REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

L.T.J.S. STORE, represented by its Owner/Proprietor MR. ANTONIO DE JESUS SILVA, *Petitioner,*	**CTA Case No. 10583**
-versus-	Members: **DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
HON. DISTRICT COLLECTOR OF CUSTOMS, Port of MICP, North Harbor, Port Area, Manila; and HON. REY LEONARDO GUERERRO, Commissioner of Customs, South Harbor, Port Area, Manila, *Respondents.*	Promulgated: SEP 23 2021 10:01 am

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goods are sold out for export to the Philippines, and that such valuation resulted to overcharged duty amounting to Php1,113,962.28.

Petitioner also alleges that despite the lapse of the intervening period, petitioner remains to be adversely affected by the inaction of the respondents on the disputed duties and claimed refund. Thus, petitioner filed the instant Petition for Duty and Tax Refund

Evidently, petitioner is appealing the inaction of respondent Commissioner of Customs (COC) on his Protest and Appeal for Duty and Tax Refund.

After careful evaluation of the allegations in the present Petition for Duty and Tax Refund, this Court finds that it lacks jurisdiction over the subject matter thereof.

The Court of Tax Appeals (CTA) is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction.[1] The jurisdiction of the CTA regarding liability for customs duties, fees and other money charges is provided under Section 7(a)(4) of Republic Act (RA) No. 1125, as amended by RA Nos. 9282 and 9503, which provides:

> SEC. 7. Jurisdiction. – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> xxx
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> (4) **Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges,** seizures, 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**; *(boldfacing supplied)*

[1] *Commissioner of Internal Revenue v. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 169778, March 12, 2014.

In relation thereto, Section 3, Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended, specifically includes the decision of the COC as one of the cases falling within the jurisdiction of the CTA in Division, as follows:

> SEC. 3. Cases within the **jurisdiction of the Court in Division**. – The Court shall exercise:
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> (a) Exclusive original or appellate jurisdiction to review by the appeal the following:
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> 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 the Customs Law or other laws administered by the Bureau of Customs**; *(boldfacing supplied)*

Corollary thereto, Section 3(a), Rule 8 of the RRCTA, as amended, provides the period within which the decision of the COC may be appealed with the CTA, *to wit:*

> SEC. 3. *Who may appeal; period to file petition.* – (a) **A party adversely affected** by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or **by a decision or ruling of the Commissioner of Customs**, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction, **may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling**, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes. *(boldfacing supplied)*

It is clear from the afore-cited provisions that the CTA in Division shall exercise exclusive original jurisdiction 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.

In the present case, however, an examination of the allegations in the Petition for Duty and Tax Refund shows that the COC has yet to render a decision on petitioner's Protest and Appeal for Duty and Tax Refund filed on March 26, 2021. The filing of the Petition for Duty and Tax Refund is premised on the alleged inaction of the COC. Inaction by the COC on cases involving liability for custom duties, fees or other money charges is not one of the subject matters upon which the CTA exercises jurisdiction. Thus, the Court lacks jurisdiction over the subject matter of the Petition.

The courts may order the *motu proprio* dismissal of a case on the grounds of lack of jurisdiction over the subject matter pursuant to Section 1, Rule 9 of the Rules of Court,[2] which reads:

> Section 1. Defenses and objections not pleaded. – Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, **when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter**, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitation, **the court shall dismiss the claim**. *(boldfacing supplied)*

It is the duty of the courts to consider the question of jurisdiction before they look into other matters involved in the case, even though such question is not raised by any of the parties.[3] Lack of jurisdiction is one of those excepted grounds where the court may dismiss a claim or a case at any time when it appears from the pleadings or the evidence on record that any of those grounds exists, even if they were not raised in the answer or in a motion to dismiss. The reason is that jurisdiction is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action.[4] Thus, **when a court has no**

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[2] *Elizabeth M. Lansangan v. Antonio S. Caisip*, G.R. No. 212987, August 6, 2018.
[3] *Bureau of Customs v. Devanadera*, G.R. No. 193253, September 8, 2015.
[4] *Honorio Bernardo v. Heirs of Eusebio Villegas*, G.R. No. 183357, March 15, 2010.

jurisdiction over the subject matter, the only power it has is to dismiss the action.[5]

Even assuming that the Court has jurisdiction over the subject matter of the present Petition, the same shall still be dismissed for lack of a proper verification.

A perusal of the attached Verification and Certification of Non-Forum Shopping shows that the same is non-compliant with Section 4, Rule 7 of the Rules of Court, as amended, *to wit*:

> Section 4. *Verification.* – Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified.
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> A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or special power of attorney, should be attached to the pleading, and shall allege the following attestations:
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> (a) The allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents;
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> (b) The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and
>
> (c) The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.
>
> The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading.
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> **A pleading required to be verified that** contains a verification based on "information and belief," or upon "knowledge, information and belief," or **lacks a proper verification, shall be treated as an unsigned pleading.** *(boldfacing supplied)*

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[5] *Mitsubishi Motors Philippines Corporation v. Bureau of Customs,* G.R. No. 209830, June 17, 2015.

The attached Verification and Certification of Non-Forum Shopping does not contain statements attesting that: (i) the pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and, (ii) the factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

Considering that the Petition for Duty and Tax Refund lacks a proper verification, the same may also be dismissed on this ground pursuant to Section 3,[6] Rule 42 of the Rules of Court in relation to Section 1, Rule 42 of the Rules of Court.

WHEREFORE, in view of the foregoing, petitioner's **Petition for Duty and Tax Refund** is hereby **DISMISSED** for lack of jurisdiction and for lack of proper Verification.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

ON LEAVE

MARIAN IVY F. REYES-FAJARDO
Associate Justice

[6] Section 3. *Effect of failure to comply with requirements.* – **The failure of the petitioner to comply with any of the foregoing requirements regarding** the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and **the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.**