REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
Quezon City

***EN BANC***

**COMMISSIONER OF BUREAU OF CUSTOMS and DISTRICT COLLECTOR OF BATAAN,**
Petitioners,

- versus -

**MT ALPINE MAGNOLIA,**
Respondent.

**CTA EB NO. 2003**
(CTA Case No. 9554)

*Present:*

**DEL ROSARIO,** *P.J.*,
**CASTAÑEDA, JR.,**
**UY,**
**RINGPIS-LIBAN,**
**MANAHAN,**
**BACORRO-VILLENA,** *and*
**MODESTO-SAN PEDRO,** *JJ.*

Promulgated:
FEB 16 2021 4:20 p.m.

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# RESOLUTION

***BACORRO-VILLENA, J.:***

For the Court's resolution is the "Motion for Reconsideration (Re: Decision dated 15 July 2020)"[1] (**MR**) filed by petitioners Commissioner of Bureau of Customs (**CBOC**) and the District Collector of Bataan (**petitioners**) on 24 September 2020, with the "Comment/Opposition (Re: Motion for Reconsideration dated 16 September 2020)"[2] of respondent MT Alpine Magnolia (**MT**

1 Rollo, vol. II, pp. 834-841.
2 Id., 849-855.

**Alpine/respondent**). The instant MR seeks the reversal of this Court's Decision dated 15 July 2020[3], the dispositive portion of which reads:

> ...
> **WHEREFORE**, the foregoing considered, the Petition for Review of petitioners Commissioner of Bureau of Customs and District Collector of Bataan filed on 15 February 2019 is **DENIED** for lack of merit. Accordingly, the Special First Division's Decision dated 22 October 2018 and Resolution dated 07 January 2019, respectively, in CTA Case No. 9554 entitled *MT Alpine Magnolia v. Commissioner of Bureau of Customs and District Collector of Bataan* are hereby **AFFIRMED**.
>
> **SO ORDERED.**
> ...

A perusal of the MR reveals that petitioners do not present any new issues which have not been previously passed upon by the Court. Petitioners' arguments are a mere rehash of those already considered by the Court in arriving at the assailed Decision.

In their present MR, petitioners merely push the notion that they have sufficiently proved the existence of smuggling, "loop-loading" in particular, and that the CBOC's seizure of the MT Alpine was not arbitrarily made.

In *Philippine National Bank v. Hon. Jose G. Paneda, et al.*,[4] the Supreme Court enumerated the circumstances where a motion for reconsideration was found to be *pro forma*, to wit:

> ...
>
> ... (1) it was a second motion for reconsideration, or (2) it did not comply with the rule that the motion must specify the findings and conclusions alleged to be contrary to law or not supported by the evidence, or (3) it failed to substantiate the alleged errors, or (4) it merely alleged that the decision in question was contrary to law, or (5) the adverse party was not given notice thereof.
> ...

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[3] Id., pp. 797-809.
[4] G.R. No. 149236, 14 February 2007.

Petitioners have not adequately substantiated the alleged errors they attribute to the assailed Decision. It must be noted that the Court *En Banc*, in arriving at the assailed Decision, found that petitioners had failed to produce witnesses with personal knowledge of the offense complained of.

For one, petitioners' witness, Gulliber D. Cawaling, who executed the Statement of Facts (**SOF**) admitted in open court, declared categorically that his account of the events was merely dictated to him, to wit:

> ...
> Q: Do you affirm that the contents of the Statement of Facts are true?
>
> MR. CAWALING
> A: Yes, sir.
>
> ...
> Q: Did you go on board the MT Alpine Magnolia to observe what is happening during unloading before you made the entries to the... (interrupted).
>
> MR. CAWALING
> A: No.
>
> Q: So, Mr. Witness, your Statement of Facts Annex R-4-1 and your logbook entries marked as Annex R-4-2 are based entirely on what a certain Mr. Limpahan told you?
>
> MR. CAWALING
> A: Yes, Sir.[5]
> ...

Also, the District Collector of Customs (**DCC**) himself admitted to have not witnessed the act of "loop-loading" and that his knowledge thereof was only drawn from the reports of the Customs Intelligence and Investigation Services (**CIIS**). In his testimony, he recounts:

> ...
> [Presiding] Justice Del Rosario
> Q: Who in particular did you inquire or got that information [from]?

[5] TSN, Volume II, pp. 34-36, 11 May 2019.

Mr. Premediles
A: From CIIS and the anti-smuggling enforcement group of Commissioner Faeldon, your Honors.

[Presiding] Justice Del Rosario
Q: Was there any specifics as to how it was conducted...[?]

Mr. Premediles
A: Right now, your Honors, we have no capability to inspect the underwater facilities...

[Presiding] Justice Del Rosario
Q: ...other than these reports, there was no actual validation whether your staff, your Customs personnel neither or none of them have ever seen the actual act of loop loading and none of your personnel have actually seen the facility being used for loop loading? So, you are making a conclusion based on mere report?

Mr. Premediles
A: Yes, your Honors, official reports.[6]

...

It is noted that the officers of the CIIS, who may have had actual knowledge of the complained incident, were not presented during the trial.

Given the above, petitioners' arguments are left with no leg to stand on. Again, for emphasis, We cite the ruling in *People of the Philippines v. Roque Dayaday y Dagooc*[7] wherein the Supreme Court held:

> ...
> [W]hen the issues involve matters of credibility of witnesses, the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not conclusive effect. This is so because the trial court has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth.[8]

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[6] TSN, Volume II, pp. 121-122.
[7] G.R. No. 213224, 16 January 2017; *See also*: *People of the Philippines v. Wenceslao Nelmida, et al.*, G.R. No. 184500, 11 September 2012.

...

All told, even after an arduous review of the case's records, the Court *En Banc* still finds no cogent reason to modify or abandon its previous ruling.

**WHEREFORE**, the foregoing considered, petitioners' "Motion for Reconsideration (Re: Decision dated 15 July 2020)" filed on the 24 September 2020 is **DENIED** for lack of merit.

**SO ORDERED.**

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**WE CONCUR:**

**ROMAN G. DEL ROSARIO**
Presiding Justice

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

**ERLINDA P. UY**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

**CATHERINE T. MANAHAN**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice