

UNITED STATES COURT OF INTERNATIONAL TRADE

<hr/>		:
AMERICAN NATIONAL FIRE	:	:
INSURANCE COMPANY, as surety for	:	:
AMLON METALS, INC.	:	:
	:	:
Plaintiff,	:	:
	:	Before: Judith M. Barzilay, Judge
v.	:	Court No. 00-00022
	:	:
UNITED STATES,	:	:
	:	:
Defendant.	:	:
<hr/>		:

MEMORANDUM ORDER

[Plaintiff’s motion for reconsideration is denied.]

Dated: September 7, 2006

Law Offices of Barry M. Boren (Barry M. Boren) for Plaintiff American National Fire Insurance Co.

Peter D. Keisler, Assistant Attorney General; (*James A. Curley*), Civil Division, Commercial Litigation Branch; (*Barbara S. Williams*), Attorney in Charge, International Trade Field Office; *Aimee Lee*, International Trade Field Office; *John J. Mahon*, International Trade Field Office, United States Department of Justice for Defendant United States.

BARZILAY, JUDGE: Plaintiff American National Fire Insurance Company (“ANF”) moves pursuant to 28 U.S.C. § 2646 and USCIT Rule 59 to have this court vacate the final judgment for the government in *American National Fire Insurance Company v. United States*, Slip. Op. 06-107, 2006 WL 2008537 (CIT July 18, 2006) (“ANF I”), rehear the matter, and enter judgment in its favor. See Pl.’s Mot. Recons. 1. For the reasons discussed below, Plaintiff’s motion for reconsideration is denied.

The disposition of a motion for reconsideration lies within “the sound discretion of the court.” *United States v. Gold Mountain Coffee, Ltd.*, 8 CIT 336, 336, 601 F. Supp. 212, 214 (1984). A court generally will grant such a motion only to “rectify[] a significant flaw in the conduct of the original proceeding.” *Gold Mountain Coffee, Ltd.*, 8 CIT at 336 (quotations & citation omitted). Specifically,

[a] rehearing may be proper when there was: (1) an error or irregularity in the trial; (2) a serious evidentiary flaw; (3) a discovery of important new evidence which was not available even to the diligent party at the time of trial; or (4) an occurrence at trial in the nature of an accident or unpredictable surprise or unavoidable mistake which impaired a party’s ability to adequately present its case.

Id. at 336-37. A motion for reconsideration will not be granted merely to give a losing party another chance to re-litigate the case or present arguments it previously raised . *See id.* at 337.

Plaintiff sets forth several arguments in support of its motion. ANF first claims that Customs made a protestable decision when it assessed antidumping duties against the entry in question. *See* Pl.’s Mem. Law Supp. Mot. Recons. 1. However, as Defendant correctly notes, Plaintiff raised this argument previously, and the court fully addressed the claim.¹ *See* Def.’s Opp’n Pl.’s Mot. Recons. 2-3; *see also ANF I*, Slip. Op. at 12-13. ANF also repeats its earlier, conclusory argument that it suffered harm because Customs failed to follow its regulations. *See* Pl.’s Mem. Law Supp. Mot. Recons. 2-4. The court likewise examined this claim and held that the procedural irregularities that arose from Customs’ failure to follow its regulations resulted in harmless error. *See ANF I*, Slip. Op. at 16. Plaintiff’s third argument also rehashes its prior

¹ANF also fails to mention in its memorandum that “[t]he Entry Summary form [submitted to Customs by the importer] described the product as ‘Ferroalloys, Other’ and classified it under the corresponding [HTSUS] subheading 7202.29.0050,” which was subject to the relevant antidumping order. *ANF I*, Slip. Op. at 3 (citing Pl.’s Ex. B).

claim that it deserves equitable tolling, a claim which this court denied. *See* Pl.'s Mem. Law Supp. Mot. Recons. 6-10; *ANF I*, Slip. Op. at 20-22. Finally, ANF insists that it is entitled to a rehearing because it could not obtain meaningful relief from 19 U.S.C. § 1581(c). *See* Pl.'s Mem. Law Supp. Mot. Recons. 10. As ample case law attests, this court may assert jurisdiction under § 1582(i) when jurisdiction under other subsections of § 1581 prove manifestly inadequate. *See Gilda Indus., Inc. v. United States*, 446 F.3d 1271, 1275-76 (Fed. Cir. 2006). Nevertheless, because ANF failed to file its summons and complaint simultaneously, the court has no jurisdiction to hear its § 1581(i) claims. *See ANF I*, Slip. Op. at 9 n.8. In sum, Plaintiff has failed to present adequate reason why the court should grant its motion.

Therefore, upon reading Plaintiff's motion for reconsideration of this court's judgment entered on July 18, 2006; Defendant's opposition thereto; and upon consideration of other papers and proceedings had herein, it is hereby

ORDERED that Plaintiff's motion for reconsideration is denied.

September 7, 2006

/s/ Judith M. Barzilay

Dated: _____
New York, NY

Judge

ERRATA

Please make the following changes to *Am. Nat'l Fire Ins. Co. v. United States*, Court No. 00-00022, Slip. Op. 06-136 (CIT Sept. 7, 2006).

Page 3: In the third line on the page, replace "19" with "28".
 In the fifth line on the page, replace "1582" with "1581".

October 17, 2006