REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

JOHN PAUL V. MEDINA, OWNER and PROPRIETOR OF JPM MEDICAL TRADING,
Petitioner,

- versus -

COMMISSIONER OF CUSTOMS,
Respondent.

CTA CASE NO. 10277

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

DEC 11 2023
3:00 p.m.

x- -x

DECISION

***FERRER-FLORES, J.*:**

THE CASE

The *Petition for Review* filed on May 18, 2020 and *Amended Petition for Review* filed on June 23, 2020 pray for the reversal and the setting aside of the Order dated March 23, 2020; and to recall the issued *Warrant of Seizure and Detention* [WSD] with Seizure Identification No. 2019-086; and, order the release of the goods/products covered by said WSD.[1]

THE PARTIES

Petitioner **John Paul V. Medina** is of legal age, Filipino, and a resident of 1625 Quiricada Street, Sta. Cruz, Manila. He is the sole

[1] Summary of the Case, Pre-Trial Order dated June 22, 2021, Docket – Vol. III, p. 1062.

proprietor of JPM Medical Trading, engaged in the retail of medical and dental supplies.[2]

Respondent is being sued in his official capacity as the duly appointed Commissioner of the Bureau of Customs (BOC). He may be served with summons and other legal processes at the Office of the Commissioner, Ground Floor, OCOM Building, 16th Street, South Harbor, Port Area, Manila City.[3]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

Respondent issued *Letters of Authority* (LOA) No. 05-21-135-2019 and 05-28-141-2019[4] dated May 28, 2019 and May 28, 2019, respectively, directing a composite team of Customs Intelligence and Investigation Service (CIIS), Enforcement and Security Service (ESS) and Formal Entry Division of the BOC to implement Mission Order Nos. 05-21-2019-221 and 05-28-2019-233, pursuant to respondent's visitorial power under Section 224 of Republic Act (RA) No. 10863 or the Customs Modernization and Tariff Act (CMTA).[5]

The composite team proceeded to petitioner's office and storage areas located at the corner of M. Natividad and Quiricada Streets, Sta. Cruz, Manila, to implement the said LOAs and Mission Orders.[6]

Upon recommendation, Intelligence Group Deputy Commissioner Raniel T. Ramiro requested the District Collector of the Port of Manila (POM District Collector) to issue a WSD covering the goods stored at petitioner's office and storage areas listed in Annex "2"[7] of the Inventory Report.[8] Thus, the POM District Collector issued the said WSD against the items enumerated in the said Annex "2".[9]

After requesting sufficient time to collate and organize all the needed supporting documents, petitioner submitted affidavits of his local suppliers

[2] Par. 1, The Parties, *Petition for Review*, Docket – Vol. I, p. 7; Exhibit "P-5", Docket -Vol. I, p. 97.
[3] Refer to par. 2, The Parties, *Petition for Review*, Docket – Vol. I, p. 7.
[4] Exhibit "P-6", Docket – Vol. III, pp. 1164 to 1165.
[5] Par. 1, Stipulated Facts, *Joint Stipulations of Facts and Issues* (JSFI), Docket – Vol. III, p. 1054.
[6] Par. 2, Stipulated Facts, JSFI, Docket – Vol. III, p. 1054.
[7] Par. 3, Stipulated Facts, JSFI, Docket – Vol. III, p. 1055; Exhibit "P-12", Docket – Vol. III, pp. 1201 to 1233.
[8] Refer to Exhibit "P-2", Docket – Vol. III, pp. 1138 to 1162, at pp. 1139 to 1140.
[9] Par. 4, Stipulated Facts, JSFI, Docket – Vol. III, p. 1055. Refer also to Exhibit "P-2", Docket – Vol. III, pp. 1138 to 1162, at p. 1140.

and copies of invoices issued by the latter purportedly proving that the items/goods listed in the said Annex "2" were locally purchased.[10]

During the clarificatory hearing, government prosecutor Atty. Ruther Martinez and the representatives of the Intellectual Property Rights Division (IPRD) and CIIS did not interpose any objection as to the genuineness and due execution of the sales invoices and FDA Certificates offered in evidence by petitioner.[11]

Thereafter, the POM District Collector issued the Order dated January 3, 2020, recalling the WSD and disposing as follows:

> "WHEREFORE, by virtue of the authority vested in me by law and subject to clearance from the Commissioner of Customs pursuant to Customs Memorandum Order 04-18 (A), the **Warrant of Seizure and Detention docketed under Seizure Identification No. 2019-086** is hereby **RECALLED.**
>
> Corollary thereto, unless held for other legal cause and after proper identification, the seized goods subject of the said warrant is likewise ordered to be **RELEASED** to the claimant.
>
> Let copies of this Order be furnished all parties and offices concerned for their information and guidance.
>
> SO ORDERED."[12]

Upon review, respondent reversed and set aside the POM District Collector's January 3, 2020 Order, through the now assailed Order dated March 23, 2020, the dispositive portion of which reads:

> "**WHEREFORE,** in view of the foregoing, the Order of the District Collector, POM dated 03 January 2020 is hereby **REVERSED** and **SET ASIDE.** Let the case be remanded to the port of origin for further proceedings conformable to this ORDER.
>
> **SO ORDERED.**"[13]

Petitioner sought reconsideration of the assailed March 23, 2020

[10] Par. 5, Stipulated Facts, JSFI, Docket – Vol. III, p. 1055. Refer also to Exhibits "P-7" and "P-8", Docket – Vol. III, pp. 1166 to 1169.
[11] Par. 6, Stipulated Facts, JSFI, Docket – Vol. III, p. 1055.
[12] Par. 7, Stipulated Facts, JSFI, Docket – Vol. III, p. 1055; Exhibit "P-2", Docket – Vol. III, pp. 1138 to 1162.
[13] Par. 8, Stipulated Facts, JSFI, Docket – Vol. III, pp. 1055 to 1056; Exhibit "P-3", Docket – Vol. I, pp. 52 to 73.

Order, which was denied by the POM District Collector in his Order dated April 28, 2020.[14]

Implementing the assailed Order dated March 23, 2020 in the meantime,[15] on April 24, 2020, the same POM District Collector issued an Order disposing as follows:

> "**WHEREFORE,** by virtue of the authority vested in me by law, the below-described goods subject of this proceeding are hereby ordered **FORFEITED** in favor of the government, to be disposed of in the manner provided for by law:
>
> [...]"[16]

PROCEEDINGS BEFORE THIS COURT

On May 18, 2020, petitioner elevated on appeal to this Court respondent's Order dated March 23, 2020 via a *Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition.*[17] The case was initially raffled to this Court's Second Division.

During the supposed hearing on petitioner's *Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition* on June 15, 2020, both parties' counsels manifested that they will no longer present any witness. Thus, they were granted a period of five (5) days therefrom within which to submit their respective memorandum. Likewise, petitioner was directed to amend his *Petition for Review* to conform with the new rules on evidence.[18]

In compliance, petitioner filed his *Memorandum (In Support of Petitioner's Motion to Suspend the Sale/Disposition of the Subject Goods)* on June 22, 2020,[19] while respondent posted his *Memorandum [Re: Petitioner's Motion to Suspend the Disposition of the Goods Subject of this Petition]* on June 22, 2020.[20]

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[14] Par. 9, Stipulated Facts, JSFI, Docket – Vol. III, p. 1056; Exhibit "P-17", Docket – Vol. III, pp. 1445 to 1447.
[15] Exhibit "P-18", Docket – Vol. III, pp. 1448 to 1462.
[16] Par. 10, Stipulated Facts, JSFI, Docket – Vol. III, p. 1056.
[17] Docket – Vol. I, pp. 6 to 23; Par. 11, Stipulated Facts, JSFI, Docket – Vol. III, p. 1056.
[18] Minutes of the hearing held on, and Order dated, June 15, 2020, Docket – Vol. I, pp. 418 to 419.
[19] Docket – Vol. I, pp. 420 to 425.
[20] Docket – Vol. II, pp. 822 to 831.

On June 23, 2020, petitioner filed his *Amended Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)*.[21]

Thereafter, respondent posted a *Motion for Extension of Time to File Responsive Pleading or Motion* on June 11, 2020,[22] praying that he be granted a period of sixty (60) days from June 16, 2020, or until August 15, 2020, within which to file his Answer/Comment. The same was granted by the Court in its Resolution dated July 10, 2020.[23]

Another *Motion for Extension of Time to File Responsive Pleading or Motion [Re: Petitioner's Amended Petition for Review]* was filed by respondent on July 15, 2020,[24] praying for another extension of sixty (60) days from July 16, 2020, or until September 14, 2020, within which to file his responsive pleading or motion. In the Resolution dated July 24, 2020,[25] the Court granted the said second *Motion for Extension of Time*.

Subsequently, respondent posted a *Motion to Dismiss Appeal* on August 25, 2020,[26]to which petitioner submitted his *Comment/Opposition (Re: Respondent's Motion to Dismiss Appeal)* on September 7, 2020.[27]

On September 10, 2020, petitioner filed a *Motion to Declare Respondent in Default with Motion to Release Properties Not Subject of the Instant Seizure Case*,[28] praying that the Court declare respondent in default, to direct the latter to immediately release and return the goods under Annex "1" and the subject firearms, and to return the possession and use of the premises to petitioner. Respondent posted his *Comment/Opposition (Re: Petitioner's Motion to Release Properties Not Subject of the Instant Seizure Case)* on October 20 2020.[29]

Meanwhile, on September 11, 2020, respondent posted his *Answer/Comment (Ad Cautelam)*,[30] raising the following arguments: (1) the assailed March 23, 2020 Order is an interlocutory order that cannot be

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21 Docket – Vol. II, pp. 428 to 447.
22 Docket – Vol. II, pp. 834 to 836.
23 Docket – Vol. II, pp. 840 to 841.
24 Docket – Vol. II, pp. 842 to 844.
25 Docket – Vol. II, p. 846.
26 Docket – Vol. II, pp. 862 to 870.
27 Docket – Vol. II, pp. 879 to 885.
28 Docket – Vol. II, pp. 888 to 892.
29 Docket – Vol. III, pp. 957 to 961.
30 Docket – Vol. II, pp. 895 to 912.

appealed from; (2) respondent did not commit reversible error in disregarding petitioner's documents for being mere photocopies; (3) petitioner has yet to submit proof of payment of duties and taxes as required by Section 224 of the CMTA; and (4) respondent's assailed March 23, 2020 Order has been superseded by the April 24, 2020 Order of the POM District Collector, directing the forfeiture of petitioner's subject goods.

Respondent transmitted the *BOC Records* for the case on September 22, 2020.[31]

In the Resolution dated October 6, 2020,[32] the Court: (1) denied for lack of merit petitioner's *Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition*; (2) noted respondent's *Answer/Comment Ad Cautelam*; (3) considered moot petitioner's *Motion to Declare Respondent in Default*; and (4) gave respondent a period of ten (10) days from notice within which to file his comment on petitioner's *Motion to Release Properties Not Subject of the Instant Seizure Case.*

On October 26, 2020, petitioner filed his *Motion for Partial Reconsideration (To Resolution dated 06 October 2020)*,[33] praying for the Court to partially reconsider its Resolution dated October 6, 2020; and to grant the instant *Motion to Suspend the Sale/Disposition of the Subject Goods*. Respondent posted, on December 15, 2020, his *Motion to Admit Attached Comment/Opposition,*[34] with attached *Comment/Opposition [Re: Petitioner's Motion for Partial Reconsideration (To Resolution dated 06 October 2020) dated 26 October 2020]*.[35]

In the meantime, respondent filed his *Motion for Partial Reconsideration (Of the Honorable Court's Resolution dated 06 October 2020)* on October 27, 2020,[36] praying for the Court to partially reconsider its Resolution dated October 6, 2020, and to grant his *Motion to Dismiss Appeal*, thereby dismissing petitioner's *Amended Petition for Review*. Petitioner filed his *Comment/Opposition (Re: Motion for Partial Reconsideration dated 20 October 2020)* on November 20, 2020.[37]

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[31] *Compliance* dated September 21, 2020, Docket – Vol. II, p. 915.
[32] Docket – Vol. II, pp. 918 to 931.
[33] Docket – Vol. III, pp. 934 to 939.
[34] Docket – Vol. III, pp. 987 to 989.
[35] Docket – Vol. III, pp. 990 to 992.
[36] Docket – Vol. III, pp. 942 to 956.
[37] Docket – Vol. III, pp. 972 to 977.

On November 27, 2020, respondent posted his *Manifestation and Motion,*[38] informing the Court that he has not yet received petitioner's Motion for Partial Reconsideration, and thus, requests that the resolution of petitioner's *Motion for Partial Reconsideration (to Resolution dated 06 October 2020)* be held in abeyance.

The Pre-Trial Conference was initially set on December 2, 2020;[39] however, in the Order dated November 23, 2020,[40] the said Conference was cancelled, until further orders from the Court.

In the Resolution dated January 20, 2021,[41] the Court: (1) noted and granted respondent's *Manifestation and Motion and Motion to Admit Attached Comment/Opposition*; and (2) denied petitioner's *Motion for Partial Reconsideration (To Resolution dated 06 October 2020)*, respondent's *Motion for Partial Reconsideration to the Resolution dated October 6, 2020*, and petitioner's *Motion to Release Properties Not Subject of the Instant Seizure* for lack of merit. In the same Resolution, the case was set for Pre-Trial Conference on March 8, 2021.

On March 2, 2021, respondent filed his *Pre-Trial Conference Brief [With Attached Special Power of Attorney]*,[42] while the *Pre-Trial Brief for Petitioner* was filed on March 3, 2021.[43] Thereafter, on March 8, 2021, the Pre-Trial Conference proceeded as scheduled.[44]

Parties filed their *Joint Stipulation of Facts and Issues* on June 10, 2021.[45] Subsequently, the Pre-Trial Order dated June 22, 2021 was issued by the Court,[46] thereby deeming the termination of the pre-trial.

Trial then ensued.

Petitioner presented his documentary and testimonial evidence. He proffered his own testimony.[47]

[38] Docket – Vol. III, pp. 982 to 984.
[39] Notice of Pre-Trial Conference dated October 6, 2020, Docket – Vol. III, pp. 932 to 933.
[40] Docket – Vol. III, p. 981.
[41] Docket – Vol. III, pp. 1004 to 1016.
[42] Docket – Vol. III, pp. 1017 to 1032.
[43] Docket – Vol. III, pp. 1034 to 1043.
[44] Minutes of the hearing held on, and Order dated, March 8, 2021, Docket – Vol. III, pp. 1046 to 1047.
[45] Docket – Vol. III, pp. 1054 to 1058.
[46] Docket – Vol. III, pp. 1062 to 1065.
[47] Exhibit "P-19", Docket – Vol. II, pp. 803 to 815; Order dated October 11, 2021, Docket – Vol. III, p. 1072; Order dated November 15, 2021, Docket – Vol. III, p. 1094.

On April 28, 2022, *Petitioner's Formal Offer of Documentary Evidence* was filed,[48]to which respondent posted his *Comment/Opposition [On Petitioner's Formal Offer of Evidence dated 28 April 2022]* on May 12, 2022.[49] In the Resolution dated July 21, 2022,[50] the Court admitted petitioner's offered exhibits, *except* for the following:

1. Exhibits "P-4", for failure to present the original for comparison; and

2. Exhibit "P-16", for failure to identify the exhibit.

On July 27, 2022, respondent posted *a Manifestation and Motion*,[51] stating that he no longer intends to submit additional evidence, as the evidence admitted by the Court, along with parties' stipulated facts, already suffice to substantiate the legal arguments proffered to affirm his assailed Order. Hence, he moves that the hearing set by this Court for the presentation of is evidence be cancelled, and allow the parties to submit their respective memoranda.

In the Resolution dated September 14, 2020,[52] the Court noted the *Manifestation* of respondent and granted the latter's *Motion*. Thus, the parties were required to submit their respective memoranda within thirty (30) days from notice.

The *Memorandum for Petitioner* was filed on November 4, 2022,[53] while respondent's *Memorandum* was submitted on December 2, 2022.[54]

The present case was deemed submitted for decision on December 20, 2022.[55]

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[48] Docket – Vol. III, pp. 1125 to 1136.
[49] Docket – Vol. III, pp. 1463 to 1467.
[50] Docket – Vol. III, pp. 1479 to 1481.
[51] Docket – Vol. III, pp. 1482 to 1484.
[52] Docket – Vol. III, pp. 1487 to 1488.
[53] Docket – Vol. III, pp. 1489 to 1510.
[54] Docket – Vol. III, pp. 1520 to 1543.
[55] Resolution dated December 20, 2022, Docket – Vol. III, p. 1546.

THE ISSUES RAISED BY THE PARTIES

PARTIES AGREED ISSUE

WHETHER RESPONDENT CORRECTLY REVERSED THE POM DISTRICT COLLECTOR'S ORDER RECALLING THE WSD OVER PETITIONER'S GOODS SUBJECT OF THE SEIZURE AND FORFEITURE CASE *A QUO*

PETITIONER'S PROPOSED ADDITIONAL ISSUES:

I
WHETHER OR NOT THE SEIZURE AND FORFEITURE EFFECTED BY THE RESPONDENT IS IN COMPLIANCE WITH SECTION 1115 OF THE CUSTOMS MODERNIZATION AND TARIFF ACT

II
WHETHER OR NOT THE ASSAILED ORDER WAS ISSUED IN COMPLIANCE WITH SECTION 1127 OF THE CUSTOMS MODERNIZATION AND TARIFF ACT.

RESPONDENT'S PROPOSED ADDITIONAL ISSUES

I
WHETHER THE ASSAILED ORDER IS APPEALABLE

II
WHETHER THE 24 APRIL 2020 ORDER BY THE POM DISTRICT COLLECTOR DIRECTING THE FORFEITURE OF PETITIONER'S SUBJECT GOODS RENDERED THE PRESENT APPEAL MOOT AND ACADEMIC"[56]

Petitioner's arguments:

Petitioner argues that respondent erred in ordering the forfeiture of the seized medical goods, considering the following: (a) insufficient probable cause to merit the issuance of the subject WSD; (b) petitioner did submit to representatives of the BOC the original copies of the receipts/invoices

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[56] The Parties' Agree Issue, JSFI, Docket – Vol. III, pp. 1056 to 1057.

proving that the subject goods are local purchases; (c) the BOC already expressly admitted the authenticity and due execution of the documents offered by petitioner; (d) petitioner is a purchaser in due course and the seized goods are local purchases; and (e) respondent failed to substantiate any of the grounds for forfeiture.

Respondent's counter-arguments:

Respondent contends that the assailed Order is an interlocutory order which cannot be subject of an appeal; that he did not commit reversible error in disregarding petitioner's documents for being mere photocopies; that petitioner failed to submit proof of payment of duties and taxes as required by Section 224 of the CMTA; and that the assailed Order has been superseded by the April 24, 2020 Order of the POM District Collector, directing the forfeiture of petitioner's subject goods.

THE COURT'S RULING

The Court finds merit in the present *Amended Petition for Review.*

The Court has jurisdiction over the present Petition for Review. Respondent's Order dated March 23, 2020 is appealable to this Court.

Respondent insists, for the third time, that his Order dated March 23, 2020 is unappealable for being interlocutory, as it did not dispose with finality the seizure and forfeiture case against petitioner. The remand of the case to the "port of origin" for the continuation of proceedings and the Order dated April 24, 2020 of the POM District Collector, ordering with finality the forfeiture of the subject goods is the one appealable to this Court. These issues, however, have already been discussed and resolved by the Court in its Resolutions dated October 6, 2020[57] and January 20, 2021.[58]

Nevertheless, to be very clear, the Court deems it proper to elaborate why this Court has validly acquired jurisdiction over the subject matter of the instant case.

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[57] Docket – Vol. II, pp. 918 to 931.
[58] Docket – Vol. III, pp. 1004 to 1016.

In resolving the foregoing issues, it is imperative to once again look into the language used in the assailed Order of respondent dated March 23, 2020, and the subsequent actions taken by the BOC officers after the issuance thereof. Pertinent portions of the assailed Order dated March 23, 2020[59] read:

> "With this finding, demand to present proof of payment of customs duties and taxes was made by the Bureau to the claimant, JPM. JPM asserts that the goods listed in Annex '2' were purchased locally. After a meticulous examination of the documents submitted by the claimant in support of their claim that the goods in Annex '2' were purchased locally from FDA-licensed sellers, we deem that the same are not adequate to discharge its burden. Notably, evidence submitted by JPM consists of a few original copies and mostly photocopies of Invoices and Delivery Receipts showing its transactions with the alleged domestic sellers.
>
> Whereas, the Bureau of Internal Revenue in its Revenue Memorandum Circular No 2-2014 clarified that *'Sales Invoice shall serve in lieu of Official Receipt in the sale of goods or properties for evidentiary purposes in terms of audit' and that 'Commercial Receipts/Invoices such as delivery receipts, order slips, xxx issued to their customers evidencing delivery, agreement to sell or transfer of goods and services shall be supplementary evidence only'* these documents, however, <u>must be in original copies to have probative value</u>.
>
> The original copies of the invoices or official receipts submitted by the claimant are the best evidence to prove that the goods in question were actually purchased from domestic sellers. Rule 3 Section 130 of the Rules of Court provides:
>
> xxx xxx xxx
>
> Applying the above Rule to the present case, before a claimant is allowed to adduce secondary evidence to prove the contents of the original sales invoices and all other receipts submitted, the claimant must prove the (1) the existence or due execution of the original; (2) the loss and destruction of the original or the reason for its nonproduction; and (3) on the part of the claimant, the absence of bad faith to which the unavailability of the original can be attributed.
>
> JPM did not take advantage of all the opportunities to present their evidence in the proceedings *a quo,* or at least, explain its unavailability. Under said circumstances, the submitted documents are mere scraps of paper. Accordingly, they do not indubitably establish that the items in Annex '2' were actually purchased locally from suppliers who purportedly paid customs duties and taxes thereon.
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> With this finding, we underscore Section 1113 (f) of the CMTA,

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[59] Par. 8, Stipulated Facts, JSFI, Docket – Vol. III, pp. 1055 to 1056; Exhibit "P-3", Docket – Vol. I, pp. 52 to 73.

which provides:

> *'SEC. 1113. Property Subject to Seizure and Forfeiture.* – *Property that shall be subject to seizure and forfeiture include:*
>
> x x x
>
> (f) Goods, the importation or exportation of which are effected or attempted contrary to law, or any goods of prohibited importation or exportation, and all other goods which, in the opinion of the District Collector, have been used, are or were entered to be used as instruments in the importation or the exportation of the former;
>
> xxx'

On this point, the Bureau is not persuaded with the pronouncement of the port *a quo*, particularly:

> *'In the case at bar, not even a single piece of evidence was presented to show that the seized commodities were imported in violation of the provision of RA 9711 nor was it established that the claimant has knowledge that the goods were imported contrary to law. Contrariwise, it was sufficiently proved that the seized commodities were locally acquired, and its consequent release to the claimant will not be contrary to law.'*

Notwithstanding, all is not lost for JPM. Section 9 of the **Customs Memorandum Order ('CMO') No. 10-2006** provides, *viz*:

> **SECTION 9. Summary Rules for Processing Goods/Articles Seized.** — To expedite proceedings in accordance with law, the following summary rules shall be observed:
>
> xxx
>
> **2. In cases where WSD has been issued against the shipment, the seizure and forfeiture proceedings shall be held in accordance with law.**
>
> a. <u>If the facts and circumstances so warrant, the District Collector, through the Law Division, shall issue an Order or Decision allowing the release upon payment of duties and taxes thereon by recalling the WSD duly issued, or settlement of the case pursuant to Section 2307, of the TCCP, as amended</u>. For this purpose, the approval of settlement by the port/special collector shall carry with it

> the approval of the Commissioner unless otherwise directed or reprobated.'
>
> **WHEREFORE**, in view of the foregoing, the Order of the District Collector, POM dated 03 January 2020 is hereby **REVERSED** and **SET ASIDE**. Let the case be remanded to the port of origin for further proceedings conformable to this Order."

A thorough reading of the assailed Order dated March 23, 2020 would reveal that while respondent's order to remand the case for further proceedings appears to be interlocutory, it is, in reality an order to effect the forfeiture of the subject seized goods.

For one, the Court notes that despite respondent's declaration that the *"evidence submitted by JPM consists of a few original copies and mostly photocopies of Invoices and Delivery Receipts showing its transactions with the alleged domestic sellers. x x x JPM did not take advantage of all the opportunities to present their evidence in the proceedings a quo, or at least, explain its unavailability. Under said circumstances, the submitted documents are mere scraps of paper,"* he never intimidated, much less stated, that the remand of the case is for further reception of evidence, particularly for the presentation of the originals or certified true copies of documents that could have proven that the goods enumerated under the subject Annex 2[60] were purchased locally from petitioner's suppliers who paid the customs duties and taxes.

Second, the use by respondent of the phrase "*all is not lost*" that purportedly means "success is still possible, even though there have been problems or failures,"[61] followed by the provision of Section 9 of the Customs Memorandum Order (CMO) No. 10-2006, which allows the recall of the WSD and the settlement of the case upon payment of duties and taxes thereon, pursuant to Section 2307 of the Tariff and Customs Code,[62] only indicates that petitioner has no other remedy in this case but to pay the assessed duties and taxes for the release of the subject seized goods; otherwise, the same will be forfeited in favor of the government. Simply put,

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[60] Annex "P-12", Amended Petition for Review, Docket – Vol. II, pp. 532 to 565.
[61] *https://www.ldoceonline.com/dictionary/all-is-not-lost.*
[62] "Sec. 2307. *Settlement of Case by Payment of Fine of Redemption of Forfeited Property.* — Subject to approval of the Commissioner, the district collector may while the case is still pending, except when there is fraud, accept the settlement of any seizure case provided that the owner, importer, exporter, or consignee or his agent shall offer to pay to the collector a fine imposed by him upon the property, or in case of forfeiture, the owner, exporter, importer or consignee or his agent shall offer to pay for the domestic market value of the seized article. The Commissioner may accept the settlement of any seizure case on appeal in the same manner.

xxx xxx xxx"

this demand for payment coupled with a threat to forfeit the subject seize goods, if no payment will be made, shows that respondent had already decided to forfeit the goods enumerated under the said Annex "2", unless petitioner would opt to settle the duties and taxes. As such, We construe the same as the order of respondent that the POM District Collector should accordingly conform with.

Moreover, even the BOC's officers who are supposed to act on the remand order of respondent appear to have the same line of thought with the Court. In fact, Atty. Edgardo T. Padre, Jr., Acting Chief, Law Division, merely stated in his *Notice of Decision* dated April 1, 2020[63] that a Decision on March 23, 2020 was rendered by respondent *"reversing and setting aside the Order of the District Collector dated January 03, 2020, and accordingly **FORFEIT** the shipment xxx".*

Furthermore, without giving petitioner any prior instruction that it should make any offer or manifestation to pay the duties and taxes, or any other information as to next procedure that should be undertaken by petitioner pursuant to the remand order, Atty. Padre, Jr. simply stated in his April 16, 2020 Notice of Decision[64] that *"more than fifteen (15) days have passed and we still have not received any offer/manifestation from you as claimant to pay the duties and taxes. In this regard, consider this as your Final Notice and failure to receive any offer to pay duties and taxes within three (3) days from service would mean that you are no longer interested to avail of the remedy provided to you under CMO 10-2006 as mentioned in the Order of the Commissioner. Accordingly, the said items in SI No. 2019-8086 will be forfeited in favor of the government and disposed of in accordance with the CMTA."*

In view of the foregoing, there is no doubt that both the Notices of Decision dated April 1, 2016 and April 16, 2020 merely seek to implement the order of forfeiture of the subject goods, unless payment of duties and taxes is made.

The same is likewise true with the Order dated April 24, 2020 of POM District Collector Asenia C. Ilagan where she categorically stated that the same merely implements the Order dated March 23, 2020 of respondent in view of petitioner's failure to act within *"fifteen (15) days from notice of decision and more than three (3) days from the final notice given xxx to act in order to pursue its claim and protect its rights over the seized items."*

[63] Exhibit "P-3", Docket – Vol. I, p. 51.
[64] Exhibit "P-1", Docket – Vol. I, pp. 24 to 25.

Thus, it is incorrect for respondent to claim that it is the Order dated April 24, 2020 that disposed with finality the seizure and forfeiture case involving petitioner's goods, as it had been duly established that the tenor of the March 23, 2020 Order unmistakably indicates the final nature of the determination made by respondent on petitioner's case, and that is to forfeit the subject seized goods.

Consequently, petitioner cannot be faulted, much less be prejudiced, for immediately filing an appeal before this Court within thirty (30) days from receipt of the assailed Order dated March 23, 2020 on April 18, 2020,[65] pursuant to Section 1136 of the CMTA vis-à-vis Sections 7(a)(4) and 11 (first paragraph) of RA No. 1125[66], as amended by RA No. 9282,[67] which respectively provide as follows:

> "SEC. 1136. *Review by the CTA.* — **Unless otherwise provided in this Act or by any other law, the party aggrieved by the ruling or decisions of the Commissioner may appeal to the CTA, in the manner and within the period prescribed by law and regulations.** Decisions of the Secretary of Finance when required by this Act, may likewise be appealed to the CTA.
>
> **<u>Unless an appeal is made to the CTA in the manner and within the period prescribed by law and regulations</u>, the ruling or decision of the Commissioner** or the Secretary of Finance **shall be final and executory.**" *(Emphases and underscoring added)*
>
> "SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided:**
>
> xxx xxx xxx
>
> (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 Customs Law or other laws administered by the Bureau of Customs;" *(Emphases added)*

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[65] Par. 5, *Petition for Review*, Docket – Vol. I, p. 7; and par. 5, *Amended Petition for Review*, Docket – Vol. II, p. 429.

[66] AN ACT CREATING THE COURT OF TAX APPEALS.

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

> "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 Customs,...may file an appeal with the CTA within thirty (30) days after 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." *(Emphases added)*

To be sure, counting from said date of receipt, *i.e.*, April 18, 2020, the said 30-day period ended on May 18, 2020. Considering that the *Petition for Review* was filed on this latter date,[68] the same was timely made.

Notwithstanding the foregoing, respondent still insists that Section 14.1.3 of CMO No. 10-2020 [which should have been Customs Administrative Order (CAO) No. 10-2020] provides that a denial of a motion to quash, or recall of, a WSD shall be considered as an interlocutory order. However, the said CAO No. 10-2020 is not applicable to the present case as it was only issued on May 11, 2020, and that the same took effect thirty (30) days after its complete publication at the Official Gazette or a newspaper of general circulation. Simply put, it was issued way after the issuance of the assailed March 23, 2020 Order and, thus, may not be properly invoked by respondent in the present case. In any event, the issue of whether a particular ruling or decision of respondent is appealable to this Court cannot be simply brushed aside by the BOC through an administrative issuance, since the same may be resolved only depending on the tenor of said ruling or decision, as already earlier shown.

Anent petitioner's invocation of this Court's November 29, 1954 Resolution dated in CTA Case No. 28, entitled *"Hatib Abdurasid, et al., vs. Commissioner of Customs"* where it accordingly *"granted respondent's order – which merely sustained the Acting Collector of Customs of Jolo in denying therein petitioner's 'Motion to Lift Warrant of Seizure and Detention' and directed the immediate hearing of the seizure and forfeiture cases – is an interlocutory order that cannot be subject of appeal via a Petition for Review"*, suffice it to state that this Court's Resolutions or Decisions are not binding precedents. To be sure, only decisions of the Supreme Court constitute binding precedents, forming part of the legal system.[69]

In sum, We maintain our position that this Court has validly acquired jurisdiction over the subject matter of the present case.

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[68] Docket – Vol. I, pp. 6 to 23; Par. 11, Stipulated Facts, JSFI, Docket – Vol. III, p. 1056.
[69] *Commissioner of Internal Revenue vs. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196112, and 197156, February 12, 2013.

The foregoing disquisitions practically address respondent's additional issues. Thus, this Court shall then proceed to resolve the additional issues raised by petitioner.

There is no indication that the subject seizure and forfeiture were violative of Section 1115 of the CMTA.

In arguing, in effect, that the seizure and forfeiture effected by respondent were not in compliance with Section 1115 of the CMTA, petitioner points out that he is neither the importer, exporter, original owner, consignee, or agent of another person effecting the importation, entry or exportation in question, nor is there any factual circumstances presented to show that he had knowledge that the goods were imported contrary to law.

This Court, however, is not convinced.

Section 1115 of the CMTA reads as follows:

> "SEC. 1115. *Conditions Affecting Forfeiture of Goods.* — **The forfeiture shall be effected only when and while the goods are in the custody or within the jurisdiction of customs officers**, or in the possession or custody of or subject to the control of the importer, exporter, original owner, consignee, agent of another person effecting the importation, entry or exportation in question, or in the possession or custody of or subject to the control of persons who shall receive, conceal, buy, sell, or transport the same, or aid in any of such acts, with knowledge that the goods were imported, or were the subject of an attempt at importation or exportation contrary to law." *(Emphasis added)*

Indeed, forfeiture may be effected when and while the goods are in possession or custody of or subject to the control of the *"importer, exporter, original owner, consignee, etc."*. However, forfeiture may also *"be effected when and while the goods are in the custody or within the jurisdiction of customs officers"*. Such being case, while it may be true petitioner is not an *"importer, exporter, original owner, consignee, etc."* of the seized medical supplies, he has not shown that the subject goods are no longer in the custody or within the jurisdiction of customs officers. Thus, there is no indication that the subject seizure and forfeiture were violative of Section 1115 of the CMTA.

The Order dated January 3, 2020 issued by the POM District Collector is deemed approved, pursuant to Section 1127 of the CMTA in relation to Section 10 of CMO No. 4-2018.

Section 1127 of the CMTA reads:

> "SEC. 1127. *Automatic Review in Forfeiture Cases.* — **The Commissioner shall automatically 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." *(Emphases added)*

Relative thereto, Section 10 of CMO No. 4-2018,[70] which has the force and effect of law,[71] implements and supplements the foregoing provision as follows:

> "**Section 10. Automatic Review.**
>
> **10.1.** **The Commissioner shall automatically review any decision by the District Collector adverse to the government.** xxx.
>
> xxx xxx xxx
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> **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

[70] SUBJECT: AMENDMENT OF CMO 4-2018 re: MANUAL OF PROCEDURE FOR FORFEITURE CASES

[71] Administrative issuances have the force and effect of law. (*Chevron Phils., Inc. vs. Bases Conversion and Development Authority*, G.R. No. 173863, September 15, 2010)

> 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**." *(Emphases and underscoring added)*

Based on the foregoing provisions, the following procedures and pertinent periods must be observed in case a District Collector renders a decision which is adverse to the government, to wit:

1) The subject adverse decision of the concerned District Collector shall be automatically reviewed by respondent.

2) The entire records of the case shall be elevated within five (5) days from the promulgation of the said adverse decision.

3) Respondent shall then decide the case on automatic review within thirty (30) days [or within ten (10) days in the case of perishable goods], from receipt of the said records.

4) **When no decision is rendered by respondent within the prescribed period** [or when the decision adverse to the government is rendered by respondent involving goods with FOB or FCA value of ₱10,000,000.00 or more], **the records of the decision of the District Collector under review** [or of respondent], **shall automatically be elevated within five (5) days for review by the Secretary of Finance.**

5) The Secretary of Finance's decision, whether or not a decision was rendered by respondent within the thirty (30) days [or within ten (10) days in the case of perishable goods] from receipt of the records, shall be final upon the BOC, subject to appeal to this Court.

6) However, **when no decision is rendered by the Secretary of Finance within the prescribed period, the decision of the District Collector** [or respondent] **shall be <u>deemed approved</u>**.

Since the goods in question are not perishable, the ten (10)-day prescriptive periods within which respondent and the Secretary of Finance is mandated to respectively decide is not applicable. Instead, the respective thirty (30)-day periods govern in the present case.

Correspondingly, consistent with the presumption of regularity in the performance of official duties,[72] and considering that the POM District Collector issued the subject Order or adverse decision on January 3, 2020,[73] the five (5)-day period, within which the entire records of the case is to be elevated to respondent, ended on January 8, 2020. Since there is no showing that the entire records were elevated within the said five (5)-day period, the counting of the thirty (30)-day period may be made from this latter date. Respondent is then mandated to decide the matter until February 7, 2020—the last day of the said thirty (30)-day period. However, there is also no showing that respondent decided the matter on or before February 7, 2020. Thus, within five (5) days therefrom, *i.e.*, on or before February 12, 2020, the subject records must have been elevated to the Secretary of Finance, who must then decide the matter within another thirty (30)-day period, which ended on March 14, 2020.

Glaringly, no decision within the said thirty (30)-day period was rendered, or no decision at all was ever rendered, by the Secretary of Finance on the subject adverse decision. Such being the case, **as of March 14, 2020**, the said adverse decision or Order dated January 3, 2020 of the POM District Collector was already ***"deemed approved"***. As such, the assailed Order dated March 23, 2020 of respondent is already of no moment and effect.

In view of the foregoing findings, it is no longer necessary to address the other arguments raised by the parties.

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[72] Section 2 (m), Rule 131, Rules of Court.
[73] Par. 7, Stipulated Facts, JSFI, Docket – Vol. III, p. 1055; Exhibit "P-2", Docket – Vol. III, pp. 1138 to 1162.

WHEREFORE, in light of the foregoing considerations, the present *Amended Petition for Review* is **GRANTED**. Accordingly, the assailed Order dated March 23, 2020 of respondent is **REVERSED and SET ASIDE**, and the Warrant of Seizure and Detention No. 2019-086 is **RECALLED and LIFTED**. Moreover, respondent or the BOC is **ORDERED TO RELEASE** the subject seized medical goods, as enumerated in Annex "2", to petitioner sans the payment of duties and taxes.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice