

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

BEN PIMENTEL,

Petitioner,

- versus -

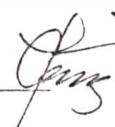
C.T.A. CASE NO. 5734

NELSON TAN, in his capacity as
Commissioner of Customs and
BUENAVENTURA MANIEGO,
in his capacity as District Collector
of Customs, of the Manila
International Container Port.

Respondents.

Promulgated:

APR 14 2000



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DECISION

Assailed in this petition for review with certiorari and prohibition is the decision of Deputy Commissioner of Customs Emma M. Rosqueta, acting for and on behalf of Respondent Commissioner of Customs, dated January 18, 1999, in Customs Case No. 98-09 (MICP Seizure No. 98-131) involving the forfeiture of 93,118.44 kgs. of frozen pork meat which Petitioner had previously bidded and won in an auction sale conducted by the Bureau of Customs ("BOC" for brevity). Petitioner seeks to have the decision reversed, annulled or set aside for allegedly not being supported by the facts and the law and for being rendered without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack of jurisdiction. He prays that Respondents be prevented and prohibited from carrying out their threat of turning over the frozen pork meat to the National Meat Inspection Commission for burning or destruction; and that after hearing, said meat be ordered released in his favor.

As culled from the records and the stipulations of the parties, the antecedent facts are as hereunder stated.

On October 31, 1997, a shipment of 2 x 40 containers consigned to JQ MARINE PRODUCTS arrived from Kaoshiung, Taiwan at the Manila International Container Port ("MICP" for short), City of Manila on board the vessel "EAGLE VENUS" under voy-020-1 and Bill of Lading No. APLU 041512651. It was declared in Entry No. C000174140-97 as 2 x 40 containers of 48.0MT (4,800 ctns.) of frozen mackerel. Upon examination, however, the containers were found to contain 1,423 cartons of frozen pork and 806 cartons of frozen mackerel.

On November 7, 1997, a Warrant of Seizure and Detention ("WSD" for brevity), docketed as Seizure Identification No. 97-108, was issued by Respondent District Collector against the shipment. A letter of even date addressed to the Executive Director of the National Meat Inspection Commission, Dr. Manuel D. Rocha, was sent by Respondent District Collector requesting for a representative to inspect and gather samples of the shipment for laboratory analysis so as to establish its fitness for human consumption. In a letter dated November 19, 1997, the Executive Director denied the request for the reason that it would violate Article 15 (e) of Chapter I of Republic Act No. 7394, otherwise known as the Consumer Act of the Philippines.

On December 8, 1997, the shipment was declared forfeited in favor of the government allegedly for violation of Section 2503, in relation to Section 2530(f) and (l) of the Tariff and Customs Code of the Philippines ("TCCP" for brevity), as amended.

Likewise, on or about the last week of November 1997, another shipment of 3 x 40 containers consigned to JQ MARINE PRODUCTS arrived from Kaoshiung, Taiwan at the MICP. Again, the containers were found to contain 2,119 cartons of frozen pork and 1,204 cartons of frozen mackerel.

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On December 1, 1997, the corresponding WSD, docketed as Seizure Identification No. 97-117 (MICP), was issued by the Respondent District Collector and the shipment of 3 x 40 containers was seized and eventually forfeited in favor of the government for alleged violation of Section 2530(f) of the Tariff and Customs Code.

On December 2, 1997, the Bureau of Customs proceeded to advertise the forfeited containers, designated as Lot 179-97, for sale to the public. The lot consisted of 30,150 kgs. of frozen mackerel and 93,118.44 kgs. of frozen pork.

Attendant therewith, by virtue of a Memorandum, dated March 31, 1997, issued by the Department of Agriculture imposing a temporary ban on the importation of livestock, meat and meat products originating from Taiwan as a result of an outbreak of Foot and Mouth Disease thereat (Annex "A", Petition) and in compliance with the Consumer Act of the Philippines concerning imported goods not admitted for entry to the Philippines, the following conditions were made integral part of the sale by Respondent District Collector, namely, that the goods were:

- a. To be sold pursuant to Sec. 2607 of the TCCP, as amended. Proceeds to be held in trust;
- b. To be re-exported to Taiwan or to any country outside the Philippines; and
- c. Reefer charges to be shouldered by the winning bidder.

On the 14th auction sale on March 13, 1998, Petitioner emerged as the winning bidder and accordingly paid his winning bid of P888,875.95 as well as, reefer charges in the sum of P804,330.20.

On July 22, 1998, Petitioner, through a representative, was able to secure an export license for the frozen pork meat to Hongkong. The issuance of health or meat

certificate required for the export was denied, however, by the Bureau of Animal Industry (Annex "I", Petition).

Thereafter on August 4, 1998, Petitioner requested the Office of Respondent District Collector to have the frozen mackerel released and delivered to him instead of having both the mackerel and frozen pork meat re-exported in view of the certification issued by the Director of the Bureau of Animal Industry, Romeo N. Alcasid, that mackerels are not susceptible to the Foot and Mouth Disease (FMD) virus. Such request was granted upon the favorable recommendation of the Law Division of MICP.

Consequently, on August 27, 1998, the Auction and Cargo Disposal Division of BOC submitted to the Office of Respondent District Collector, a BOC Gatepass bearing no. 5546 for the purpose of lifting the alert order previously issued against the shipments. Aside from the aforementioned conditions of sale, said gatepass contained a notation from the Deputy Collector for Operations, MICP, Atty. Victorio Francisco and a handwritten note of Respondent District Collector that only the frozen mackerel should be released while the frozen pork meat should remain in the custody of the Bureau of Customs (Memorandum for the Respondent; p. 353, docket). The frozen mackerel were thus ordered segregated and released to the Petitioner while the frozen pork meat were at the same time ordered to be re-exported to Taiwan or any country outside of the Philippines.

On September 3, 1998, the Office of Respondent District Collector received another request from the Petitioner for the stripping of the five forfeited containers which he had won in the bidding and transferring their contents to three other containers.

On September 5, 1998, after the stripping and re-stuffing of the frozen mackerel and frozen pork meat, the frozen pork meat was discovered to have been withdrawn and stored at the Vifel Ice Plant and Cold Storage located at C-3 North Bay, Navotas, Metro

Manila. Upon inventory, only about half of the 93,118.44 kgs of frozen pork meat was accounted for. Hence, on September 21, 1998, Respondent District Collector issued another WSD, docketed as S.I. No. 98-131, against the frozen pork meat allegedly for violation of Republic Act No. 7394, Customs Administrative Order No. 35-90, Customs Memorandum Order No. 50-93 in relation to Section 2530 (e) and (f) of the Tariff and Customs Code of the Philippines, as amended.

Subsequently, in a decision dated November 4, 1998, Respondent District Collector ordered the frozen pork meat forfeited in favor of the government.

Petitioner then appealed to Respondent Commissioner of Customs, but in a decision rendered by the latter on January 18, 1999, the decision of Respondent District Collector was affirmed. Hence, the instant appeal.

At bar, Petitioner contended that through the disposal of the frozen pork meat at a public auction sale and the subsequent award of the same to him as winning bidder, the whole process of importation had already been terminated and legally thus, such meat is no longer subject to seizure and forfeiture proceedings under the TCCP; that the residual interest of the BOC pertains only to the fulfillment of the condition to re-export the frozen pork meat, a matter arising out of a sale transaction, not by virtue of importation, hence, instead of forfeiture, the appropriate remedy undertaken by the Respondents should have been to file an action in court concerning perceived violations of the law on sales.

Moreover, Petitioner averred that the shipment's imputed violation of paragraph (e) of Section 2530 of the TCCP, as contained in the questioned decision of Respondent District Collector was not actually included in the violations cited in the WSD (S.I. No. 98-131) issued against said shipment; that while the public prosecutor involved in the case *a quo* relied on Section 2530 (e) of the TCCP and Article 15 (e) of the Consumer

Act of the Philippines, he never applied for the amendment of said warrants; that while said paragraph (e) of Section 2530 provides as a ground for violation thereof, the removal of imported articles which is contrary to or prohibited by law, Respondents allegedly have failed miserably to cite the particular "law" prohibiting such removal of articles; and that, the conditions in the notice of sale and instructions in the above mentioned gatepass which Respondents claimed as having been violated are not the "law" referred to in said paragraph (e) of Section 2530.

In their answer, herein Respondents argued that the first forfeiture was entirely different from the subsequent one covering the case at bar, namely, that the first seizure on November 7, 1997 was for misdeclaration pursuant to Section 2530 of the TCCP and that the named claimant/consignee therein was JQ Marine Products, while on the other hand, the second seizure was based on an illegal withdrawal allegedly by the Petitioner. Respondents insisted thus that there existed no identity between the issues and parties in the first and second seizures so as to prevent another forfeiture proceeding.

Also, Respondents asseverated that while the public auction sale may not be in accordance with the law on sales, it certainly falls squarely within the ambit of Sections 2601 and 2612 of the TCCP which, respectively, governs property subject to sale and disposition of smuggled articles; and that, the illegal diversion of the frozen pork meat to Vifel Cold Storage and Ice Plant at Navotas, Metro Manila constituted smuggling under the second sentence of Section 3514 of the TCCP defining the term as including exportation of articles in a manner contrary to law.

Respondents likewise explained that the removal of articles *contrary to law* as provided in Section 2530(e) of the TCCP may refer to any regulation concerning importation where proper invoicing is required and proper entry needs to be filed, the absence or falsification of which constitutes "technical smuggling", citing the

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commentaries of M.A. Tejam in his book entitled, Revised Tariff and Customs Code of the Philippines, Vol. VI, p. 2348; and that as applied in the case at bar, the act of Petitioner of illegally diverting the frozen pork meat after an earlier representation he has made to Respondent District Collector to have the same released to his person for the purpose of exportation, is an act clearly *contrary to law*.

Penultimately, Respondents brushed aside the claim of the Petitioner that there was a denial of due process in the case at bar resulting from a failure on the part of the Respondents to inform him properly of his alleged violation of paragraph (e) of Section 2530 of the TCCP, which provision was the basis for the forfeiture of the goods in question. Respondents pointed out that Petitioner failed to discuss or raise the disputed paragraph in his appeal to Respondent Commissioner of Customs. They even wondered on why he did not try to explain the diversion of the frozen pork meat to Vifel Cold Storage and Ice Plant in Navotas. Having shown probable cause for the diversion, they contended that it was incumbent upon the Petitioner to prove them wrong.

In the end, Respondents stressed the authority of the Commissioner of Customs to affirm, reverse or modify a decision of a subordinate officer on issues other than those raised on appeal as long as his findings and conclusions are supported by evidence¹. They further emphasized that it is of no consequence whatsoever what the original grounds of the seizure and forfeiture were if, in point of fact, the goods are by law subject to forfeiture².

In his memorandum, Petitioner further elaborated, *inter alia*, that the condition in the auction sale to re-export the frozen pork meat has become an impossible and invalid

¹ Citing the cases of Blair vs. Commissioner of Customs, CTA Case No. 686, March 25, 1961 and Illuh Asrali, et. al. vs. Commissioner of Customs, CTA Case No. 1451, November 19, 1964.

² Citing the cases of Felicidad Viernesa vs. Commissioner of Customs, 24 SCRA 394 and Gigare vs. Commissioner of Customs, 17 SCRA 1001.

condition within the context of Article 1183 of the New Civil Code considering the refusal of the designated government agency, the National Meat Inspection Commission, to issue the health certificate required internationally for meat exports, the absence of which will cause a refusal of entry at the country of destination³. Respondents, however, in their memorandum disagreed. They maintained that the condition to re-export is not an impossible condition since a mere special permit to load could have been requested by the Petitioner from customs officials concerned in lieu of a re-export bond and any meat inspection certificate from the National Meat Inspection Commission.

Based on the preceding facts and disquisition of the parties, the following stipulated issues were raised by them for this Court's resolution, namely:

1. Whether or not the condition to re-export is a valid condition considering the refusal of the designated government agency, the National Meat Inspection Commission to issue the required Health Certificate for its exportation;

2. Whether or not the Warrant of Seizure and Detention (WSD) No. S.I. 98-131 (MICP) was properly amended to include Section 2530(e) of the Tariff and Customs Code, as amended, as among those allegedly violated by the shipment;

3. Whether or not the condition that the frozen pork is "to be re-exported" and the instruction in the gatepass that the "frozen pork should remain in our custody" is a law in contemplation of Section 2530(e) of the Tariff and Customs Code, as amended; and

4. Whether or not the diversion of the subject shipment to Vifel Cold Storage violated Section 2530 of the Tariff and Customs Code, as amended.

After a circumspect analysis of the entire records of the case at bar, this Court peremptorily rules against both the Petitioner and the Respondents.

³ Admitted facts, p.3 of CTA Resolution, dated June 21, 1999.

The present controversy could have been easily avoided if only the Respondents bothered to exercise prudence in their understanding and application of the laws they are tasked to implement. Whereas the parties are tussling over the validity of one of the conditions of the auction sale and the legality of the seizure and forfeiture proceedings instituted against the shipment of frozen pork meat found at the Vifel Ice and Cold Storage Plant at Navotas, Metro Manila, this Court deems it rather wise to first focus on the legality of the auction sale itself, and not merely on the partial nullity of the conditions stated therein.

This Court is convinced that the auction sale conducted on the shipments of frozen pork meat designated as lot 179-97 is contrary to law. Under Article 1459 of the New Civil Code, a thing subject of sale must be licit, meaning lawful and within the commerce of man. While this Court recognizes the fact that certain prohibited articles, by provision of law, can be sold at auction (Sections 2612 and 2610 in relation to Section 102, all of the TCCP), the article involved in this case is not one of them, on account of its unsafe or unfit condition.

As the records bear, the Secretary of Agriculture issued a memorandum, dated November 7, 1997, temporarily banning the importation of meat or meat products from Taiwan due to the reported presence of Foot and Mouth Disease⁴ (Annex "A" of Petition). Because of this, meat imported from Taiwan during the effectivity of the ban became prohibited articles within the contemplation of Section 102 (k) of the TCCP, the provisions of which are hereunder cited, to wit:

SEC. 102. *Prohibited Importations.* - The importation into the Philippines of the following articles is prohibited:

⁴. An acute contagious febrile disease affecting esp. cloven-footed animals, caused by a filtrable virus, and characterized by ulcerating vesicles in the mouth, about the hoofs, and on the udder and teats (Webster's Third New International Dictionary, unabridged)

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k. All other articles and parts thereof, the importation of which is prohibited by law or rules and regulations issued by competent authority (As amended by Presidential Decree No. 34).

Such a prohibition is a fact that has been fully recognized by Respondent Commissioner of Customs in his assailed decision (Docket, p. 84), thus:

The mere fact that the subject commodity had been advertised by the BOC thru the District Collector of Customs in that the articles were being "sold pursuant to Section 2607 of the TCCP, as amended" does not mean that the Bureau is already estopped in claiming that **the goods are banned as prohibited articles**. (Emphasis supplied)

So too in their memorandum, Respondents acknowledged that the frozen pork meat is a banned item (docket, p. 353). There is no dispute thus that the forfeited shipments of frozen pork meat under lot 179-97 are illicit, the same being a prohibited article.

As such, the National Meat Inspection Commission and the Bureau of Animal Industry, both of the Department of Agriculture, respectively refused to conduct quality check and to issue the requisite health clearance on the subject meat (Annexes C & I of Petition). In view of this, said meat remained unsafe or unfit for sale as it came from Taiwan, a country declared to be infected with the dreaded Foot and Mouth Disease. As a matter of procedure, therefore, Respondents should have destroyed or burned said meat pursuant to Sections 2608 and 2609 of the TCCP on the disposition of contraband that are injurious or a menace to the health of the livestock animals in particular, and to public health, in general.

In like manner, auction sale is not an available remedy in the disposition of the frozen pork meat under the provisions of the Consumer Act of the Philippines relied upon by the Respondents. Said article states, to wit:

Art. 15. *Imported Products.* - a) Any consumer product **offered for importation into the customs of the Philippine territory** shall be refused admission if such product:

1. fails to comply with an applicable consumer product quality and safety standard or rule;
2. is or has been determined to be injurious, unsafe and dangerous;
3. is substandard; or
4. has a material defect.

x x x

x x x

x x x

c) Imported consumer products not admitted must be exported except that upon application, the Commissioner of Customs may permit the destruction of the product if within a reasonable time, the owner or consignee thereof fails to export the same.

f) All expenses in connection with the destruction provided for in this Article, and all expenses in connection with the storage, cartage or labor with respect to any consumer product refused admission under this Article, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importation made by such owner or consignee.

(Emphasis supplied)

It can be gleaned from the preceding provisions of the Consumer Act of the Philippines that the persons authorized and required to shoulder the expenses incurred in the exportation of consumer products, i.e. frozen pork meat, not admitted or refused entry to Philippine territory are limited to the importer or consignee only. Under statutory

construction, their express mention implies the exclusion of all others. *Expressio unius est exclusio alterius*. Along this line, the expected participation of third party bidders in an auction sale other than the importer or consignee necessarily disqualifies auction sale as a mode of exporting prohibited consumer products.

Also by specific intent, the forfeited shipments of frozen pork meat are not the kind of consumer products entitled to exportation under Article 15 of the Consumer Act of the Philippines, *supra*, hence, are not covered by said law. This conclusion has been reached by this Court upon noticing under paragraph (a) of said law the phrase "offered for importation into the customs of the Philippine territory". By definition⁵, the word "offer" means "to present (a thing) so that it may be accepted or rejected, or considered." As understood in the case at bar, this requires a correlative duty on the part of the importer or consignee to openly declare or reveal the articles or goods so imported to customs authorities.

Inasmuch as the facts of herein case show that the frozen pork meat were not declared beforehand in the import entry by JQ Marine Products, the consignee, but instead were classified as mackerels, it is clear that there was the intention to conceal the meat to customs authorities for inspection, most especially that the same is a prohibited article. Legally speaking thus, no "offer" of the frozen pork meat ever transpired. Accordingly, the provisions of Article 15 of the Consumer Act of the Philippines does not apply to the instant case.

With the above findings serving as a backdrop, the Court is now ready to tackle the issues raised by the parties. The first issue of whether or not the condition to re-export is valid considering the refusal of the National Meat Inspection Commission⁶, a

⁵ Oxford American Dictionary

⁶ It should be the Bureau of Animal Industry, see Annex I of Petition

government agency, to issue a health certificate or clearance, has already been answered by this Court's pronouncement above that the auction sale inclusive of its conditions, is null and void. This is due to the refusal of said government agency to issue the requisite health clearance over the subject meat, the absence of which makes the meat a public health hazard and a prohibited or illicit article not subject to sale under the provisions of the TCCP.

On the second issue of whether or not the WSD under S.I. No. 98-131(MICP) was properly amended to include paragraph (e) of Section 2530 of the TCCP, this Court believes that Petitioner is hanging on the edge, so to speak, in trying to extricate himself from the adverse decision of the Respondents. Unamended, Petitioner has cried denial of due process in not being given the opportunity to be heard and to dispute the imputed violation of the paragraph. This Court disagrees. Petitioner is proving himself too technical in defending his case comparing it somewhat to an information filed in a criminal complaint where because of its penal nature, strict rules apply. He forgets that due process of law in administrative proceedings, such as in forfeiture, "does not always mean regular court proceedings to be followed by administrative boards or officials who are not supposed to be well versed in the technicalities of judicial proceedings; it is sufficient if on the whole, the respondents have been given the opportunity to show their side of the case and to present their evidence" (**Ngo Pot vs. Commissioner of Immigration, 4737-R, September 7, 1950, as cited in Philippine Law Dictionary by Moreno**).

It is admitted by the Petitioner that on the October 9, 1998 hearing of herein case before the Office of the Respondent District Collector, the lead counsel of the government, Atty. Arnel Alcaraz, made a manifestation that he relies on paragraph (e) of Section 2530 of the TCCP (Memorandum for the Petitioner; Docket, p. 257); that on

same occasion, Petitioner through counsel after having presented two witnesses and after having made a formal offer of evidence, rested his case (Petition; docket, p. 5); that on October 16, 1998, the parties simultaneously submitted their respective memorandum (ibid.); and that on November 4, 1998, Respondent District Collector rendered his decision forfeiting the frozen pork meat for the second time (ibid.).

Based on the above sequence of events, it can be seen readily that Petitioner was made aware of government's reliance on paragraph (e) of Section 2530 in the prosecution of its case and that ample opportunity prior to the rendering of decision existed in order for him to be able to rebut said violation of the paragraph. Clearly the requirement of due process has been satisfied.

"Due process" contemplates notice and opportunity to be heard **before judgment is rendered** affecting one's person or property (**Paragas vs. Leano, SP-04757, September 30, 1976, as cited in Philippine Law Dictionary by Moreno; emphasis supplied**).

Even if it is assumed for the sake of argument that said paragraph (e) has not been mentioned at all in the forfeiture proceedings conducted, still, the same may be raised and appreciated by the Commissioner of Customs when exercising his appellate powers to review forfeiture cases, as correctly stated by the Respondents. The Supreme Court in the case of **Vierneza vs. Commissioner of Customs, 24 SCRA 394 at p. 401**, stated, thus:

x x x Certainly, the appellate power of the Commissioner of Customs to review seizure and protest cases is not limited to a review of the issues raised on appeal. He may affirm, modify or reverse the decision of the Collector (Sec. 2313) on other questions provided that his findings and conclusions are supported by evidence. It is of no consequence whatsoever what were the original grounds of the seizure and forfeiture if,

in point of fact, the goods are by law subject to forfeiture (Wood v. U.S., 16 Pet. [U.S.] 342, 10 L. ed. 987). x x x

In fine, it is perfectly legitimate for the Respondents to consider paragraph (e) in their decisions over the forfeiture in question.

Delving into the third issue of whether or not the condition to re-export and the instruction in the gate pass that the frozen pork meat should remain in customs custody are laws in contemplation of the phrase "removed contrary to law" found in Section 2530(e) of the TCCP, this Court easily finds them to be not laws but as they are, mere conditions and instructions.

It is the assertion of the Petitioner that Respondents failed to cite any law that makes the removal of the questioned cargo of frozen pork meat as illegal. Without any law being mentioned, Petitioner contended that there was no violation of paragraph (e) of Section 2530 of the TCCP and hence, there was no basis for the forfeiture of the cargo. On this particular aspect, this Court concurs with the Petitioner. Indeed, despite the attempt of the Respondents to define what is meant by the phrase "contrary to law" and to show that the condition and instruction in question were disregarded by the Petitioner, the bare fact remained that they were unable to point out any specific law that has been violated in the removal of the cargo of frozen pork meat. This can be discerned from their answer and memorandum (docket, pp. 104 & 356), to quote, thus:

As applied in the case at bar, the phrase contrary to law refers to the act of petitioner of requesting the District Collector of Customs for an authority to release the goods to him for the sole purpose of exporting the same. However, instead of exporting the commodity pursuant to the conditions on the gate pass in accordance with the earlier condition imposed during the public auction of the frozen pork, petitioner had instead diverted the delivery of the articles to Vifel [C]old Storage in Navotas, Metro Manila. Indeed, there is clearly an attempt to have the commodity disposed in the local market. This is supported by the fact that

upon inventory out of the 93,118.44 kgs. of frozen meat only about half thereof were recovered and accounted for and presently stored at the said cold storage. (Page 3, Annex "P", Petition)

Disposing of the last issue on whether or not the diversion of the shipment in question to the Vifel Cold Storage violated Section 2530 of the TCCP, this Court rules in the affirmative. Aside from the Consumer Act of the Philippines, only paragraphs (e) and (f) of Section 2530 of the TCCP as implemented by Customs Administrative Order No. 5-90 and Customs Memorandum Order No. 59-90 were cited as bases for the forfeiture of the subject shipment. Said paragraphs are hereunder quoted, to wit:

e. Any article which is fraudulently concealed in or removed contrary to law from any public or private warehouse, container yard or container freight station under customs supervision;

f. Any article the importation or exportation of which is effected or attempted contrary to law, or **any article of prohibited importation or exportation**, and all other articles which, in the opinion of the Collector, have been used, are or were entered to be used as instruments in the importation or exportation of the former.

While it has been explained already that Respondents were not able to justify with any specific law the alleged illegal removal of the shipment of frozen pork meat, hence, paragraph (e) is deemed to have not been violated, this Court, however, finds otherwise with respect to paragraph (f), for two reasons.

Firstly, the frozen pork meat is a prohibited article of importation as above discussed already. As such, it falls within the ambit of the phrase "any article of prohibited importation or exportation" mentioned in said paragraph. Its being a banned item pursuant to the memorandum of the Department of Agriculture automatically makes it a prohibited importation subject to forfeiture.

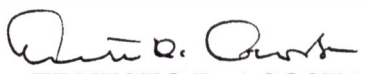
Secondly, herein Petitioner did not refute his alleged violation of said paragraph. What he contested before the Respondents at the administrative level and before this Court was limited to paragraph (e), the applicability of the TCCP instead of the law on sales and due process only, but never paragraph (f). Unchallenged, the forfeiture has still a leg to stand on, even granting that the others are declared invalid.

WHEREFORE, in view of the foregoing, the instant Petition for Review is hereby **DISMISSED** for lack of merit. On account of the unsafe or unfit condition of the prohibited frozen pork meat involved in this case, however, the auction sale conducted on the same is hereby declared **NULL and VOID**. Respondents are hereby **ORDERED** to **CEASE and DESIST** from further auctioning off the subject meat pursuant to the Consumer Act of the Philippines. In addition, Respondent Commissioner of Customs and District Collector are hereby **ORDERED** to **DESTROY** the subject meat in accordance with Sections 2608 and 2609 of the Tariff and Customs Code of the Philippines, as amended.

SO ORDERED.


AMANCIO Q. SACA
Associate Judge

WE CONCUR:


ERNESTO D. ACOSTA
Presiding Judge


RAMON O. DE MEYRA
Associate Judge

CERTIFICATION

I hereby certify that the above decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.


ERNESTO D. ACOSTA
Presiding Judge