To File or Not to File: Is CIT Litigation Necessary to Get Your IEEPA Tariffs Refunded?

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On February 20, 2026, the U.S. Supreme Court rendered its landmark decision striking down tariffs purportedly authorized by the International Emergency Economic Powers Act (IEEPA) in *Learning Resources, Inc. v. Trump*.[1] There, the Supreme Court affirmed the U.S. Court of Appeals for the Federal Circuit's decision in *V.O.S. Selections, Inc. v. Trump*[2] and held that "IEEPA does not authorize the President to impose tariffs."[3] The Supreme Court further determined that challenges to the IEEPA tariffs are "within the exclusive jurisdiction" of the Court of International Trade (CIT).[4]

Since the *Learning Resources* decision was released, importers of record have struggled to determine the appropriate path to getting their IEEPA tariffs refunded. Nearly all cases filed with the CIT seeking IEEPA tariff refunds, including those filed after the *Learning Resources* decision, have been stayed by CIT Administrative Order (AO) 25-02. By the CIT's own count, over 2000 IEEPA-related cases have been filed with the CIT. The CIT entered AO 25-02 in December of last year to stay generally all cases dealing with IEEPA tariffs until the Supreme Court decided the issue

While the stay, by the terms of AO 25-02, was only supposed to remain in place until the Supreme Court's decision, the CIT has applied that stay to nearly all IEEPA tariff cases filed since February 20, 2026. Many speculated that the stay would remain in place for some time to allow the federal government an opportunity to try to work out a process for handling refund requests. With only one notable exception, the CIT has not yet assigned those cases to a CIT judge.

This has generated significant confusion for importers and their counsel. Should importers rush to the CIT to seek refunds? Do they even have standing to do so if they have not protested liquidated entries? Will refunds be available for finalized unprotested

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liquidations and unsuccessfully protested liquidations for which no timely CIT challenge was filed? Are liquidated entries subject to reliquidation? The CIT's recent amended order in *Atmus Filtration, Inc. v. United States*[5] (the "IEEPA Order") answers at least a few of these questions.

IEEPA Tariffs and Legal Challenges Thereto

Between February 2025 and April 2025, President Trump issued a series of executive orders and amended executive orders imposing tariffs on imported goods from Canada, Mexico, China, and eventually virtually worldwide, purportedly under authority of IEEPA.

- Executive Order 14193, *Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border*, 90 Fed. Reg. 9113, 9114 (Feb. 1, 2025).
- Executive Order 14194, *Imposing Duties to Address the Situation at Our Southern Border*, 90 Fed. Reg. 9117 (Feb. 1, 2025).
- Executive Order 14195, *Imposing Duties to Address the Synthetic Opioid Supply Chain in the People's Republic of China*, 90 Fed. Reg. 9121 (Feb. 1, 2025).
- Executive Order 14200, *Amendment to Duties Addressing the Synthetic Opioid Supply Chain in the People's Republic of China*, 90 Fed. Reg. 9277 (Feb. 11, 2025).
- Executive Order 14228, *Further Amendment to Duties Addressing the Synthetic Opioid Supply Chain in the People's Republic of China*, 90 Fed. Reg. 11463 (Mar. 7, 2025).
- Executive Order 14257, *Regulating Imports With a Reciprocal Tariff To Rectify Trade Practices That Contribute to Large and Persistent Annual United States Goods Trade Deficits*, 90 Fed. Reg. 15041 (Apr. 7, 2025).
- Executive Order 14259, *Amendment to Reciprocal Tariffs and Updated Duties as Applied to Low-Value Imports from the People's Republic of China*, 90 Fed. Reg. 15509 (Apr. 14, 2025).
- Executive Order 14266, *Modifying Reciprocal Tariff Rates to Reflect Trading Partner Retaliation and Alignment*, 90 Fed. Reg. 15625 (Apr. 15, 2025).

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Through these executive orders, President Trump directed changes to the Harmonized Tariff Schedule of the United States (HTSUS), requiring that goods subject to the challenged tariffs be entered under new tariff codes. On April 14, 2025, a group of plaintiffs filed suit in the CIT to challenge the legality of these executive orders and corresponding IEEPA tariffs.[6] On May 28, 2025, the CIT held that the challenged executive orders and corresponding IEEPA tariffs were unlawful.[7] On August 29, 2025, the Federal Circuit affirmed the CIT's decision.[8] On February 20, 2026, the Supreme Court affirmed the Federal Circuit.[9]

In the months following the filing of the *V.O.S. Selections* complaint, the president, invoking IEEPA, issued further executive orders imposing additional tariffs and modifying others. U.S. Customs and Border Protection (CPB) continued to collect duties imposed by the executive orders during the pendency of the litigation challenging them. Finally, on February 22, 2026, CBP announced that duties imposed under the challenged executive orders "will no longer be collected for goods entered for consumption or withdrawn from warehouse for consumption, on or after 12:00 a.m. eastern time on February 24, 2026."[10]

Tariff Collection and Liquidation

CBP is charged with the assessment and collection of duties, including the IEEPA tariffs.[11] In 1988, Congress enacted the Omnibus Trade and Competitiveness Act of 1988, which adopted the HTSUS.[12] CBP classifies merchandise imported into the United States consistent with the HTSUS, which sets out the tariff rates and statistical categories.[13] The primary headings of the HTSUS describe broad categories of merchandise, while its subheadings provide a particularized division of the goods within each category. CBP's regulations govern the classification and appraisement of merchandise, consistent with the HTSUS. "Merchandise shall be classified in accordance with the Harmonized Tariff Schedule of the United States (19 U.S.C. § 1202) as interpreted by administrative and judicial rulings."[14] The U.S. International Trade Commission publishes and maintains the HTSUS consistent with presidential orders.[15]

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When goods enter the United States, CBP is responsible for assessing and collecting tariffs on those goods after confirming the HTSUS classification of the goods, according to the rates established by the HTSUS.[16] Under CBP regulations, "liquidation" means "the final computation or ascertainment of duties on entries for consumption or drawback entries."[17] When goods enter the United States, the importer of record pays an estimated duty on the entry based on its customs declaration, which asserts a value, origin, and HTSUS classification for the imported goods.[18]

CBP then reviews the customs declaration, may inspect the goods, and fixes the final appraisement of merchandise by confirming the final value, classification, duty rate, and final amount of duty for the imported goods.[19] Once the final amount of duty is determined by CBP, CBP "liquidates" the entry and notifies the importer of record as to whether they owe more money or are entitled to a refund.[20] Liquidation must happen within one year unless extended.[21] CBP typically liquidates entries 314 days after the date of entry of the goods, referred to as the automatic liquidation cycle, and will post a notice on its website.[22]

CBP has discretion to extend the deadline for liquidation for up to one year pursuant to an importer's request and a showing of good cause.[23] Once liquidation has occurred, and if the liquidation is protestable, an importer of record has 180 days to file a protest contesting the liquidation, asking CBP to "reliquidate" the duties.[24] Not all liquidations are protestable, however, and where CBP acts in a ministerial capacity (i.e., without discretion) in imposing a duty, the entry's liquidation cannot be protested.[25] In *AGS Co. Automotive Sol. v. U.S. Customs and Border Protection, et. al.*,[26] a three-judge panel of the CIT confirmed the authority of the CIT to reliquidate entries subject to the IEEPA duties. In a related action, the government has represented that it "will not object to the Court reliquidating any of plaintiffs' entries subject to IEEPA duties that are found to be unlawful."[27]

Supreme Court Strikes Down IEEPA Tariffs

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After granting certiorari in both cases, the Supreme Court consolidated *V.O.S. Selections* with *Learning Resources, Inc.*, which originated in the U.S. District Court for the District of Columbia. On February 20, the Supreme Court issued its opinion in the consolidated case as *Learning Resources, Inc. v. Trump*, 607 U.S. —, Case 24-1287, 2026 WL 477534 (U.S. Feb. 20, 2026). There, it held that "IEEPA does not authorize the President to impose tariffs" and invalidated the IEEPA tariffs.[28] On March 2, the Federal Circuit issued its mandate returning jurisdiction to the CIT.

Atmus Filtration, Inc. v. United States

On February 27, Atmus Filtration, Inc. filed suit in the CIT against the United States, CBP, and CBP Commissioner Rodney Scott, seeking refunds of millions of dollars in IEEPA-based tariffs.[29] While the case was immediately stayed like all others, the CIT *sua sponte* lifted the stay only as to the *Atmus Filtration* case and assigned it to Judge Richard K. Eaton, who has been designated as the sole CIT judge to hear IEEPA refund matters.

At a March 4 hearing, Judge Eaton ordered CBP to halt liquidation of entries subject to IEEPA duties and begin unwinding duties already assessed. The following day, Judge Eaton issued the IEEPA Order, where he ordered that "with respect to any and all unliquidated entries that were entered subject to the IEEPA duties imposed by the Executive Orders considered by the Supreme Court in *Learning Resources, Inc. v. Trump* . . . U.S. Customs and Border Protection is hereby directed to liquidate those entries without regard to the IEEPA duties. Any liquidated entries for which liquidation is not final shall be reliquidated without regard to those duties."[30]

After noting that last year's Supreme Court decision in *Trump v. CASA, Inc.*,[31] which held that universal injunctions are impermissible, does not extend to the CIT because it "was provided with national geographic jurisdiction," Judge Eaton also indicated that his decision would reach all affected importers of record, regardless of whether they have filed suit in the CIT.[32] "All importers of record whose entries were subject to IEEPA duties are entitled to the benefit of the *Learning Resources* decision."[33] Judge Eaton further noted:

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Finally, the Chief Judge has indicated that I am the only judge who will hear cases pertaining to the refund of IEEPA duties. So there is no danger that another Judge, even one in this Court, will reach any contrary conclusions. To find otherwise would be to thwart the efficient administration of justice and to deny those importers who have filed suit the efficient resolution of their claims, and to deny entirely importers who have not filed suit the benefit of the *Learning Resources* decision.[34]

On March 6, the executive director of CBP's Trade Programs Directorate, Brandon Lord, filed a 13-page declaration citing the challenges CBP faced in handling IEEPA tariff refunds and stopping liquidation of pending entries subject to the IEEPA tariffs. In it, he noted that as of March 4, over 330,000 importers of record have made over 53 million entries subject to IEEPA tariffs, for which the federal government has collected over $166 billion.[35] He further noted that over 20 million such entries remain unliquidated.[36] He added:

[CBP's] existing administrative procedures and technology are not well suited to a task of this scale and will require manual work that will prevent personnel from fully carrying out the agency's trade enforcement mission. Personnel would be redirected from responsibilities that serve to mitigate imminent threats to national security and economic security. Those activities include, but are not limited to, detecting and disrupting transshipped goods, protecting against free trade agreement abuse, and detecting AD/CVD evasion all of which are illicit actions that threaten U.S. domestic industry.

[. . .]

CBP has never been ordered to, nor has it attempted to, process a volume of refunds anywhere near the volume of total entries and Entry Summary lines on which IEEPA duties have been deposited. However, where CBP's predecessor, the U.S. Customs Service, was previously ordered to refund to exporters the Harbor Maintenance Fee (HMF) that was held to have been unconstitutionally imposed as applied to exports

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by the Supreme Court in *United States Shoe Corporation v. United States* (1998), the process took several years to complete and required an updated regulatory procedure.[37]

Ultimately, Director Lord declared that CBP is "confident" that, within 45 days, it can "develop and implement new [Automated Commercial Environment (ACE)] functionality that will streamline and consolidate refunds and interest payments on an importer basis, rather than issuing 53,173,939 separate entry-specific refunds with multiple payments going to the same importer."[38] CBP believes such automation would save it over four million hours when compared to undertaking manual processes.[39]

CBP is making all possible efforts to have this new ACE functionality ready for use in 45 days. This new process will require minimal submission from importers. It will also minimize errors by ensuring accurate IEEPA refund calculations through system validations and allowing for a review period for CBP to resolve any discrepancies with the importer and to confirm no other outstanding enforcement issues or no revenue is owed. The process will be simpler and more efficient than the existing functionalities, and CBP will provide guidance on how to file to refund declarations in the new system.[40]

The same day, Judge Eaton entered a new order suspending the IEEPA Order, in light of Director Lord's declaration, "to the extent that it directs immediate compliance."[41] Judge Eaton further ordered that CBP "shall file a short report describing the progress Customs has made toward the development of a process to issue refunds of IEEPA duties paid with interest" no later than 2:00 p.m. ET on March 12.[42]

Is CIT Litigation Necessary?

Based on what we know at this point from Judge Eaton, for most importers of record, the answer is probably not. The only, yet very important exception is when the 180-day statutory deadline to challenge a denied tariff protest in the CIT is close to expiring. Otherwise, the most prudent course is for importers of record to

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continue monitoring the liquidation processes for their entries and filing CBP protests on those which are subject to the IEEPA tariffs.

Based on Judge Eaton's IEEPA Order and Director Lord's declaration, it appears that CBP is updating its systems to allow for automated calculation (with interest) and issuance of IEEPA tariff refunds. Whether CBP can complete those updates within 45 days remains to be seen, but the suspension of the IEEPA Order, "to the extent that it directs immediate compliance," seems to suggest that the CIT is going to give CBP some time to develop an automated process that, hopefully, obviates the need for most importers of record to file suit in the CIT.

As noted above, if the 180-day deadline to challenge a CBP protest denial in the CIT is close to expiring, we recommend that importers file suit to protect against any arguments that they are statutorily barred from collecting refunds. Otherwise, there does not yet appear to be any exigent need to file suit. For importers whose deadlines to challenge have passed, or for those who did not protest at all within the allowable period, it remains to be seen what their rights will be, but the CIT has expressly reserved the right to reliquidate previously liquidated entries, which may allow for relief when the dust settles.

FBT Gibbons trade lawyers will continue monitoring these proceedings and all others that may impact IEEPA tariff refunds and will provide updates as new information is learned. In the meantime, if you have questions about your eligibility for IEEPA tariff refunds or need guidance navigating CBP's updated processes, please contact the author or any attorney with the firm's Trade and Foreign Law team. FBT Gibbons also has an experienced and well-networked team based in Washington, D.C., that can provide public policy and regulatory counsel, particularly when communicating with or responding to requests from federal agencies.

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[1] 607 U.S. —, Case 24-1287, 2026 WL 477534 (U.S. Feb. 20, 2026).

[2] 149 F.4th 1312 (Fed. Cir. 2025).

[3] Learning Resources, 2026 WL 477534 at *14.

[4] *Id*. at *6, n. 1.

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[5] Court No. 26-01259, DN 29 (Ct. Int'l Trade Mar. 5, 2026).

[6] *See V.O.S. Selections, et al. v. Trump, et al.*, No. 25-cv-00066 (DN 2).

[7] *See id.* at DN 55-56.

[8] *See V.O.S. Selections, Inc. v. Trump*, 149 F.4th 1312 (Fed. Cir. 2025).

[9] *See Learning Resources, Inc. v. Trump*, 607 U.S. —, Case 24-1287, 2026 WL 477534 (U.S. Feb. 20, 2026).

[10] Cargo Systems Messaging Service Message # 67834313, Ending Collection of International Emergency Economic Powers Act Duties (Feb. 22, 2026).

[11] 19 U.S.C. §§ 1500 and 1502.

[12] Pub. L. No. 100–418, 102 Stat. 1107 (1988).

[13] 19 U.S.C. § 1202.

[14] 19 C.F.R. § 152.11.

[15] 19 U.S.C. §§ 1202, 3005, and 3006. *See also Michael Simon Design, Inc. v. United States*, 637 F. Supp.2d 1218, 1225 (Ct. Int'l Trade 2009) ("The authority to modify the HTSUS lies with the President"); *Maple Leaf Marketing, Inc. v. United States*, 582 F.Supp.3d 1365, 1378–79 (Ct. Int'l Trade 2021).

[16] 19 U.S.C. §§ 1202, 1500, and 1502.

[17] 19 C.F.R. § 159.1.

[18] 19 U.S.C. § 1484.

[19] 19 U.S.C. § 1500.

[20] 19 U.S.C. § 1504(b).

[21] 19 U.S.C. § 1504(a).

[22] 19 C.F.R. § 159.9.

[23] 19 U.S.C. § 1504(b)(2), 19 C.F.R. § 159.12(a)(1)(ii).

[24] 19 U.S.C. § 1514.2.

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[25] 19 U.S.C. § 1514.2. *See also Rimco Inc. v. United States*, 98 F.4th 1046, 1053 (Fed. Cir. 2024).

[26] — F.Supp.3. — Case 25-00255, 2025 WL 3634261 (Ct. Int'l Trade Dec. 15, 2025).

[27] *Princess Awesome, LLC v. U.S. Customs and Border Protection, et. al.,* Case 25-078, DN 16 at 12 n.4 (Ct. Int'l Trade May 23, 2025).

[28] *Learning Resources,* 2026 WL 477534 at *14.

[29] Court No. 26-01259, DN 1 (Ct. Int'l Trade Feb. 27, 2026).

[30] Court No. 26-01259, DN 29 at 2-3. (Ct. Int'l Trade Mar. 5, 2026).

[31] 606 U.S. 831 (2025).

[32] Court No. 26-01259, DN 29 at 1-2 (Ct. Int'l Trade March 5, 2026).

[33] *Id.* at 1.

[34] *Id.* at 2.

[35] Court No. 26-01259, DN 31 at ¶ 12 (Ct. Int'l Trade Mar. 5, 2026).

[36] *Id.*

[37] *Id.* at ¶¶ 17, 26.

[38] *Id.* at ¶ 27.

[39] *Id.* at ¶ 28.

[40] *Id.* at ¶ 29.

[41] Court No. 26-01259, DN 33 (Ct. Int'l Trade Mar. 6, 2026).

[42] Court No. 26-01259, DN 34 (Ct. Int'l Trade Mar. 6, 2026).

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