



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Appeals

ORDER AND REASONS

Application No. EP-2012-006

A. Sabri

*Order and reasons issued
Friday, April 12, 2013*

TABLE OF CONTENTS

ORDER i

STATEMENT OF REASONS 1

 BACKGROUND 1

 LEGAL FRAMEWORK 1

 ANALYSIS 2

 DECISION 2

IN THE MATTER OF an application made by A. Sabri, pursuant to section 60.2 of the *Customs Act*, for an order extending the time to file a request for a further re-determination of tariff classification pursuant to section 60 of the *Customs Act*.

ORDER

The Canadian International Trade Tribunal denies the application for an extension of time to file a request for a further re-determination of tariff classification under section 60 of the *Customs Act*.

Serge Fréchette
Serge Fréchette
Presiding Member

Dominique Laporte
Dominique Laporte
Secretary

STATEMENT OF REASONS

BACKGROUND

1. This concerns an application under section 60.2 of the *Customs Act*¹ made by Mr. A. Sabri for an order extending the time to file a request for a further re-determination under section 60 of the *Act*.
2. On March 23, 2011, the President of the Canada Border Services Agency (CBSA) issued a notice of re-determination of tariff classification for goods imported by Mr. Sabri, pursuant to subsection 59(2) of the *Act*.
3. The 90-day deadline to request a further re-determination of the CBSA's decision of March 23, 2011, expired on June 21, 2011.
4. On October 19, 2012, Mr. Sabri, through his agent, filed an application with the CBSA for an extension of time to file a request for further re-determination pursuant to subsection 60.1(1) of the *Act*.
5. Through a notification dated October 25, 2012, the CBSA notified Mr. Sabri that his request was denied.
6. On January 23, 2013, Mr. Sabri applied to the Canadian International Trade Tribunal (the Tribunal) contesting that decision, pursuant to section 60.2 of the *Act*.

LEGAL FRAMEWORK

7. Subsection 59(2) of the *Act* stipulates as follows:

59.(2) An officer who makes a determination under subsection 57.01(1) or 58(1) or a re-determination or further re-determination under subsection (1) shall without delay give notice of the determination, re-determination or further re-determination, including the rationale on which it is made, to the prescribed parties.
8. Subsection 60(1) of the *Act* reads as follows:

60.(1) A person to whom notice is given under subsection 59(2) in respect of goods may, within ninety days after the notice is given, request a re-determination or further re-determination of origin, tariff classification, value for duty or marking. . . .
9. Subsection 60.1(1) of the *Act* specifies as follows:

60.1(1) If no request is made under section 60 within the time set out in that section, a person may make an application to the [CBSA] for an extension of the time within which the request may be made, and the [CBSA] may extend the time for making the request.
10. Subsection 60.2(1) of the *Act* reads as follows:

60.2(1) A person who has made an application under section 60.1 may apply to the [Tribunal] to have the application granted after . . .

(a) the [CBSA] has refused the application

1. R.S.C. 1985 (2d Supp.), c. 1 [Act].

If paragraph (a) applies, the application under this subsection must be made within ninety days after the application is refused.

...

(4) No application may be granted under this section unless

(a) the application under subsection 60.1(1) was made within one year after the expiry of the time set out in section 60; and

(b) the person making the application demonstrates that

(i) within the time set out in section 60, the person was unable to act or to give a mandate to act in the person's name or the person had a *bona fide* intention to make a request,

(ii) it would be just and equitable to grant the application, and

(iii) the application was made as soon as circumstances permitted.

ANALYSIS

11. In this case, the CBSA refused the application on October 25, 2012, pursuant to section 60.1 of the *Act*. Mr. Sabri made the present application on January 23, 2013, which is within 90 days of the CBSA's refusal and, therefore, within the time period under paragraph 60.2(1)(a).

12. Subsection 60.2(4) of the *Act* lists the four statutory conditions that must be satisfied before the Tribunal can grant an application under subsection 60.2(3). The *Act* clearly establishes that each of these conditions is mandatory. Failure to meet any one of them will cause the application to fail.

13. With respect to the first condition, the Tribunal notes that the application was made after the one-year time limit set out in paragraph 60.2(4)(a) of the *Act*. The time limit set out in paragraph 60.2(4)(a) expired on June 21, 2012. Mr. Sabri did not file this application until January 23, 2013.

14. The Tribunal is therefore of the view that the first statutory condition has not been met. Accordingly, it is unnecessary to deal with the remaining statutory conditions, under subparagraphs 60.2(4)(b)(i), (ii) and (iii).

DECISION

15. The application is dismissed.

Serge Fréchette
Serge Fréchette
Presiding Member