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DECISIONTHE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-191220

DATE: May 9, 1978

MATTER OF: Flying Tiger Lines, Inc.

DIGEST:

The 3-year statute of limitations in section 322 of the Transportation Act of 1940, as amended, 49 U.S.C. 66(a), bars consideration by GSA, or its designee, of claims not received within the time period.

In letter dated January 25, 1978, Flying Tiger Lines, Inc. (Flying Tiger), requests review by the Comptroller General of the United States of the General Services Administration's (GSA) action in returning as time-barred five of its claims because they were not received by GSA or its designee within the 3-year statute of limitations provided by section 322 of the Transportation Act of 1940, as amended, 49 U.S.C. 66(a) (Supp. V, 1975).

By section 201 of Pub. L. 93-604, 88 Stat. 1960, approved on January 2, 1975, the transportation audit function was transferred from the General Accounting Office (GAO) to GSA, effective October 12, 1975. By paragraph (b) of 49 U.S.C. 66, an additional period of 6 months from the date of GSA's action is provided during which carriers may request review by the Comptroller General of final actions taken by GSA. The request for review was received in GAO within the 6-month period.

The five shipments upon which the claims are made all moved during the time period beginning on September 3, 1973, and ending on February 14, 1974. The claims were received in the General Services Administration (GSA) on September 9, 1977 (two bills), September 26, 1977, October 28, 1977, and November 9, 1977.

The claim papers were returned to the carrier by GSA because the claims had not been received by GSA, or its designee, within 3 years of the time the causes of action accrued. The claimant agrees that GSA properly barred payment of the claims, but requests review and consideration of payment by GAO.

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The audit and settlement of these transportation claims is vested in GSA. Review by GAO is limited to consideration of the final action taken by GSA. On these shipments, GSA declined to consider the claims because the claims were not received within the statutory period provided in 49 U.S.C. 66(a).

We find that the action taken by GSA was correct. Therefore, the claim papers are being returned to Flying Tiger.

Although administrative consideration of these claims is time-barred, Flying Tiger may wish to consider a judicial remedy under the Tucker Act. See 28 U.S.C. 2401 and 2501 (1970), and Iran National Airlines Corp. v. United States, 360 F.2d 640 (Ct. Cl. 1966).

Deputy


Comptroller General
of the United States