REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ALFRED ALCORCON RABAGO, Owner and Proprietor of M.O. Medical Supplies, Petitioner,	**CTA CASE NO. 10354**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF CUSTOMS, Respondent.	Promulgated: MAY 16 2025 1:10 p.m.

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DECISION

***FERRER-FLORES, J.*:**

The instant **Petition for Review** prays for the Court to:

1. after due notice and hearing, issue an order addressed to respondent suspending the disposition and/or sale of the seized goods until a final resolution of the instant case; and,

2. grant the instant *Petition for Review* and reverse and set aside the Decision dated August 5, 2020 of respondent, and recall the issued Warrant of Seizure and Detention (Seizure Identification No. 075-2020), and order for the release of the goods/products covered by said warrant.[1]

THE PARTIES

Petitioner Alfred A. Rabago, the owner and proprietor of M.O. Medical Supplies, is of legal age, Filipino, a resident of 1550 Rizal Avenue,

[1] Statement of the Case, Pre-Trial Order dated November 22, 2022, Docket – Vol. 4, p. 1549.

Sta. Cruz, Manila City, and the owner of the goods subject of the instant seizure proceedings.[2]

Respondent Commissioner of Customs (COC) is being sued in his official capacity. The Bureau of Customs (BOC) is an instrumentality of the government of the Republic of the Philippines, which, among others, exercises original jurisdiction over seizure and forfeiture cases under Republic Act (R.A.) No. 10863 or the Customs Modernization and Tariff Act (CMTA).[3]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

Respondent issued the *Letter of Authority* (LOA) Reference No. 03-31-017-2020 dated March 30, 2020,[4] introducing certain members of the BOC and Philippine Coast Guard, to implement Mission Order No. 03-31-2020-032 of even date[5] and Section 224 of RA No. 10863,[6] and authorizing them to break down any outer or inner gate or door or window of buildings, warehouses and/or establishments, if refused admittance to the place after giving notice for their purpose and to seize goods should the payment of duties and taxes cannot be produced upon demand.

The composite team then proceeded, on March 31, 2020, to petitioner's store, M.O. Medical Supplies (M.O.), located at Remegio Street corner Rizal Avenue, Sta. Cruz, Manila, to implement the said LOA and Mission Order.[7]

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2 Par. 1, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, Docket – Vol. I, p. 8.

3 Par. 2, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, vis-à-vis par. 2, *Answer*, *Id.*, and Docket – Vol. II, p. 685, respectively.

4 Par. 12, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, vis-à-vis par. 5, *Answer*, *Id.* at 9 to 10 and 686, respectively; Exhibits "P-5" and "R-1", Docket – Vol. II, pp. 739 to 740.

5 Par. 12, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, vis-à-vis par. 5, *Answer*, Docket – Vol. I, pp. 9 to10 and Docket – Vol. II, p. 686, respectively; Exhibits "P-6" and "R-2", Docket – Vol. II, p. 741.

6 SEC. 224. *Power to Inspect and Visit.* – The Commissioner or any customs officer who is authorized in writing by the Commissioner, may demand evidence of payment of duties and taxes on imported goods openly for sale or kept in storage. In the event that the interested party fails to produce such evidence within fifteen (15) days, the goods may be seized and subjected to forfeiture proceedings: *Provided*, That during the proceedings, the interested party shall be given the opportunity to prove or show the source of the goods and the payment of duties and taxes thereon: *Provided*, further, That when the warrant of seizure has been issued but subsequent documents presented evidencing proper payment are found to be authentic and in order, the District Collector shall, within fifteen (15) days from the receipt of the motion to quash or recall the warrant, cause the immediate release of the goods seized, subject to clearance by the Commissioner: *Provided*, finally, That the release thereof shall not be contrary to law.

7 Par. 13, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, vis-à-vis par. 5, *Answer*, Docket – Vol. I, p. 10 and Docket – Vol. II, p. 686, respectively.

In his *Memorandum* dated April 15, 2020, Mr. Alvin Y. Enciso, Chief, Customs Intelligence Investigation Service (CIIS) Field Station, Manila International Container Port (MICP), recommended: (1) the issuance of *Warrant of Seizure and Detention* (WSD) against the inventoried items for failure of M.O. to present sufficient documents showing proofs of payment of duties and taxes pursuant to Sections 224 and 1113, paragraphs F and 1(5) of the CMTA and (2) the fast-tracking of the forfeiture proceedings of the subject seizure case and determination of the medical supplies and protective personal equipment that can be donated immediately to the Office of the Civil Defense for the use of the frontliners in the fight against the COVID-19 Pandemic pursuant to the directive of the President.[8] Thus, the Officer-in-Charge-District Collector, MICP, issued the said WSD dated April 17, 2020 against the items enumerated therein.[9]

Petitioner then filed with the BOC Collection District II-B a *Notice of Claim with Motion to Quash*, [10] praying for the said office to (1) recall the WSD (Seizure Identification No. 075-2020); (2) release the goods subject of the said warrant to claimant-movant; and, (3) set a clarificatory hearing for the claimant-movant: [to] submit the original or certified copies of the evidence present; [t]o submit additional evidence; [t]o submit an Undertaking stating that: "the goods inventoried would not be removed, sold or disposed without prior authority from the Bureau of Customs". Petitioner also requested that, upon submission of the Undertaking, it be allowed to open its shop and continue its business.

Thereafter, petitioner filed with the BOC Collection District II-B his *Manifestation,*[11] attaching therein affidavits of his local suppliers, clearer copies of invoices/receipts previously submitted, and corresponding Certificates of Product Registration provided by his local suppliers, and requesting for the said office to admit and consider all the documents submitted or, in lieu thereof, he be given a reasonable extension of time to be able to complete the required submissions.

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8 Par. 15, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, vis-à-vis par. 5, *Answer*, Docket – Vol. I, p. 10 and Docket – Vol. II, p. 686, respectively; Exhibit "R-3", Docket – Vol. II, pp. 742 to 750.

9 Par. 16, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, vis-à-vis par. 5, *Answer*, Docket – Vol. I, p. 10 and Docket – Vol. II, p. 686, respectively; Exhibit "R-4", Docket – Vol. III, pp. 764 to 772.

10 Par. 18, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, vis-à-vis par. 5, *Answer*, Docket – Vol. I, p. 10 and Docket – Vol. II, p. 686, respectively; Exhibits "P-8" and "R-6", Docket – Vol. II, pp. 797 to 811.

11 Par. 20, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, vis-à-vis par. 5, *Answer*, Docket – Vol. I, p. 11 and Docket – Vol. II, p. 686, respectively; Exhibit "P-10", Docket – Vol. II, pp. 868 to 879.

The *Disposition Form* dated May 7, 2020 was then issued by the Intelligence Group of the BOC CIIS,[12] recommending that the subject goods covered by Seizure Identification No. 075-2020 be forfeited in favor of the government and the inventoried goods be immediately transferred to the custody of the MICP Auction and Cargo Disposal Division.

Subsequently, the MICP's District Collector ordered the forfeiture of the subject goods in the *Decision* dated May 18, 2020,[13] the pertinent portions of which read:

> In this regard, this Port takes note of M.O. MEDICAL's failure to offer proof of evidence sufficient to rebut the imputed violations against the seized goods. As a matter of fact, even assuming that the presented documents are authentic and in order pursuant to Section 224 of the CMTA, they do not prove payment of duties and taxes. The Affidavits of its witnesses generally state and confirm that their company sold to M.O. MEDICAL the goods subject of this seizure proceeding. But notably, they did not confirm payment of duties and taxes on the afore-said goods. More importantly, while it may [be] said that the corresponding Licenses to Operate were submitted, the same do not prove payment of duties and taxes but merely a license to operate as Medical Device Importer from the Food and Drug Administration.
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> Relative thereto, this Port not only finds the Motion to Quash unmeritorious but also finds the above-captioned and inventoried goods liable for forfeiture for having been imported in violation of Sections 1113 f and I (5) in relation to Section 224 of the CMTA.
>
> **WHEREFORE**, by virtue of the authority vested in me by law, it is hereby ordered and decreed that the goods/items subject of the above-docketed case, found in possession of **M.O. MEDICAL SUPPLIES** be **FORFEITED** in favor of the government to be disposed of in the manner provided for by law.
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> Let copies of this Decision be furnished to all parties and offices for their information and guidance.
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> **SO ORDERED.**
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> Manila International Container Port, Philippines May 18, 2020.

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12 Exhibit "R-7", Docket – Vol. III, pp. 1080 to 1081.

13 Par. 4, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, vis-à-vis par. 3, *Answer*, Docket – Vol. I, p. 8 and Docket – Vol. II, p. 686, respectively; Exhibits "P-1" and "R-8", Docket – Vol. III pp. 1086 to 1115.

Consequently, petitioner appealed the forfeiture order to respondent.[14] Petitioner's appeal was, however, denied in the *Decision* dated August 5, 2020,[15] signed by then Commissioner Rey Leonardo B. Guerrero. The dispositive portion thereof reads as follows:

> WHEREFORE, premises considered, the undated Decision of the District Collector, MICP, in S.I. No. 075-2020 is hereby **AFFIRMED**. Claimant-appellant's Notice of Appeal with Memorandu[m] on Appeal is **DENIED due course.** Accordingly, the goods/items subject of the above-docketed case, found in possession of **M.O. MEDICAL SUPPLIES** is hereby ordered **FORFEITED** in favor of the government to be disposed of in the manner provided for by law.
>
> Let copies of the Decision be furnished to all offices concerned for information and appropriate action.
>
> **SO ORDERED.**

PROCEEDINGS BEFORE THIS COURT

Petitioner filed the present *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)* on September 17, 2020.[16]

Thereafter, respondent filed on February 22, 2021 his *Answer.*[17] Respondent filed the *BOC Records* for this case on March 3, 2021.[18]

The Court then, in its Resolution dated March 3, 2021,[19] referred the case to mediation in the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA), and ordered the parties to immediately proceed and to personally appear or through their authorized representative before Ms. Avigail B. Sanchez, Mediation Staff Assistant, at the PMC-CTA on April 12, 2021 with or without the presence of their counsel/s for mediation

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[14] Par. 22, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, vis-à-vis par. 5, *Answer*, Docket – Vol. I, p. 11 and Docket – Vol. II, p. 686, respectively; Exhibits "P-11" and "R-9", Docket – Vol. III, pp. 1116 to 1126; Exhibits "P-12" and "R-10", Docket – Vol. III, pp. 1127 to 1145.

[15] Par. 23, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, vis-à-vis par. 5, *Answer*, Id. at 11 and 686, respectively; Exhibits "P-2" and "R-11", Docket – Vol. III, pp. 1146 to 1180.

[16] Docket – Vol. I, pp. 7 to 23.

[17] *Id.* at 685 to 701.

[18] Respondent's *Manifestation* dated March 3, 2021, Docket – Vol. III, pp. 1185 to1186.

[19] Docket – Vol. III, pp. 1183 to 1184.

proceedings. The parties, however, failed to reach an agreement before the PMC-CTA.[20]

Thus, the Pre-Trial Conference was initially scheduled on March 17, 2022,[21] but was reset to,[22] and held on September 8, 2022.[23] Prior thereto, the *Pre-Trial Brief for Petitioner* was filed on March 14, 2022,[24] while respondent's *Pre-Trial Brief* was submitted on June 28, 2022.[25]

During the Pre-Trial Conference,[26] the Court directed the parties to submit a *Joint Stipulation of Facts and Issues* (JSFI) on or before October 10, 2022. The Court also stated that, in the event that no JSFI is filed in this case within the given period, the parties shall be deemed to have waived the filing of the same, and the Court shall issue a Pre-Trial Order on the basis of the matters agreed upon in the Pre-Trial Conference.

On October 10, 2022, petitioner filed a *Motion for Extension of Time to File Joint Stipulation of Facts and Issues,*[27] which the Court granted in the Resolution dated October 12, 2022,[28] giving the parties until October 23, 2022, within which to file the JSFI. Respondent then filed, on November 17, 2022, his *Manifestation and Motion (re: Joint Stipulation of Facts and Issues per Order dated September 8, 2022)*,[29] stating that the parties remain unable to come up with the JSFI, affirming the facts as stated in his *Pre-Trial Brief*, and praying that the said *Manifestation and Motion* be duly noted and considered in the termination of the pre-trial proceedings and the issuance of the Pre-Trial Order.

In the Resolution dated November 22, 2022,[30] the Court deemed the parties to have waived the filing of their JSFI. Consequently, the Pre-Trial Order was issued on even date.[31]

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[20] *Mediator's Report* dated October 21, 2021, Docket – Vol. III, p. 1197; Resolution dated November 10, 2021, Docket – Vol. III, pp. 1209 to 1210.

[21] Resolution dated November 10, 2021, Docket – Vol. III, pp. 1209 to 1210.

[22] Resolution dated March 14, 2022 and Notice of Resetting dated June 29, 2022, Docket – Vol. III, pp. 1224 and 1237, respectively.

[23] Minutes of the hearing held on, and Order dated, September 8, 2022, Docket – Vol. III, p. 1499, and Docket – Vol. IV, pp. 1506 to 1507, respectively.

[24] Docket – Vol. III, pp. 1225 to 1234.

[25] *Id.* at 1238 to 1249.

[26] Minutes of the hearing held on, and Order dated, September 8, 2022, Docket – Vol. III, p. 1499, and Docket – Vol. 4, pp. 1506 to 1507, respectively.

[27] Docket – Vol. 4, pp. 1508 to 1510.

[28] *Id.* at 1513.

[29] *Id.* at 1558 to 1561.

[30] Docket – Vol. 4, pp. 1545 to 1546.

[31] *Id.* at 1549 to 1554.

Trial then ensued.

Petitioner offered his testimony in support of his case.[32]

Subsequently, on February 13, 2023, *Petitioner's Formal Offer of Documentary Evidence* was filed,[33] to which respondent filed his *Comment (On Petitioner's Formal Offer of Evidence)* on February 27, 2023.[34] In the Resolution dated April 11, 2023,[35] the Court admitted petitioner's documentary evidence, *except* Exhibits "P-10-3-9 to P-10-3-40", for not being found in the records.

For his part, respondent presented Mr. Enciso, Chief of CIIS Field Station, MICP,[36] as his lone witness.

Respondent's *Formal Offer of Evidence* was filed on November 3, 2023;[37] while petitioner filed his *Comment [to Respondent's Formal Offer of Documentary Evidence]* on November 22, 2023.[38] In the Resolution dated February 2, 2024,[39] the Court admitted respondent's offered exhibits, with the exception of Exhibit "R-12", for failure to submit the duly marked exhibit.

The *Memorandum for Petitioner* was submitted on March 18, 2024;[40] while respondent's *Memorandum* was filed on April 5, 2024.[41]

The present case was submitted for decision on April 11, 2024.[42]

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32 Exhibit "P-13", Docket – Vol. 4, pp. 1524 to 1535; Minutes of the hearing held on, and Order dated, November 22, 2022, Docket – Vol. 4, pp. 1539 and 1542 to 1543, respectively.

33 Docket – Vol. 4, pp. 1608 to 1618.

34 *Id.* at 1623 to 1627.

35 *Id.* at 1630 to 1631.

36 Exhibit "R-13", Docket – Vol. II, pp. 727 to 735.

37 Docket – Vol. 4, pp. 1636 to 1643.

38 *Id.* at 1645 to 1648.

39 *Id.* at 1653 to 1654.

40 *Id.* at 1659 to 1686.

41 Docket – Vol. 4, pp. 1689 to 1797.

42 Minute Resolution dated April 11, 2024, Docket – Vol. I, p. ___.

THE ISSUES STIPULATED BY THE PARTIES

As agreed during the Pre-Trial Conference, the issues for this Court's resolution are the following:

1. Whether or not the respondent erred in declaring that the subject goods be forfeited in favour of the government.

2. Whether or not the warrant of detention and seizures were issued without probable cause.[43]

Petitioner's arguments:

Petitioner argues that, contrary to respondent's claim, he has sufficiently proved that he is a purchaser in good faith and that the seized goods were locally purchased from domestic suppliers. Petitioner claims that the seized goods are not objects of any unlawful importation and that respondent had no probable cause to justify the issuance of the WSD.

Respondent's counter-arguments:

Respondent contends that he validly seized petitioner's goods pursuant to his visitorial powers and that an exact finding of fraud is not indispensable for him to exercise his visitorial or forfeiture powers.

THE COURT'S RULING

The Court finds for petitioner.

The Court has jurisdiction over the present Petition for Review.

Sections 7(a)(4) and 11 of RA No. 1125,[44] as amended by RA No. 9282,[45] confers jurisdiction on this Court relative to decisions of respondent, and states the manner of appealing the same, to wit:

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[43] Statement of Issue, Pre-Trial Order dated November 22, 2022, Docket – Vol. 4, p. 1550.

[44] AN ACT CREATING THE COURT OF TAX APPEALS.

[45] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:

(a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:

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(4) **Decisions of the Commissioner of Customs in cases involving** liability for customs duties, fees or other money charges, **seizure,** detention or release of property affected, fines, **forfeitures** or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs; *(Emphases added)*

SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any party adversely affected by a decision, ruling or inaction of the** xxx xxx xxx **Commissioner of Customs** xxx xxx xxx **may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action** as referred to in Section 7(a)(2) herein.

xxx xxx xxx. *(Emphases added)*

In relation thereto is Section 1136 of the CMTA, which is quoted hereunder for ready reference:

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SEC. 1136. Review by the CTA. — Unless otherwise provided in this Act or by any other law, the party aggrieved by the ruling or decisions of the Commissioner may appeal to the CTA, in the manner and within the period prescribed by law and regulations. Decisions of the Secretary of Finance when required by this Act, may likewise be appealed to the CTA.

Unless an appeal is made to the CTA in the manner and within the period prescribed by law and regulations, the ruling or decision of the Commissioner or the Secretary of Finance shall be final and executory.

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Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within 30 days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon.

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Likewise, Section 3 (a) Rule 8 of the RRCTA states:

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SEC. 3. Who may appeal; period to file petition. —

(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of taxes.

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Based on the foregoing provisions, the party aggrieved by a decision or ruling of the COC may appeal to this Court within 30 days from receipt of the said adverse decision or ruling.

Petitioner alleges that on August 18, 2020, it received respondent's *Decision* dated August 5, 2020.[46] Thus, petitioner had until September 17, 2020 within which to file the instant *Petition for Review* before this Court. Clearly, this Court has jurisdiction over the case.

The Court shall now proceed to discuss the merits of the case.

The forfeiture of the subject goods is improper.

Petitioner contends that he is a "buyer in due course" and that, as a retailer, he merely purchased the subject goods from its legitimate local suppliers. Petitioner maintains that no evidence whatsoever was presented to show that the seized goods were imported in violation of relevant provisions of the CMTA, nor was it shown that petitioner had knowledge that the seized goods were imported contrary to law. Petitioner posits that, in order to direct the seizure of goods, the *onus probandi* rests on respondent who ordered the same to show that the requirements under the law are met. In the instant case,

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46 Par. 23, *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*, Docket – Vol. I, p. 11.

respondent cannot agree with the recommendation of Mr. Enciso, the team leader of the operation who was not able to definitely state the manufacturer of the said goods, nor the exact quantity of the products seized. He claims that respondent has utterly failed in demonstrating any act of intentional fraud on his part, or even show that there was deception to evade the payment of customs duties.

Respondent, on the other hand, courter-argues that he validly seized the goods pursuant to his visitorial powers. Respondent maintains that a plain verification and perusal of the medical brands indicated in the packaging and inventories list of the seized medical supplies from petitioner would readily show that they were foreign-sourced and/or imported for local distribution. Petitioner has the burden of proof to show that these items were truly purchased from local suppliers who had duly paid the duties and taxes for their importation. Since forfeiture proceedings are *in rem*, his good faith is irrelevant. Respondent argues that, if indeed locally purchased, petitioner could have requested for and attached to the submitted affidavits of his purported local suppliers the pertinent proof of payment of taxes and duties, or established the lack thereof. He also avers that the official receipts (ORs) submitted failed to confirm that the supplies listed therein are the exact same medical supplies seized by respondent. Finally, he asserts that an exact finding of fraud is not required in forfeiture proceedings.

Section 1113 (f) and (l)(5) of the CMTA provides:

CHAPTER 4
Seizure and Forfeiture

SECTION 1113. *Property Subject to Seizure and Forfeiture.* — Property that shall be subject to seizure and forfeiture include:

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(f) Goods, the importation or exportation of which are effected or attempted contrary to law, or any goods of prohibited importation or exportation, and all other goods which, in the opinion of the District Collector, have been used, are or were entered to be used as instruments in the importation or the exportation of the former;

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(l) Goods sought to be imported or exported:

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(5) Through any other practice or device contrary to law by means of which such goods entered through a customs office to the prejudice of the government.

Based on the foregoing, goods shall be seized and forfeited in favor of the government if their importation are effected contrary to law, or are goods of prohibited importation or exportation, and all other goods which, in the opinion of the District Collector, have been used, are or were entered to be used as instruments in the importation or the exportation of the former. The goods are also considered subject to forfeiture if imported through any other practice or device contrary to law by means of which such goods entered through a customs office to the prejudice of the government.

In the assailed Decision, respondent found that the seizure and forfeiture of the subject goods was due to petitioner's failure to present proof of payment of duties and taxes upon their importation.

To determine if forfeiture is proper, the Court shall now ascertain if the alleged importation was indeed contrary to law.

Petitioner sufficiently established that he purchased the subject goods locally.

Petitioner claims that it had sufficiently established that the subject goods were locally purchased. Respondent, on the other hand, insists that the subject goods were imported, therefore, petitioner should have presented proof of payment of the duties and taxes.

We rule in favor of petitioner.

During the presentation of petitioner as witness on November 22, 2022, he testified that he is not an importer of the medical supplies found in M.O. Petitioner claims that all of his items were purchased locally, viz:[47]

Atty. Li: Mr. Witness para po sa kalinawagan ng korte pong ito ano po ba ang M.O. Medical Supplies?

Witness: M.O. Medical Supplies po kami po yung it's a retails business po na involved po kami sa pagbebenta ng mga dental supplies and medical supplies po attorney.

Atty. Li: Ang M.O. po ba ay isang importer o nagi-import kayo directly from abroad?

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[47] Transcript of Stenographic Notes (TSN) dated November 22, 2022, pp. 12 to 13.

Witness:	No sir, actually all are items were purchased locally po hindi po kami nagi-import.
Atty. Li:	Under your present oath Mr. Witness, saan po nanggagaling ang inventory ng M.O. Medical Supplies?
Witness:	Yung inventory po ng medical outlet po is dito rin po nanggagaling sa mga ano it comes doon sa mga resibo na ibinibigay po sa amin ng mga suppliers naming.

During re-cross examination, respondent's witness, Mr. Enciso, was asked if he has personal knowledge of whether petitioner is an importer, to which respondent's witness answered that he is not sure, to wit:[48]

ATTY. LI:
Q. So, he is also not an importer, to your personal knowledge? Is he an importer, to your personal knowledge?

MR. ENCISO:
A. I am not sure.

To show that the medical supplies found in his stores were purchased locally, petitioner presented sales invoices and/or official receipts (ORs) from his suppliers[49] and affidavits and the corresponding license to operate of his local suppliers.[50] In addition, petitioner presented the corresponding Certificates of Product Registration for the seized goods.[51]

A careful perusal of the foregoing, the Court observes that the affidavits of petitioner's local suppliers were not notarized. It was explained in the Decision of the District Collector, however, that the notarization of the affidavits of petitioner's local suppliers, which were executed in April 2020, was dispensed with in view of the height of the COVID-19 pandemic with extreme lockdown measures imposed by the government.[52] The Court, thus, considers these affidavits.

The Court also notes that the quantity indicated in the ORs submitted by petitioner and the inventory of respondent's representative, as reiterated in the Decisions of the District Collector and respondent, do not match. Nevertheless, the Court considers these sufficient considering that petitioner

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48 TSN dated October 12, 2023, p. 39.
49 Exhibits "P-8-5-1" to "P-8-5-38", Docket – Vol. II, pp. 830 to 867.
50 Exhibits "P-10-1-1" to "P-10-9", BOC Records, pp. 184 to 268.
51 Exhibits "P-10-3-1" to "P-10-8" and "P-10-3-41" to "P-10-3-120", Docket – Vol. II and III, pp. 904 to 989 BOC Records, pp. 54 to 104.
52 Exhibits "P-2" and "R-11" Docket – Vol. III, p. 1161.

has adequately explained during the hearing that the discrepancy is due to the fact that he is engaged in retail, thus, the inventory of goods that are for sale in his store is constantly changing, viz.:[53]

Asso. Sol. Reyes:	As regards your inventory do you have reconsideration reports as part of your business procedures?
Witness:	I'm sorry ma'am, I did not get the question.
Asso. Sol. Reyes:	Because here in Question 48 you answered that when the BOC cross matched the inventory, it did not matched because as a retail your inventory moves. So do you have any regular updates just so when you submit the reports with the BOC it would at least be the approximate number of your actual inventory?
Witness:	Actually ma'am, can I answer in Tagalog?
Court:	Yes.
Witness:	Actually ma'am talagang hindi naming talaga mai-aano kasi from day to day basis
Court:	Mai-aano?
Witness:	I mean, yung kagaya po ng ina-aano ma'am
Court:	Malilista?
Witness:	Malilista opo kasi, sorry Your Honors, yung laging naibebenta naming sa store.
Court:	Dahil araw araw may nabebenta?
Witness:	Kasi araw araw po may nabebenta po lagi pong nagbabago yung item number naming so Talaga ang hirap pong gawin
Court:	So there is no reconciliation, you're asking?
Witness:	Yes Your Honor.
Court:	There is none.
Asso. Sol. Reyes:	Or atleast regular reports?

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53 TSN dated November 22, 2022, pp. 7 to 8.

Witness:	Wala pong masyadong ganun ma'am na regularly talagang ano kasi dadating yung report ng naibebenta na
Court:	In the first place are your required to make any report to the BOC?
Witness:	I'm sorry Your Honor?
Court:	Yes I am asking you a question. Are you required to make a report to the BOC?
Justice San Pedro:	Kailangan ba kayong magreport as BOC tungkol sa mga benta nito? Meron bang ganung requirement sa iyo bilang negosyante na magreport sa Bureau of Customs?
Witness:	Wala naman po.

The Court likewise notes that, despite petitioner's claim that he is not an importer, respondent never presented evidence that would show otherwise. Thus, the Court finds petitioner to be not an importer of medical supplies.

In quasi-judicial proceedings, such as the instant case, the quantum of proof necessary is substantial evidence, or such amount of relevant evidence necessary which reasonable mind might accept as adequate to justify conclusion.[54] Thus, when investigating, respondent should ascertain the facts, weigh evidence, and draw conclusions from the evidence presented in the exercise of its quasi-judicial function.

For the reasons above stated, the Court finds that petitioner has sufficiently proven, through substantial evidence presented before the BOC, that most of its goods for sale in M.O. were purchased locally.

Petitioner is not required to secure or keep proof of payment of duties and taxes of the imported goods.

In the Decision of respondent and the District Collector, they insist that petitioner should present proof of payment of the duties or taxes for the subject goods.

[54] *Bicol Isarog Transport System, Inc. vs. Roy R. Relucio*, G.R. No. 234725, September 16, 2020.

Petitioner, on the other hand, contends that, since the subject goods were locally purchased therefore, he did not pay the corresponding duties and taxes.

Petitioner was asked by Associate Justice Maria Rowena Modesto-San Pedro, during the hearing on November 22, 2022, whether he has the obligation to pay custom duties, to which he answered in the negative, to wit:[55]

Justice San Pedro:	Bilang buyers sa mga local sellers may obligasyon ka bang magbayad ng custom duties doon sa mga binili mo?
Witness	I think wala po kasi hindi naman po ako nag-iimport ng mga
Justice San Pedro:	Pero dito sa mga binili mo, nagbayad ka na ba ng mga tax kagaya ng VAT?
Witness	Opo, yes po.
Justice San Pedro:	Basta hindi ka nagbayad ng customs?
Witness	Yes po.

Justice San Pedro also asked a few clarificatory questions regarding petitioner's duty to pay customs duties and taxes from respondent's witness, Mr. Enciso, the Chief CIIS, MICP:[56]

JUSTICE MODESTO-SAN PEDRO:
Some clarificatory from the Court. Petitioner is not the producer of these medical products, that's correct? He is not the producer.

MR. ENCISO:
A. Sorry?

JUSTICE MODESTO-SAN PEDRO:
Si Rabago, hindi siya yung gumawa ng mga products?

MR. ENCISO:
A. No.

JUSTICE MODESTO-SAN PEDRO:
He is not the manufacturer.

MR. ENCISO:
A. No, Your Honor.

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55 TSN dated November 22, 2022, p. 16.

56 TSN dated October 12, 2023, pp. 40 to 43.

JUSTICE MODESTO-SAN PEDRO:
He was merely a reseller, that's correct?

MR. ENCISO:
A. That's his statement, Your Honor.

JUSTICE MODESTO-SAN PEDRO:
In his store, he was selling these products.

MR. ENCISO:
A. Yes, Your Honor.

JUSTICE MODESTO-SAN PEDRO:
But he was not producing it there in the store.

MR. ENCISO:
A. Yes, Your Honor.

JUSTICE MODESTO-SAN PEDRO:
How do you distinguish if the seller in the store that you are operating in is local purchaser or an importer?

MR. ENCISO:
A. Your Honor, it depends on their explanation and the documents that they will be submitted. In our several implementation of Letter of Authority, when they are the manufacturer or the importer, they submit the documents of the goods imported.

JUSTICE MODESTO-SAN PEDRO:
And if they are not the importer?

MR. ENCISO:
A. If they are not importer, they will be allowed to present the sales invoice, delivery receipt, official receipt plus the proof of payment coming from their sources. They should secure the import documents from their suppliers.

JUSTICE MODESTO-SAN PEDRO:
But here, you admit that petitioner presented proof of purchase from the local suppliers.

MR. ENCISO:
A. Yes, Honors.

JUSTICE MODESTO-SAN PEDRO:
So, merely failure to submit documents showing payment of importation taxes already prompts you to seize the goods. Because you said, if you are not an importer, you still have to show proof of payment of the importation taxes and if they are not able to show that, that prompts you already to seize the goods, is that correct?

MR. ENCISO:
A. Yes, Your Honor.

JUSTICE MODESTO-SAN PEDRO:
What evidence should petitioner have presented for its goods not to have been seized. Those documents of payments?

MR. ENCISO:
A. Yes, Your Honor. The SSDD [*sic*] or the statement... (interrupted)

JUSTICE MODESTO-SAN PEDRO:
But that is issued to the importer not to the reseller.

MR. ENCISO:
A. No, Your Honor.

JUSTICE MODESTO-SAN PEDRO:
Yes, it is issued to the importer and not to the reseller.

MR. ENCISO:
A. Yes, Your Honor. (*Emphasis ours*)

Apparently, the BOC would require any person who has imported goods in their custody to obtain a copy of the proof of payment of duties and taxes, or the Statement of Settlement of Duties and Taxes (SSDT), which is issued to importers.

Here, petitioner did not present the corresponding SSDT or any proof of payment of duties and taxes of the subject goods, as he consistently asserts that he is a reseller and did not import the subject goods. The only proof petitioner presented was the ORs, affidavits, certificates of product registration to establish that the subject goods were locally purchased.

For purposes of ascertaining the correctness of the goods declaration and determining the liability of the importer for duties, taxes and other charges, including any fine of penalty,[57] Section 1003 of the CMTA requires importers to keep at their principal place of business, for a period of three years from the date of final payment of duties and taxes or customs clearance, all documents pertaining to the ordinary course of their business and to any activity or information contained in the records, viz.:

> SECTION 1003. Requirement to Keep Records. — (a) All importers are required to keep at their principal place of business, in the manner prescribed by regulations to be issued by the Commissioner and for a period

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[57] Section 1000 of the CMTA.

of three (3) years from the date of final payment of duties and taxes or customs clearance, as the case may be, all records pertaining to the ordinary course of business and to any activity or information contained in the records required by this title in connection with any such activity.

For purposes of the post clearance audit and Section 1005 of this Act, the term importer shall include the following:

(1) Importer-of-record or consignee, owner or declarant, or a party who:

(i) Imports goods into the Philippines or withdraws such goods into the Philippine customs territory for consumption or warehousing; files a claim for refund or drawback; or transports or stores such goods carried or held under security; or

(ii) Knowingly causes the importation or transportation or storage of imported goods referred to above, or the filing of refund or drawback claim.

(2) An agent of any party described in paragraph (1); or

(3) A person whose activities require the filing of a goods declaration.

A person ordering imported goods from a local importer or supplier in a domestic transaction shall be exempted from the requirements imposed by this section unless:

(1) The terms and conditions of the importation are controlled by the person placing the order; or

(2) The circumstances and nature of the relationship between the person placing the order and the importer or supplier are such that the former may be considered as the beneficial or true owner of the imported goods; or

(3) The person placing the order had prior knowledge that they will be used in the manufacture or production of the imported goods.

(b) All parties engaged in customs clearance and processing are required to keep at their principal place of business, in the manner prescribed by regulations to be issued by the Commissioner and for a period of three (3) years from the date of filing of the goods declaration, copies of the abovementioned records covering the transactions handled.

(c) Locators or persons authorized to bring imported goods into free zones, such as the special economic zones and free ports, are required to keep subject records of all its activities, including in whole or in part, records on imported goods withdrawn from said zones into the customs territory for a period of three (3) years from the date of filing of the goods declaration.

> Failure to keep the records required by this Act shall constitute a waiver of this right to contest the results of the audit based on records kept by the Bureau. (*Emphasis ours*)

Clearly, the importer-of-record or consignee, owner or declarant, or other party who imports goods or causes the importation of goods, shall be required to keep the records of importation.

One of the documents required to be kept by an importer-of record or consignee, owner or declarant, or other party who imports goods or causes the importation under Section 4.5.3 (a) of Customs Administrative Order (CAO) No. 001-19[58] is the proof of payment of duties and taxes.

Section 1003 of the CMTA, however, exempts unless said person falls under the exceptions enumerated therein.

An understanding of the foregoing would show that a person ordering imported goods from a local importer or supplier in a domestic transaction from the requirements of keeping the records is exempted from the duty to keep the records of importation unless said person falls under that the exceptions enumerated in Section 1003 of the CMTA. Thus, petitioner, being a reseller of medical supplier and not an importer-of-record, and who is not among the exceptions enumerated above, is not required to keep proof of payment of duties and taxes.

Petitioner does not fall under the circumstances enumerated. The affidavits, ORs, certificates of product registration and permits collectively shows that he buys from another local store, which may or may not be an importer-of-record. It was not established that the terms of the importation are controlled by petitioner, neither was the circumstances and nature of the relationship between petitioner and the importer/supplier are such that petitioner may be considered as the beneficial or true owner of the imported goods.

Clearly, as the subject goods were locally purchased by petitioner, he is not required to keep in his possession the proof of payment of the corresponding duties and taxes. Consequently, respondent failed to establish that the subject goods were imported contrary to law; thus, the seizure and forfeiture of the subject goods was improper.

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[58] SUBJECT: *Post Clearance Audit and Prior Disclosure Program*, November 29, 2018.

There is no probable cause to issue the WSD.

Section 1117 of the CMTA[59] requires that the WSD be issued after determination of the existence of probable cause and, in case of non-existence thereof, the issuance of order of release.

Section 3.25 of Customs Administrative Order (CAO) No. 003-19[60] defines probable cause as:

> 3.25. Probable Cause — shall refer to the reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant a cautious man in the belief that the person accused is guilty of the offense with which he is charged. It may also refer to the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and the items or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched.

In light of the above, the District Collector should determine, based on the documents submitted, whether there is reasonable ground of suspicion to believe that petitioner imported the goods contrary to law and therefore the subject goods should be seized and forfeited in favor of the government.

In view of the findings that petitioner, who is not an importer, locally purchased the subject goods from another local supplier, and is not required to keep any proof of payment of duties and taxes, the Court finds that there is no probable cause to issue the WSD.

The Court likewise notes the lapses in the issuance of WSD. First, the inventory prepared by the BOC officials, which is the basis for the issuance of the WSD, neither state the country of origin nor the brand or manufacturer of the goods to show that the subject goods are imported goods and were imported contrary to law. In the cross-examination of Mr. Enciso, he was

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[59] **SECTION 1117**. *Warrant of Seizure or Order of Release*. — The District Collector shall have the authority to issue a warrant of seizure of the goods upon determination of the existence of probable cause and in case of nonexistence thereof, the issuance of order of release. In case the District Collector issued an order of release, the District Collector shall immediately transmit all the records to the Commissioner who shall automatically review within forty-eight (48) hours, or within twenty-four (24) hours in case of perishable goods. When no decision is made by the Commissioner within the prescribed period, the imported goods shall be deemed released.

The lifting of the alert order shall be issued by the District Collector only upon the affirmation of the decision of the District Collector by the Commissioner, or after the lapse of the period of review by the Commissioner, whichever is earlier.

[60] SUBJECT: *Customs Jurisdiction and Exercise of Police Authority*, April 1, 2019.

asked if the inventory that he and his team prepared specifically indicated the country of origin or even the brand or manufacturer, viz.:[61]

ATTY. LI:
Q. Mr. Witness, going to the inventory you attached to your judicial affidavit, does the inventory indicate the brand of the products which you seized?

MR. ENCISO:
A. Sir, some of the brands and some did not indicate the exact brands.

ATTY. LI:
Q. What about the manufacturer, did you indicate it as well? Does the inventory indicate the manufacturer of the products which you seized Mr. Witness?

MR. ENCISO:
A. Sir, some examiners who conducted the … (interrupted)

ATTY. LI:
Q. Yes or no, Mr. Witness? Please look at the list and tell this Honorable Court does your inventory indicate the manufacturer of your products which you seized on the subject operation which you conducted in M.O. Medical Supplies. Just refer to the inventory which you attached Mr. Witness.

MR. ENCISO:
A. Can I qualify my answer?

ATTY. LI:
Q. Your counsel will be given the chance, just answer the question Mr. Witness. Does it indicate the manufacturer?

ASSOC. SOL. FAVOREAL:
Your Honors, I think the witness is not knowledgeable.

JUSTICE MODESTO-SAN PEDRO:
What is your answer Mr. Witness, yes or no?

MR. ENCISO:
A. Your Honors, I am not sure if it is a manufacturer or brand?

JUSTICE MODESTO-SAN PEDRO:
So, you are not sure if it is the manufacturer or brand?

MR. ENCISO:
A. Yes, Your Honor.

ATTY. LI:

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61 TSN dated October 12, 2023, pp. 14 to 16 and 35.

Q. For example, Mr. Witness, to just confront you, No. 1 Medical Oxygen. Do you think medical oxygen is the manufacturer?

ASSOC. SOL. FAVOREAL:
Objection Your Honor, the witness has already answered.

ATTY. LI:
Your Honors, I am on cross-examination.

JUSTICE MODESTO-SAN PEDRO:
Overruled. So, proceed. Don't ask a question that is argumentative.

ATTY. LI:
We submit, apologies, Your Honors.

Q. So, Mr. Witness, just looking at the inventory, would you be able to say as a customs officer that these products are imported or not? Just based on the inventory that was given to you by COO III Hiram, Labay and Macaraeg.

MR. ENCISO:
A. There are indications that these are imported since the address was written in (China).

ATTY. LI:
Q. Mr. Witness, in this inventory, it these 270 products, you earlier mentioned that some have indications and do not. Can you go over the same, and tell this Court what is the percentage of the products which you seized which contains the brand and the manufacturer?

JUSTICE MODESTO-SAN PEDRO:
Mr. Wtiness, the question is, but you can say that you don't know. What is the percentage?

MR. ENCISO:
A. I don't' know, Your Honor.

JUSTICE MODESTO-SAN PEDRO:
All right.

xxx xxx xxx

ATTY. LI:
Q. I refer to your memorandum marked as our Exhibit R-3 which form part of your recommendation. Can you point specifically to that memorandum or the inventory performed by Hirma, Labay and Macaraeg, what indication therein which shows the country of origin of the products that you seized?

MR. ENCISO:
B. Sir, I saw some with the word China, Japan and USA.

JUSTICE MODESTO-SAN PEDRO:
So, some but not all.

MR. ENCISO:
A. Not all.

While some of the goods seized indicate the manufacturer are from foreign countries, the Court finds such information insufficient to establish that the goods were imported contrary to law. Moreso, the inventory, which is the basis to issue the WSD, did not specify the country of origin.

Second, the Court also notes that the description, size and units of measurement used to determine the quantity of the subject goods seized were not consistently indicated in the inventory of Mr. Enciso and were not duly explained during the hearing, to wit:

ATTY. LI:
Q. Mr. Witness, going over the inventory as well, the list of products in the inventory, does not indicate any description of the products, for example the size?

MR. ENCISO:
A. Some indicated.

ATTY. LI:
Q. Again Mr. Witness, can you kindly go over the inventory and can you tell this Court what percentage of the products contains a description of these products, like for example the size?

MR. ENCISO:
A. Can you repeat the question again?

ATTY. LI:
Q. Similar to the earlier question Mr. Witness, kindly go over to the inventory and tell this Court what is the percentage of the products which contains a description against those which do not contain any description. Can you tell this Court?

MR. ENCISO:
A. It's around fifty (50%).

JUSTICE RINGPIS-LIBAN:
I can only see seven.

ATTY. LI:
Q. Moving to the next question Your Honors. Mr. Witness, in the inventory that you seized, it includes there "Total Quantity". May I refer to your attention here, "Piece", "Unit" or "Set". The inventory made by Hiram,

Labay, Macaraeg specify what they are referring to whether it was a unit, a piece or a set?

MR. ENCISO:
A. I think the examiner could most accurately answer the question.

ATTY. LI:
Q. Mr. Witness, as the Team Leader of this team, looking at this document prepared by your team members, Hiram, Labay and Macaraeg, would you be able to tell this Honorable Court the exact number of the products which you seized?

MR. ENCISO:
A. Which "exacts"?

ATTY. LI:
Q. The number, for example, Mr. Witness, here it says here "Ice Bag 92", does that mean 92 pieces, 92 boxers, 92 plastics? The specificity because your inventory indicates that it should indicate whether it is a per piece, per unit or per set. Looking at the document again Mr. Witness, would you be able to tell the exact number of the products which you seized?

MR. ENCISO:
A. No.

Since the description, size and units of measurement in the inventory were not consistently indicated, petitioner cannot be expected to match the alleged quantity with his ORs.

Citing the case of *Ang Tibay vs. The Court of Industrial Relations*,[62] the Supreme Court, in the case of *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc.*[63] held that that although quasi-judicial agencies "may be said to be free from the rigidity of certain procedural requirements[,it] does not mean that it can, in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirements of due process in trials and investigations of an administrative character."

In the said case, the Supreme Court emphasized that one of fundamental requirements of due process that must be respected in administrative proceedings is that the administrative tribunal or body must consider the evidence presented.

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62 G.R. No. 46496, February 27, 1940.
63 G.R. Nos. 201398-99 & 201418-19, October 3, 2018.

Clearly, the BOC should have considered the substantial evidence presented by petitioner, which casts doubt as to the existence of probable cause to seize and forfeit the subject goods.

On the foregoing basis, there is no probable cause to seize and forfeit the subject goods in favor of the government.

WHEREFORE, premises considered, the present *Petition for Review* is **GRANTED**. Accordingly, the Decisions of respondent Commissioner of Customs and the District Collected dated August 5, 2020 and May 18, 2020 are hereby **REVERSED** and **SET ASIDE** and the Warrant of Seizure and Detention (Seizure Identification No. 075-2020) is **RECALLED** and **LIFTED**. Moreover, respondent or the Bureau of Customs is **ORDERED TO RELEASE the subject seized medical goods, as enumerated in the Warrant of Seizure and Detention, to petitioner sans the payment of duties and taxes**.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Second Division Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice