REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SILVERICE TRADING CORPORATION,
Petitioner,

CTA Case No. 10088

- versus -

Members:

DEL ROSARIO, *PJ, Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

HON. REY LEONARDO GUERRERO, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF CUSTOMS, ATTY. ERASTUS SANDINO AUSTRIA, IN HIS OFFICIAL CAPACITY AS DISTRICT COLLECTOR, MANILA INTERNATIONAL CONTAINER PORT AND THE BUREAU OF CUSTOMS,
Respondents.

Promulgated:
JAN 17 2023 1:30 pm

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RESOLUTION

REYES-FAJARDO, *J.*:

On September 22, 2022, we rendered a Decision,[1] the dispositive portion of which reads:

[1] Docket (Vol. II), pp. 838-855.

WHEREFORE, the Petition for Review dated May 31, 2019, filed by Silverice Trading Corporation is **DENIED**, for lack of merit.

SO ORDERED.

We found that all the requisites under Section 1129(d) of the Customs Modernization and Tariff Act (CMTA)[2] were duly complied with; thus, respondent District Collector Manila International Container Port (DC-MICP)'s Decree of Abandonment dated January 28, 2019, as affirmed by respondent Commissioner of Customs (COC)'s Consolidated Order dated April 1, 2019 were upheld. We added that respondent COC's Resolution dated May 2, 2019, approving the public auction of the rice shipments abandoned by petitioner is as well warranted.

In its Motion for Reconsideration (Re: Decision dated 22 September 2022), filed on October 14, 2022, petitioner advanced the following points for our consideration:

> A. The CMTA allows an importer to reclaim the shipment even if respondents have already decreed implied abandonment; and
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> B. The proceeds of the auction sale should have been turned over to it as provided under Section 1130 of the CMTA.

Through their Comment (On the Motion for Reconsideration dated October 14, 2022), filed on November 11, 2022, respondents retort that true, Section 1130 of the CMTA allows the importer of impliedly abandoned goods to reclaim at any time within thirty (30) days after the lapse of the prescribed period to file the goods declaration. However, petitioner failed to present sufficient explanation for its tardiness in manifesting its intention not to abandon the rice shipments.

Respondents also counter that as admitted by the parties, the goods were yet to be sold at a public auction; hence, unless there was proof of sale, and that there was denial of petitioner's claim for the proceeds thereof, such matter must not be resolved for being premature.

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[2] Republic Act No. 10863.

OUR RULING

The Motion is denied.

The second and third paragraphs of Section 1130 of the CMTA lay down the treatment and disposition of impliedly abandoned goods, as follows:

> SEC. 1130. *Treatment and Disposition of Abandoned Goods.* - ...
>
> If the Bureau has **not disposed of the abandoned goods**, the owner or importer of goods impliedly abandoned may, at any time within thirty (30) days **after the lapse of the prescribed period to file the declaration, reclaim the goods** provided that all legal requirements have been complied with and the corresponding duties, taxes and other charges, without prejudice to charges and fees due to the port or terminal operator, as well as expenses incurred have been paid before the release of the goods from customs custody.
>
> When the Bureau **sells goods** which have been **impliedly abandoned**, although no offense has been discovered, the proceeds of the sale, after deduction of any duty and tax and all other charges and expenses incurred as provided in Section 1143 of this Act, shall be turned over to those persons entitled to receive them or, when this is not possible, held at their disposal for a specified period. After the lapse of the specified period, the balance shall be transferred to the forfeiture fund as provided in Section 1151 of this Act.[3]

Indeed, the treatment and disposition of impliedly abandoned goods, including the proper procedure to reclaim the same under Section 1130 of the CMTA are hinged on whether: *first,* the Bureau of Customs (BOC) has *not* sold or disposed the impliedly abandoned goods; and *second,* the BOC sold or disposed the impliedly abandoned goods.

Under the *first* scenario, the owner or importer of goods may, within thirty (30) days after the lapse of the prescribed period to file the goods declaration, reclaim the impliedly abandoned goods.

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3 Boldfacing supplied.

Section 407[4] of the CMTA clarified that goods declaration must be lodged within fifteen (15) days from discharge of the last package from the vessel or aircraft, subject to extension of another fifteen (15) days, upon request and based on valid grounds.

For the *second* scenario, the proceeds of the sale or disposition of the impliedly abandoned goods shall be returned to the owner or importer thereof, upon satisfaction of duty and tax and all other charges and expenses incurred as provided in Section 1143 of the CMTA.

By these observations, petitioner is not entitled to reclaim the impliedly abandoned rice shipments under Section 1130 of the CMTA. To expound:

One. Said rice shipments arrived at the Manila International Container Port, via M/V LODESTAR on August 20, 2018.[5] Petitioner filed an entry on said rice shipments on October 12, 2018.[6] Even assuming that October 12, 2018 is the last day prescribed by law to file the goods declaration, petitioner had thirty (30) days therefrom, or at most, until November 12, 2018,[7] to reclaim the rice shipments. However, it was only on January 25, 2019 that it belatedly sent a letter to respondent COC, praying that it be allowed to reclaim its rice shipments.[8] Therefore, petitioner's plea to reclaim the rice shipments is time-barred, under the second paragraph of Section 1130 of the CMTA.

Two. As correctly pointed out by respondents, the parties admitted that petitioner's impliedly abandoned rice shipments have

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4 SEC. 407. *Goods Declaration and Period of Filing.* - ...

...

Goods declaration must be lodged within fifteen (15) days from the date of discharge of the last package from the vessel or aircraft. The period to file the goods declaration may, upon request, be extended on valid grounds for another fifteen (15) days: *Provided,* That the request is made before the expiration of the original period within which to file the goods declaration: *Provided, however,* That the period of the lodgement of the goods declaration maybe adjusted by the Commissioner.

5 First Whereas Clause, Exhibit "P-12." Docket, pp. 102-103.

6 Par. 2, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI). *Id.* at p. 535.

7 The 30th day, *i.e.,* November 11, 2018, fell on a Sunday.

8 Par. 4, Stipulation of Facts, JSFI. Docket, p. 535.

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yet to be sold in a public auction.[9] Being so, there are no proceeds of such sale to be returned to petitioner.

WHEREFORE, petitioner's Motion for Reconsideration (Re: Decision dated 22 September 2022) dated October 14, 2022, is **DENIED**, for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

9 Par. 12, Stipulation of Facts, JSFI. *Id.* at p. 536.