

NINA MOINI: Businesses across the state and country are scrambling to understand if and when they might get refunds for illegal tariffs imposed by the Trump administration. Last month, the US Supreme Court ruled President Donald Trump did not have the authority to set tariffs imposed under the International Emergency Economic Powers Act. It's estimated the federal government has collected some \$160 billion through these tariffs, but the ruling did not lay out a clear pathway forward for refunds to affected businesses. So joining me to help make sense of it all is international trade lawyer David Townsend. He's with the law firm Dorsey & Whitney. Thanks for your time today, Dave.

DAVID TOWNSEND: Yeah, thank you. Nina, it's good to be here. Also, we're very happy to have Dan Digre back with us on MPR. He's the owner of MISCO Speakers in St. Paul, which has been affected by these tariffs. Thanks for being here as well, Dan.

DAN DIGRE: My pleasure, Nina.

NINA MOINI: Dave, I'd love to start with you so that we could set the groundwork here and get a better understanding for the Supreme Court decision that was in February. Can you tell us what it said?

DAVID TOWNSEND: The Supreme Court in February held that the president lacked the authority to issue the various tariffs that he had imposed under the International Emergency Economic Powers Act, or IEEPA. And it was a 6 to 3 decision. The court found that IEEPA, which is a statute that's been in place since the 1970s as an interpretive matter, couldn't be read to permit tariffs to be imposed. And so it held that the tariffs were illegal. It did not specify or discuss in any way what the appropriate remedy is for US importers who paid the tariffs. And so that's created the period of uncertainty and confusion that we see now.

NINA MOINI: OK. Yeah. Thank you for that. Dan, like I mentioned, we have heard from you before a bit last year about how your business has been affected by tariffs. Can you talk a little bit about what it's been like and what this decision meant for you? Because you've been operating your business for 75 years. That's incredible.

DAN DIGRE: Yeah, we've been manufacturing loudspeakers for everything-- from submarines to spacecraft here in St. Paul, Minnesota for a long time, 76 years.

NINA MOINI: Wow.

DAN DIGRE: The tariffs impacted us, of course, the impact goes back to 2019 with the Section 301 tariffs. And we've been dealing with that issue for seven or eight years now. Now, the IEEPA tariffs are recently imposed. And MISCO has had a global supply chain for the better part of 20 years because our supply base in America either moved offshore to some other country or went out of business. So in order to do what we do, we need to have industrial inputs imported from around the world.

So where the section 301 Tariffs impacted goods coming from China, the IEEPA tariffs, of course, impacted goods coming from everywhere. And that's a real problem for a US manufacturer of goods that relies on a global supply chain. So I was glad that the Supreme Court struck that down. And so now we're in the process of understanding what that means and what do we need to do about it in order to claim the refunds.

NINA MOINI: And just how has that impacted business day to day? How concerning this has been informative for you? And then are you going back through the books and getting all your receipts together, or how is that working?

DAN DIGRE: Yeah, well, over the years we've had to pass on the cost of tariffs. We haven't passed them all on, we've absorbed some of the costs. But a tariff is a cost that increases the cost of goods sold. So the tendency of tariffs is to make a product less competitive because the cost is higher. So we have passed on some of those. So we've done that. We've also, of course, what companies need to do now is go on to the ACE website, which is the Customs and Border Patrol's Automated Commercial Environment portal. And that's where you register to make sure you're there. You set up your bank information so that when tariffs are refunded, that you're in a position to receive those.

And then of course, we're looking at what have we paid for IEEPA tariffs on what products. And then also, to whom we have passed those costs on to-- our customers, our other businesses. So we don't have the challenge of trying to figure out a consumer product, which is a different challenge. So we know what we've paid and what we've charged. So that'll be our next challenge, is to go through the books and straighten all that out.

NINA MOINI: Yeah. You make a good point. You're saying businesses like yours, if they are refunded, they want to make sure that whatever their customers were charged extra because of the tariffs, that they also get some of that back, which I think is a nice thing to do. Dave, what are you advising businesses to do who believe that they may be owed a refund?

DAVID TOWNSEND: I mean, I think a great first step is what you just heard, which is isolating the amount of IEEPA duties that a company has paid. That's essentially what's at stake for them in pursuing the refund, so they know how much they think the government ought to pay them back. The confusion here arises because the issue right now of how importers go about getting the refunds is before the US Court of International Trade. And that court 4 far, since the Supreme Court opinion, has spoken pretty clearly.

It issued an order on March four that said that importers who've paid the duties should get the duties back. So that's clear enough. That order, however, remains appealable. It could be that the United States government takes a position adverse to what that order says. And then we'd be back to more litigation at the appellate level. So for importers, they're looking at getting set up in ACE-- as you just heard-- to get an automated refund from the US government or potentially, bring their own case at the Court of International Trade, claiming that they're owed the refund and hoping to get the court order that confirms that.

NINA MOINI: I know it's still kind of confusing right now, Dave. But I do wonder, are people waiting to see if perhaps Congress will act and figure out a better way to distribute those funds, or some sort of a mechanism or an infrastructure for doing that? It sounds like you're saying then people wouldn't need to take a legal route because it would just be figured out.

DAVID TOWNSEND: Yeah, and there has been proposals in Congress to force the administration's hand with respect to refunds. I think what would be ideal would be and what would be good for the business community with respect to this issue-- is if there's a clear administrative process that they can follow so that they don't have to bring their own court case, and they can just go directly to US Customs where they deposited the money in the first place to get the money back. And the Court of International Trade has said clearly that the government can do that. It's ordered the government to do that. And so now the uncertainty lies with respect to the potential for further appeals or litigation as to that issue.

NINA MOINI: I was reading some reporting from Marketplace. And a professor that they interviewed had guessed about a two-to four-year window for when there even might be these payouts to people or these refunds to people, that they would have those back in their pockets and back in their businesses. What have you heard, Dave or Dan? I'll start with you, Dave. What have you heard about that, if anything?

DAVID We really don't know. I'll just throw a few timelines out there that might be relevant to answering that question.

TOWNSEND: One is that US Customs has said they intend to create a refund process within 45 days that would allow the importer to go claim the refund. That's, of course, just to reclaim it, not necessarily when they would get the money back.

But the US government in filings, in this litigation, has pointed out that it took something like seven years for refunds to be issued with respect to a prior set of import or taxes that were ruled illegal and collected by US Customs. I mean, I don't think it should take seven years. I don't think it needs to take seven years. But they've been noting that as a way to warn people that it's a big undertaking from the US government's perspective in terms of just the size and scope of refunds.

NINA MOINI: Dan, I mean, that doesn't sound great to have to wait seven years, if that, for any type of a refund. This uncertainty and some of these changes you mentioned, you've been dealing with it in different forms back in 2019, different tariffs that were going on. Some of this uncertainty, has that impacted you or changed the way that you run your business or feel about your business? How are you planning for that level of uncertainty? Or did you always feel that you had to plan for this level of uncertainty?

DAN DIGRE: Well, when you're in business, you deal with uncertainty every day.

NINA MOINI: Sure.

DAN DIGRE: That's just part of it. We control what we can control and we adapt to what we can't control. The tariffs have been a fact of life since 2019 for us. And there's no reason to believe that they won't continue to be an issue in business. Even if we get an IEEPA tariff, then there'll be new Section 301 investigations. So I think we just adapt our business as best we can. We communicate with our customers, we share information with each other. And then we make plans to ensure that we're continuing to be a strong supplier to our customers.

All right, Dan and David, thank you both so much for your perspectives. Really appreciate your time.

DAVID Thank you.

TOWNSEND:

DAN DIGRE: You're welcome, Nina.

NINA MOINI: Thank you. That's David Townsend, an attorney with Dorsey & Whitney, and Dan Digre, owner of MISCO Speakers.