is not required and Slip Op. 96-32 is hereby readopted as the opinion of the court on the issue of interest.

(2) ORDERED that defendant pay plaintiff the principal amount owing of \$8,281.87 within 60 days hereof;

(3) ORDERED that defendant pay plaintiff \$403.63 in costs within 60 days hereof;

(4) ORDERED that defendant pay plaintiff interest on the aforementioned \$8,821.87 principal, calculated under 28 U.S.C. § 2411, and that the payment obligation is stayed until 30 days after the time for appeal expires or appellate proceedings are complete.

— Jane A. Restani  
JUDGE

Dated: New York, New York

This 26<sup>th</sup> day of June, 1998.