REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

MEGA PRECISION CORPORATION,	**CTA Case No. 10482**
Petitioner,	Members:
-versus-	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
HON. REY LEONARDO B. GUERRERO, in his capacity as the COMMISSIONER OF CUSTOMS,	Promulgated:
Respondent.	SEP 10 2024 4:28 p.m.

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D E C I S I O N

MANAHAN, *J.*:

Before the Court is an *Amended Petition for Review* filed on July 7, 2022,[1] seeking that the Court reverse and set aside the *Decision* dated January 29, 2021 ("**assailed *Decision***") of respondent Commissioner of Customs ("**COC**"). The assailed *Decision* ordered the forfeiture of 2,000 pieces of aluminum profiles and directed petitioner to pay 500% surcharge of the applicable duties and taxes therefor as administrative penalty.[2]

THE PARTIES

Petitioner Mega Precision Corporation ("**Mega Precision**") is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal address at 9001 Daisy St., Brgy. Tibagan, Sta. Rosa III, Marilao, Bulacan.[3] It is engaged in the business of manufacturing, supplying, and

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[1] Docket – Vol. I, pp. 316-331. The original *Petition for Review* was filed on March 8, 2021 (Docket – Vol. I, pp. 6-18).
[2] Docket – Vol. II, p. 577.
[3] *Joint Stipulations of Facts, Documents and Issues* ("*Joint Stipulation*"), par. 1, Docket – Vol. II, p. 500.

importing all types of fire safety equipment.[4] It is represented in this case by Ms. Sherry C. Sy.[5]

Respondent Hon. Rey Leonardo Guerrero is the duly appointed Commissioner of the Bureau of Customs ("**BOC**"), vested with the authority to carry out the duties and functions of said office, among which is the enforcement of importation and tariff laws. His office address is at the Office of the Commissioner, OCOM Building, 16th Street, South Harbor, Port Area, Manila.[6]

THE FACTS

On July 7, 2018, in the course of its business operations, Mega Precision ordered sodium bicarbonate, a component in the manufacture of fire extinguisher, from Full Legend Industrial Limited ("**Full Legend**").[7] Before the shipment arrived in the Philippines, Mega Precision received the Bill of Lading,[8] Packing List,[9] Commercial Invoice,[10] and ASEAN-China Free Trade Area Preferential Tariff Certificate of Origin[11] of the shipment.[12]

On August 16, 2018, the shipment arrived at the Port of Manila from China on board the vessel JIAN GONG 618180808 with Registry No. RCL0037-18. Upon arrival of the container, Mega Precision, through its broker Mr. Joel Lim, filed Import Entry No. C105208[13] for the release of the shipment.[14]

On August 18, 2018, the Port of Manila District Collector issued Alert Order No. A/POM/20180823-021 dated August 23, 2018 against the shipment, for possible violation of Section 1400 (Misdeclaration, Misclassification, Undervaluation in Goods Declaration) in relation to Sections 1113 and 1401 of

[4] *Joint Stipulation*, par. 4, Docket – Vol. II, p. 501.
[5] *Secretary's Certificate* dated March 8, 2021, Exhibit "P-2," Docket – Vol. II, p. 578; *Joint Stipulation*, par. 2, Docket – Vol. II, p. 500.
[6] *Joint Stipulation*, par. 3., Docket – Vol. II, p. 501.
[7] Exhibits "P-4" and "P-4a," Docket – Vol. II, pp. 581-586; *Joint Stipulation*, par. 5, Docket – Vol. II, p. 501.
[8] Exhibit "P-5," Docket – Vol. II, p. 587.
[9] Exhibit "P-7," Docket – Vol. II, p. 589.
[10] Exhibit "P-8," Docket – Vol. II, p. 590.
[11] Exhibit "P-9," Docket – Vol. II, p. 591.
[12] *Joint Stipulation*, par. 6, Docket – Vol. II, p. 501.
[13] Exhibit "P-10," Docket – Vol. II, p. 592.
[14] *Joint Stipulation*, par. 8, Docket – Vol. II, p. 501.

the Customs Modernization and Tariff Act ("**CMTA**").[15] The assigned customs examiner, Ariane Joy Santiaguel, conducted a 100% examination of the shipment on September 3, 2018.[16] Below is the result of the examination:[17]

Container Number	As Declared	As Found	Remarks
BSIU9387900	1,000 BAGS OF BC DRY POWDER (SODIUM BICARBONATED BASED)	1,000 BAGS OF BC DRY POWDER 40% (SODIUM BICARBONATED BASED) UNDECLARED 2,000 PIECES ALUMINUM PROFILE	ISSUANCE OF WARRANT OF SEIZURE AND DETENTION

The sodium bicarbonate was placed at the rear end of the aluminum profiles.[18]

On September 12, 2018, the District Collector issued a *Warrant of Seizure and Detention* (WSD) under Seizure Identification No. 2018-118 against the undeclared 2,000 pieces of alu-minum profiles.[19] Investigation and hearings were conducted on October 12, 2018, November 12, 2018, and November 26, 2018.[20]

On November 30, 2018, Mega Precision filed a *Position Paper with Offer of Settlement*, as requested by Full Legend (for recovery representation assistance).[21] In a *Memorandum* dated January 21, 2019, the BOC Port of Manila – Law Division recommended the computation of the settlement value to the BOC Port of Manila – Formal Entry Division.[22] The latter

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[15] *Id.*, pars. 9, 9.1, and 10.1, Docket – Vol. II, pp. 501-502.
[16] *Id.*, par. 10, Docket – Vol. II, p. 502.
[17] *Id.*, par. 12, Docket – Vol. II, p. 502.
[18] *Id.*, par. 11, Docket – Vol. II, p. 502.
[19] *Id.*, pars. 14 and 14.1, Docket – Vol. II, p. 503.
[20] *Id.*, par. 15, Docket – Vol. II, p. 503.
[21] *Id.*, par. 17, Docket – Vol. II, p. 503.
[22] Exhibit "R-18," Docket – Vol. I, p. 453; *Joint Stipulation*, pars. 18 and 18.1, Docket – Vol. II, p. 503.

submitted a computation of the redemption value for the shipment in the amount of ₱415,385.00.[23]

The Port of Manila District Collector issued an *Order* on September 9, 2019 ("**2019 *Order***") accepting Mega Precision's offer of settlement by payment of the redemption value.[24] Pursuant to Section 1127 of the CMTA (Automatic Review in Forfeiture Cases), the District Collector forwarded the said order with the docket to the COC.[25]

On September 12, 2019, the BOC Legal Service requested from the Import Assessment Service ("**IAS**") a verification of the computation of the redemption value. In a *Memorandum* dated December 21, 2020, the IAS submitted a computation of the redemption value in the amount of ₱748,024.00.

Ultimately, the COC issued the assailed *Decision* dated January 29, 2021, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Order dated 09 September 2019 of the District Collector, Port of Manila in accepting claimant's offer of settlement is hereby **REVERSED** and **SET ASIDE**. Accordingly, with the undeclared 2,000 pieces Aluminum Profiles which are part of the shipment of 1x40' Container bearing No. BSIU9387900, consigned to **MEGA PRECISION CORPORATION**, covered by B/L No. SNL9WPHXJF0001 is hereby **FORFEITED** in favor of government, to be disposed in the manner provided by law. Further, the claimant is hereby directed to pay the 500% surcharge of the applicable duties and taxes for the undeclared items as an administrative penalty for violation of Section 1400 of the CMTA.
>
> Let copies of this Decision be furnished all parties and offices for their information and appropriate action.
>
> SO ORDERED."[26]

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[23] Exhibit "R-19," Docket – Vol. I, pp. 455-456; *Joint Stipulation*, pars. 19 and 19.1, Docket – Vol. II, p. 504.
[24] *Joint Stipulation*, par. 20, Docket – Vol. II, p. 504.
[25] *Id.*, pars. 21 and 21.1, Docket – Vol. II, p. 504.
[26] Exhibit "N-5", Docket – Vol. II, p. 577.

Mega Precision received a copy of the assailed *Decision* on February 6, 2021.[27]

On March 8, 2021, Mega Precision filed the present *Petition for Review*.[28] The COC posted his *Verified Answer* on October 27, 2021.[29]

The case was referred to mediation[30] but was unsuccessful.[31] Hence, the pre-trial conference was initially set on June 22, 2022.[32] Mega Precision filed its pre-trial brief on June 17, 2022,[33] while the COC posted his pre-trial brief on June 20, 2022.[34]

On July 7, 2022, Mega Precision filed an *Amended Petition for Review*.[35] On August 4, 2022, the COC filed his *Amended Verified Answer (to the Amended Petition for Review dated 5 July 2022)*.[36]

The pre-trial conference was reset to and proceeded on September 29, 2022.[37] The COC manifested that he will not be presenting any witness.[38] Prior thereto, the COC filed an *Amended Pre-Trial Brief*.[39]

On October 27, 2022, Mega Precision filed its *Compliance (Submission of Stipulated Facts)* with attached *Joint Stipulations of Facts, Documents and Issues* executed by the parties.[40] The Court noted the same and ordered the parties to submit their respective list of pre-marked documentary

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[27] *Amended Petition for Review*, par. 43, Docket - Vol. I, p. 323, vis-à-vis *Amended Verified Answer (to the Amended Petition for Review dated 5 July 2022)*, par. 42, Docket - Vol. I, p. 410.
[28] Docket - Vol. I, pp. 6-18.
[29] Docket - Vol. I, pp. 42-54
[30] *Resolution* dated December 16, 2021, Docket - Vol. I, pp. 59-60.
[31] *Mediator's Report* filed on April 12, 2022, Docket - Vol. I, p. 82.
[32] *Resolution* dated April 20, 2022, Docket - Vol. I, pp. 92-93.
[33] *Petitioner's Pre-Trial Brief*, Docket - Vol. I, pp. 170-172.
[34] *Pre-Trial Brief*, Docket - Vol. I, pp. 174-183.
[35] Docket - Vol. I, pp. 316-331. The Court allowed petitioner to amend its *Petition for Review* during the hearing held on June 22, 2022 for it to conform with evidence (*See Transcript of Stenographic Notes*, pp. 7-8.)
[36] Docket - Vol. I, pp. 396-419.
[37] *Minutes* and *Order* dated September 29, 2022, Docket - Vol. II, pp. 496-498.
[38] *Id.*
[39] Docket - Vol. II, pp. 482-492.
[40] Docket - Vol. II, pp. 499-507.

exhibits.[41] The COC posted his *Compliance* on December 7, 2022.[42] Meanwhile, Mega Precision failed to submit the same.[43]

In view of Mega Precision's failure to submit its list of pre-marked documentary exhibits, the Court ordered the issuance of the Pre-Trial Order based on the matters agreed upon during the pre-trial conference and the COC's exhibits which were pre-marked during a Commissioner's Hearing held on January 16, 2023.[44] The Court then issued the *Pre-Trial Order* dated April 24, 2023,[45] and the case proceeded to trial.

Mega Precision offered the lone testimony of Ms. Sherry C. Sy,[46] its Corporate Secretary and duly authorized representative. It filed its *Formal Offer of Evidence* on May 18, 2023,[47] to which respondent posted his comment on May 25, 2023.[48] In a *Resolution* dated July 14, 2023,[49] the Court admitted all of Mega Precision's offered exhibits.

Mega Precision filed its Memorandum on August 16, 2023,[50] while the COC filed his Memorandum on August 18, 2023.[51]

The case was submitted for decision on September 11, 2023.[52]

THE ISSUES

The parties submit the following issues for the Court's resolution:[53]

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[41] *Resolution* dated November 18, 2022, Docket – Vol. II, p. 509.
[42] Docket – Vol. II, pp. 510-518.
[43] *Records Verification* dated January 4, 2023, Docket – Vol. II, p. 522; *Resolution* dated February 1, 2023, Docket – Vol. II, pp. 529-530; *Records Verification* dated February 27, 2023, Docket – Vol. II, p. 548.
[44] *Resolution* dated March 7, 2023, Docket – Vol. II, pp. 550-551.
[45] Docket – Vol. II, pp. 554-562.
[46] Exhibit "P-13," Docket – Vol. I, pp. 362-370; *Minutes* and *Order* dated May 11, 2023, Docket – Vol. II, pp. 563-565.
[47] Docket – Vol. II, pp. 566-570.
[48] *Comment (to Petitioner's Formal Offer of Documentary Evidence)*, Docket – Vol. II, pp. 605-608.
[49] Docket – Vol. II, pp. 614-616.
[50] *Petitioner's Memorandum*, Docket – Vol. II, pp. 617-627.
[51] *Memorandum*, Docket – Vol. II, pp. 629-647.
[52] *Minute Resolution* dated September 11, 2023, Docket – Vol. II, p. 650.
[53] Stipulation of Issues, *Joint Stipulation*, Docket – Vol. II, pp. 505-506.

I. Whether the COC committed reversible error in finding fraudulent misdeclaration on the part of Mega Precision;
II. Whether Mega Precision Corporation caused the shipment of the aluminum profiles in the Philippines; and,
III. Whether Mega Precision Corporation is liable to pay charges for the erroneous shipment.

Petitioner's arguments

Petitioner Mega Precision Corporation maintains that the undeclared aluminum profiles were erroneously shipped to it without fault on its part. It has no need for the said articles, has no reason to order the same, and does not claim ownership thereof. Its supplier, Full Legend, acknowledged the misloading and had in fact requested it to handle the seizure case in its behalf.

Respondent's counter-arguments

Respondent COC argues that since petitioner admitted the misdeclaration, the burden shifts to it to prove that the same is not fraudulent. Moreover, under the CMTA, a discrepancy in the duty and tax to be paid amounting to more than 30% between what is legally determined and what is declared shall constitute *prima facie* evidence of fraud. Since petitioner failed to discharge its burden, it is liable for the 500% surcharge.

Respondent also avers that even assuming that petitioner was a receiver in good faith, the seizure was correctly made. Forfeiture proceedings are *in rem*, therefore the offense attaches primarily to the thing itself rather than the offender. Ultimately, what is essential is whether the articles were imported in violation of customs laws, without regard to the character and conduct of the shipper or consignee.

THE COURT'S RULING

The *Petition for Review* should be granted.

The Court has jurisdiction over the present case.

Section 7 of RA No. 1125,[54] as amended by RA No. 9282[55] ("**CTA Charter**"), provides for the Court's jurisdiction:

> SEC. 7. *Jurisdiction.* - The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> x x x
>
> (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;[56]

Petitioner received the assailed *Decision* of the COC on February 6, 2021. Pursuant to Section 11 of the CTA Charter, petitioner had thirty (30) days therefrom, or until **March 8, 2021**, within which to file an appeal with this Court:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* - Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs ... 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.

[54] AN ACT CREATING THE COURT OF TAX APPEALS

[55] 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 OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

[56] *Emphasis supplied.*

Considering that petitioner timely filed its *Petition for Review* on March 8, 2021, the Court properly acquired jurisdiction over the present case.

The 2019 Order of the Port of Manila District Collector is "deemed approved" due to failure of respondent COC and the Secretary of Finance to act thereon within the prescribed periods.

Section 1127 of the CMTA provides for the automatic review by the COC of any decision by the District Collector which is adverse to the government. It states:

> ***SEC. 1127. Automatic Review in Forfeiture Cases.*** — The Commissioner shall auto-matically review any decision by the District Collector adverse to the government. The entire records of the case shall be elevated within ***five (5) days*** from the promulgation of the decision. The Commissioner shall decide on the automatic review within ***thirty (30) days***, or within ten (10) days in the case of perishable goods, from receipt of the records. When no decision is rendered within the prescribed period or when a decision adverse to the government is rendered by the Commissioner involving goods with FOB or FCA value of ten million pesos (P10,000,000.00) or more, the records of the decision of the Commissioner, or of the District Collector under review, as the case may be, shall be automatically elevated within ***five (5) days*** for review by the Secretary of Finance. The decision issued by the Secretary of Finance, whether or not a decision was rendered by the Commissioner within thirty (30) days, or within ten (10) days in the case of perishable goods, from receipt of the records, shall be final upon the Bureau.[57]

Implementing the above provision, Section 10 of Customs Memorandum Order No. 4-2018(A) provides as follows:

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[57] *Emphasis supplied.*

"**Section 10. Automatic Review**.

10.1. The Commissioner shall automatically review any decision by the District Collector adverse to the government ...

...

10.4. ***When no decision is rendered by the Commissioner within the prescribed period*** or when a decision adverse to the government is rendered by the Commissioner involving goods with Free on Board (FOB) or Free Carrier (FCA) value of ten million pesos (Php 10,000,000.00) or more, the records of the decision of the Commissioner, or of the District Collector under review, as the case may be, shall be ***elevated to the Secretary of Finance within five (5) days from the lapse of the prescribed period to resolve*** or from the date of issuance of the decision, for review by the Secretary of Finance.

10.5. The decision issued by the Secretary of Finance, shall be final upon the Bureau, subject to appeal to the Court of Tax Appeals.

10.6. The Secretary of Finance shall ***within thirty (30) days*** or ten (10) days, for perishable goods ***review the decision of the District Collector*** or the Commissioner, provided that when no decision is rendered within the prescribed period, ***the Decision of the District Collector or the Commissioner shall be deemed approved.***[58]

Based on the foregoing provisions, the 2019 *Order* of the Port of Manila District Collector should have been reviewed and decided on by respondent within 30 days from its promulgation on September 9, 2019, *i.e.* before **October 9, 2019**. Since the period lapsed without respondent rendering a decision, the order should have been elevated to the Secretary of Finance within 5 days or until October 14, 2019. The Secretary of Finance then had 30 days from October 14, 2019, or until

[58] *Emphasis supplied*, citations omitted.

November 13, 2019, within which to review and decide the District Collector's order; otherwise, the order shall be "deemed approved."

Considering that no decision was issued by the Secretary of Finance in this case, the 2019 *Order* is "deemed approved" as of November 13, 2019. As such, respondent's assailed *Decision*, rendered more than a year after, is already of no moment and without legal effect.

ACCORDINGLY, the present *Amended Petition for Review* is **GRANTED**. The assailed *Decision* dated January 29, 2021 is **SET ASIDE**, and the *Warrant of Seizure and Detention* under Seizure Identification No. 2018-118 is **LIFTED** upon payment of the redemption value in the amount of **₱415,385.00**.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
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.

CATHERINE T. MANAHAN
Associate Justice
Chairperson, 3rd Division

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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice