REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

NATIONAL GRID CORPORATION OF THE PHILIPPINES,
Petitioner,

- versus -

COMMISSIONER OF CUSTOMS AND THE DISTRICT COLLECTOR, NAIA CUSTOMS COLLECTION DISTRICT,
Respondents.

CTA CASE NO. 8663

Members:

CASTAÑEDA, JR., *Chairperson, and*
CASANOVA, *JJ.*

Promulgated:
NOV 2 3 2016 4:13 pm

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RESOLUTION

CASANOVA, *J.*:

For resolution is petitioner's **Motion for Partial Reconsideration**, filed on August 2, 2016, with respondent's **Comment**, filed by registered mail on August 22, 2016 and received by this Court on September 1, 2016.

Petitioner seeks reconsideration of this Court's Decision dated July 25, 2016, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **DENIED**. Accordingly, the Decision dated April 15, 2013 rendered by the Commissioner of Customs and the Decision dated October 29, 2012 made by the District Collector of NAIA Customs Collection

District in Seizure Identification No. 003-2012 forfeiting the Eight (8) Boxes STC VIDEO CONFERENCING EQUIPMENT in favor of the government is hereby **AFFIRMED**.

SO ORDERED."

In its motion, petitioner assails the Decision for being contrary to law and the evidence on record. Petitioner argues that the Court's conclusion that the subject shipment is not really consigned to petitioner but to some other person, making Linda Forbes' declaration that petitioner is the consignee of the subject shipment clearly false, has no basis.

According to petitioner, it is undisputed that the subject video conferencing equipment covered by MAWB No. 229-BKK-4594/HAWB No. MNL 1201001 was expressly consigned to petitioner. In fact, it is also the holder of the air waybill. Hence, petitioner is clearly the owner of the goods consigned.

Respondents, on the other hand, stress that the arguments in in the instant Motion for Partial Reconsideration are mere rehash of petitioner's arguments raised in its Petition for Review that have already been adequately and judiciously dealt with by the Court in its Decision dated July 25, 2016. Accordingly, the said arguments are not strong enough to justify the modification of the said Decision which is based on the facts, the law, and the evidence on record.

Based on petitioner's arguments, the instant motion particularly assails the factual findings of the Court for being contrary to the evidence on record.

While the Court had already extensively discussed and resolved the factual issues presented by both parties in the assailed Decision, nonetheless, the Court will discuss some points for further enlightenment.

Section 1203 of the Tariff and Customs Code of the Philippines (TCCP) provides:

"Sec. 1203. *Owner of Imported Articles.* — All articles imported into the Philippines shall be held to be

> the property of the person to whom the same are consigned; and the holder of a bill of lading duly indorsed by the consignee therein named, or, if consigned to order, by the consignor, shall be deemed the consignee thereof. The underwriters of abandoned articles and the salvors of articles saved from a wreck at sea, along a coast or in any area of the Philippine may be regarded as the consignees."

Based on the foregoing, it is clear that the owner of the imported articles is the consignee, or the one who holds the bill of lading duly indorsed by the consignee or, if consigned to order, by the consignor.

In this case, the shipping labels on the package containing "Eight (8) Boxes STC VIDEO CONFERENCING EQUIPMENT" covered by AWB No. 229-BKK-4594 0775/HAWB No. MNL1201001 indicate the consignee to be American Technologies, Inc.[1] Notably, this was stipulated by the parties.[2]

However, after a careful scrutiny of the declarations contained in the Import Entry & Internal Revenue Declaration (IEIRD) SN No. 119574743, the Court made the following observations: (1) Eliza B. Ordanza and Linda Forbes are the broker and importer/attorney-in-fact, respectively; and (2) the consignee of the subject shipment is petitioner.

Notwithstanding the foregoing, based on the evidence presented, there are two circumstances that constrained the Court to conclude that the subject shipment is not really consigned to petitioner but to some other person, *viz*:

> "xxx records show that the import documents: **Celestica Invoice No. 6318-201, Polycom Packing List-6318A/2011 and Polycom Proforma Invoice No. 6318-2011** submitted by petitioner **were all dated December 30, 2011**, while petitioner's **Purchase Order Nos. 000118400-EMA and 000118409-EMA, prepared on December 29, 2011, were received by Nayon Kontrol Systems and NKS Global Limited, HK only on January 3, 2012**. Thus, the Court is at a

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[1] Page 2 of the Decision dated July 25, 2016, Docket (Vol. II), p. 738.
[2] Par. 3, Joint Stipulation of Facts, Joint Stipulation of Facts and Issues, Docket (Vol. I), p. 310.

> loss as to how the purchase of the subject shipment could have preceded the conformity of NKS Global Limited, HK. If, indeed, the subject shipments was really intended for petitioner, the same would have been ordered or purchased, at the earliest, on January 3, 2012, the date when NKS Global Limited, HK expressed its acquiescence to petitioner's orders. The conclusion that may be reached is that the subject shipment is not intended for petitioner."[3] (*Emphasis supplied*)

Further, pursuant to Section 2530(f) in relation to (1) (3-5), of the TCCP, a false declaration relative to the importation of articles may be committed either by the purported consignee of the articles or by the importer thereof.

The Court has ruled in the assailed Decision that through the collective acts of Nayon Kontrol Systems and NKS Global Limited, HK, acting through Linda Forbes, they demonstrated a wrongful intention in declaring that petitioner is the consignee, despite the fact that it is consigned to some other person, to wit:

> "Applying the foregoing doctrines, We, therefore, hold that Nayon Kontrol Systems and NKS Global Limited, HK, acting through Linda Forbes, the person directly involved in the facilitation of the release of the subject shipment, through their collective acts, clearly demonstrated a wrongful intention in declaring that petitioner is the consignee, the truth being the subject shipment is consigned to some other person as discussed above. In *Aznar vs. Court of Tax Appeals*, the High Court declared that the term 'false' means any deviation from the truth, whether intentional or not. Thus, the declaration made by Linda Forbes that petitioner is the consignee of the subject shipment is clearly false.
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> xxx xxx xxx
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> Airway Bill No. MNL1201001 and Celestica Invoice No. 6318-201 were submitted to the Department of Finance for the approval of petitioner's duty and value-added tax (VAT) exemption on the importation of the

[3] Decision, Docket (Vol. I), p. 759.

subject shipment. The Secretary of Finance officially indorsed the duty and VAT exemption of petitioner to the Bureau of Customs relative to the importation of the subject shipment on the basis of the foregoing documents provided for by Nayon Kontrol Systems and NKS Global Limited, HK. Thus, the tax and duty exempt privilege endorsement exclusively in favor of petitioner would be used in the subject shipment, which, as earlier discussed, is not really consigned to petitioner but to some other person. No other plausible conclusion may be reached other than the fact that Nayon Kontrol Systems and NKS Global Limited, HK would clearly usurp the tax exempt privilege exclusive to petitioner on articles not consigned to, nor intended in favor of petitioner, thereby evading the taxes and duties legally due on the government. Seemingly, petitioner accedes with the clandestine acts perpetuated by the Nayon Kontrol Systems and NKS Global Limited, HK which the Court cannot countenance."

Clearly, there is no cogent reason or justification to disturb the assailed Decision.

WHEREFORE, premises considered, petitioner's **Motion for Partial Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

I concur:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice