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

## THIRD DIVISION

**RISING CARS CORPORATION,**
*Petitioner,*

*- versus -*

**COMMISSIONER OF CUSTOMS,**
*Respondent.*

**CTA CASE NO. 11471**

Members:

**MANAHAN,** *Chairperson,*
**REYES-FAJARDO,** *and*
**ANGELES,** *JJ.*

Promulgated:

JUL 04 2024
11:10 a.m.

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# RESOLUTION

On April 12, 2024, petitioner filed a *Petition for Review* pursuant to Section 7 of Republic Act (RA) No. 1125, as amended by RA No. 9282 (CTA Law) in relation to Section 3(a)(4), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), seeking the reversal of the undated Resolution issued by the District Collector relative to its payment under protest of additional duties and taxes for the importation of eighty (80) units of Baic Single Cabs, in the aggregate amount of ₱3,056,417.02.

In the *Petition,* it was alleged that the undated Resolution issued by the District Collector was considered by petitioner as the decision of the Commissioner of Customs (COC) for purposes of filing the instant *Petition* since it resolved petitioner's Protest dated November 5, 2021 filed with the COC.[1] It was stated that petitioner deemed it prudent to construe the District Collector's Resolution as the Commissioner's decision to avoid a continuous prolonged waiting.[2]

The *Petition for Review* must be **dismissed** for lack of jurisdiction.

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[1] Petition for Review, par. 7, p. 3.
[2] Petition for Review, par. 8, p. 3.

Section 7 of the CTA Law, in relation to Section 3(a)(4), Rule 4 of the RRCTA, provides for the exclusive original or appellate jurisdiction of the CTA to review by appeal, **decisions of the COC** 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 (BOC).

Pursuant thereto, the Court cannot take cognizance of the instant *Petition* considering that the subject of petitioner's judicial appeal is a Resolution issued by the District Collector, and ***not*** a decision of the COC. Thus, the claim of petitioner that it has treated the District Collector's Resolution as the Commissioner's decision on petitioner's Protest, deserves scant consideration.

Petitioner's reliance in the CTA En Banc cases of *BOC v. AGC Flat Glass Philippines, Inc.*[3] and *Pioneer Float Glass Manufacturing, Inc. (previously known as AGC Flat Glass Philippines, Inc.) v. BOC*[4] (AGC cases), applying the Supreme Court case of *Nestle Philippines, Inc., (Formerly Filipro, Inc.) vs. Court of Appeals, Court of Tax Appeals and Commissioner of Customs*[5], is likewise misplaced, considering that in those cases, the applicable law was the Tariff and Customs Code of the Philippines (TCCP).

On the other hand, a perusal of the *Petition* reveals that the law applied by petitioner in its case are the provisions of the Customs Modernization and Tariff Act (CMTA), which repealed the TCCP.

More particularly, petitioner alleged in the *Petition* that it has filed a Protest[6] dated November 5, 2021 pursuant to Section 1106 of the CMTA, to contest the additional duties and taxes in the Import Assessment Service (IAS) customs valuation for the shipment of the subject units. Section 1106 of the CMTA provides:

> SEC. 1106. Protest – When a **ruling or decision of the District Collector** or customs officer involving goods with valuation, rules of origin, and other customs issues is made, except the fixing of fines in seizure cases, **the party adversely affected may appeal by way of protest against such ruling or decision by presenting to the Commissioner** at the time when payment of the amount claimed to be due the government is made, or within fifteen (15) days thereafter, **a written protest setting forth the objection to the**

[3] CTA EB Case No. 1973, July 14, 2020.
[4] CTA EB Case No. 1985, July 14, 2020.
[5] G.R. No. 134114, July 6, 2001.
[6] Annex "P-14", Petition for Review.

> **ruling or decision in question and the reasons therefore.** (Emphasis supplied)

In relation thereto, petitioner likewise cited in its Protest, Section 10 of the Customs Administrative Order (CAO) No. 02-2020 dated December 19, 2019, which prescribes the guidelines and procedures on dispute settlement and protest in the BOC pursuant to the CMTA:

> SEC. 10. Protest.
>
> 10.1. The aggrieved importer or exporter or any stakeholder directly affected by the adverse ruling of the District Collector in all Protestable Cases arising from tariff classification, valuation, rules of origin or other customs issues, **may appeal by way of protest in writing to the Commissioner within fifteen (15) days** from receipt of the adverse ruling of the District Collector or, when payment is made as a result of the adverse ruling, within fifteen (15) days from such payment.[7] Otherwise, the action of the District Collector shall be final and conclusive.[8]
>
> 10.2. A protest filed shall specify the particular ruling of the District Collector for which protest is being made, and shall indicate the particular ground or ground upon which the protesting party bases the claim for relief. The scope of a protest shall be limited to the particular goods subject of a goods declaration, but any number of issues may be raised in a protest with reference to the goods declaration constituting the subject matter of the protest.
>
> 10.3 When a protest is filed in proper form, the **Commissioner shall render a ruling <u>within thirty (30) days from receipt of the protest</u>.**[9] **Otherwise, the <u>ruling of the Collector shall be deemed affirmed</u> if the Commissioner fails to act on the same.** (Emphasis supplied)

Moreover, Section 13 of the CAO No. 02-2020 provides for the remedy of an aggrieved importer to judicially appeal the decision of the COC to the CTA, thus:

> SEC. 13. Appeal. An importer aggrieved by the decision of the Commissioner may **appeal the said decision to the CTA within thirty (30) days from receipt of the adverse decision or final order of the Commissioner.**[10] (Emphasis supplied)

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[7] Section 1106, Customs Modernization and Tariff Act.
[8] Section 1107, Customs Modernization and Tariff Act.
[9] Section 1110, Customs Modernization and Tariff Act.
[10] Section 1136, Customs Modernization and Tariff Act.

Based on the foregoing, a party adversely affected by a ruling of the District Collector has the following remedy: *(a)* file a **written protest to the COC**, who then has a period of thirty (30) days from receipt to act on the same; and *(b)* **appeal to the CTA** the COC's adverse decision or final order within thirty (30) days from receipt thereof, or the *District Collector's affirmed ruling* within thirty (30) days from the lapse of the COC's thirty (30)-day period to act on the protest.

In this case, it was alleged in the *Petition* that through a letter dated September 2, 2021, the Deputy District Collector of the Port of Batangas demanded from petitioner the payment of the additional duties and taxes as provided in the IAS customs valuation for the shipment of the subject units.

According to petitioner, it has disputed the IAS customs valuation through its letters and/or requests for reconsideration dated August 13, 2021, August 31, 2021, and September 13, 2021. However, these requests were denied through the IAS Director's Letter dated August 23, 2021 and District Collector's Ruling dated September 23, 2021.

Thus, on October 25, 2021, petitioner claimed that it has paid the amount of ₱3,056,417.02, representing the additional duties and taxes, inclusive of ten percent (10%) surcharge.

Thereafter, on November 10, 2021, petitioner filed a Protest pursuant to Section 1106 of the CMTA and CAO No. 02-2020. In accordance with Section 10.3 of the CAO No. 02-2020, the COC has a period of **thirty (30) days** from November 10, 2021, or until **December 10, 2021**, within which to act on the Protest.

However, in view of the COC's failure to render a decision within the thirty (30)-day reglementary period, the District Collector's Ruling dated September 23, 2021, was **deemed affirmed**. Hence, petitioner should have judicially appealed such affirmed ruling within thirty (30) days from December 10, 2021, or until **January 9, 2022**.

Nevertheless, instead of filing a judicial appeal with the CTA, petitioner, after filing its Protest, opted to submit the following to the COC: *(a)* Motion to Resolve Protest dated March 7, 2022; *(b)* Second Motion to Resolve Protest dated July 28, 2022; *(c)* Request for Meeting on the Status of our Protest Customer Care Center No. CCC-21-135967 dated March 6, 2023; and *(d)* Motion to Resolve Protest dated March

22, 2023.[11] It is worthy to note that the aforesaid submissions are not required under the CMTA and the CAO No. 02-2020.

Accordingly, petitioner's period to file its judicial appeal had already lapsed. Therefore, the Court finds that the *Petition* was filed out of time.

It bears to emphasize that the CTA, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[12] Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[13]

**WHEREFORE**, premises considered, the *Petition for Review* filed on April 12, 2024 is hereby **DISMISSED.**

**SO ORDERED.**

**CATHERINE T. MANAHAN**
Associate Justice

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

**HENRY S. ANGELES**
Associate Justice

[11] Petition for Review, par. 4, p. 2.
[12] Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc., G.R. No. 221780, March 25, 2019.
[13] Mitsubishi Motors Phils. Corp. v. Bureau of Customs, G.R. No. 209830, June 17, 2015.