REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

SL HARBOR BULK TERMINAL CORPORATION,
Petitioner,

-*versus*-

COMMISSIONER OF CUSTOMS,
Respondent.

CTA Case No. 9551

Members:

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

Promulgated:
FEB 24 2022 2:21 pm

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DECISION

MANAHAN, *J.:*

The *Petition for Review* filed by SL Harbor Bulk Terminal Corporation (SL Harbor) against respondent Commissioner of Customs (COC) on March 23, 2017 seeks to reverse the Decision dated January 20, 2017 issued by the District Collector of Customs of Limay, Bataan, Julius B. Premediles, forfeiting industrial fuel oil (IFO) imported by SL Harbor and stored in its storage facility, on the ground that it was issued in violation of its constitutional right to procedural and substantive due process.[1]

THE PARTIES

Petitioner SL Harbor is a domestic corporation which is engaged in the business of trading refined petroleum products and allied services. It also operates a Terminal in Limay, Bataan which includes storage tanks, storage and distribution

[1] Docket, Vol. III, CTA Case No. 9551, Statement of the Case, Amended Pre-Trial Order dated October 22, 2019, p. 1746.

equipment, as well as its own in-shore berthing, and off-shore mooring facilities.[2]

Respondent COC is the government official authorized to enforce customs law.[3]

THE FACTS

Petitioner SL Harbor operates a storage tank in Limay, Bataan.[4]

On December 15, 2016, vessel M/T Alpine Magnolia V-60 arrived at the Port in Limay, Bataan carrying 44,000 Metric Tons (MT) of imported IFO from Singapore. After the conduct of port entry formalities, the port authority allowed the discharge of the shipment into petitioner's storage tanks L, M, and 2, which lasted until December 17, 2016.[5]

On December 16, 2016, District Collector Premediles issued the *Writ of Seizure and Detention* (WSD) No. 001-2016[6] against petitioner.[7] It was received by petitioner on the same day at 10:20 P.M.[8]

On December 20, 2016, petitioner filed a Motion to Lift the WSD before the Hearing Officer of the Bureau of Custom's (BOC) Legal Service, Port of Limay, Bataan.[9]

On January 20, 2017, District Collector Premediles promulgated a *Decision*[10] and seized the 44,000 MT of imported IFO.[11] The records of the case were transmitted[12] to

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[2] Docket, Vol. I, Petition for Review, pp. 10-11, not specifically denied in respondent's *Answer*.
[3] *Id.*, Vol. I, Petition for Review, pp. 10-11, not specifically denied in respondent's *Answer*.
[4] *Id.*, Vol. III, Joint Stipulation of Facts and Issues (JSFI), pp. 1386-1394.
[5] *Id.*, Vol. 2, Resolution dated January 23, 2018, p. 701.
[6] BOC Records, p. 73.
[7] Docket, Vol. III, JSFI, p. 1386; Docket, Vol. 1, Par. 1, Statement of Material Dates, Petition for Review, p. 11; as admitted in respondent's *Answer*, Docket, Vol. 2, p. 542.
[8] *Id.*, petitioner's *Memorandum*, p. 1945.
[9] *Id.*, Vol. III, JSFI, pp. 1386-1387; Docket, Vol. 1, Par. 1, Statement of Material Dates, Petition for Review, p. 11; as admitted in respondent's *Answer*, Docket, Vol. 2, p. 542.
[10] BOC, Records, pp. 48-62.
[11] Docket, Vol. III, JSFI, p. 1387.
[12] *Id.*, Vol. IV, petitioner's *Memorandum*, p. 1947.

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respondent COC on January 23, 2017 while Petitioner received said decision on January 24, 2017.[13]

On February 1, 2017, petitioner filed[14] a Notice of Appeal to the respondent elevating the decision rendered by the said District Collector.

As the prescriptive period for respondent to decide lapsed and no decision was issued, petitioner filed the instant Petition for Review on March 23, 2017.[15]

On April 21, 2017, petitioner filed a *Motion for Special Order*[16] dated April 19, 2017, seeking the release of the 44,000 MT of imported IFO seized on January 20, 2017.

On June 21, 2017, respondent filed his *Answer*[17] with the following affirmative defenses, to wit:

1. Petitioner was not denied due process when respondent affirmed the District Collector's *Decision* dated 20 January 2017 and WSD dated 16 December 2016;

2. Petitioner was not denied due process when the District Collector rendered his *Decision* dated 20 January 2017; and

3. An Alert Order is not a condition *sine qua non* to the issuance of a WSD so long as the District Collector has determined the existence of probable cause.

A hearing on such motion was conducted from June 20, 2017 until July 11, 2017, and during the period of hearing, respondent filed his *Comment/Opposition (to petitioner's "Motion for Special Order" dated April 19, 2017)*[18] on June 23, 2017.

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[13] Docket, Petition for Review, p. 11.
[14] *Id.*, Vol. III, JSFI, p. 1387.
[15] *Id.*, Vol. IV, petitioner's *Memorandum*, p. 1947.
[16] *Id.*, Vol. 1, pp. 480-483.
[17] *Id.*, Vol. 2, pp. 542-563.
[18] *Id.*, Vol. 2, pp. 565-581.

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On January 23, 2018, petitioner's *Motion for Special Order* was granted,[19] hence, respondent was ordered to release the 44,000 MT of imported IFO subject to the posting of a surety bond equivalent to 1½ times the assessed amount of P81,809,975.00, which respondent seeks to collect.

On September 13, 2018, respondent filed his *Pre-Trial Brief*[20] while petitioner posted its *Pre-Trial Brief*[21] on September 14, 2018 which the Court received on September 21, 2018.

On September 18, 2018, the *Pre-Trial Conference* originally set on April 24, 2018[22] was conducted after several resetting[23] of the same.

On September 25, 2018, this case was transferred from CTA Third Division to CTA First Division in view of the Court's reorganization pursuant to Administrative Circular No. 02-2018 dated September 18, 2018.[24]

On October 16, 2018, petitioner filed a *Manifestation and Submission* of the attached *Joint Stipulation of Facts and Issues*[25] which was noted[26] by the Court, hence, the pre-trial was terminated.

The Pre-Trial Order was issued on January 14, 2019[27] but was amended on March 12, 2019[28] and July 16, 2019[29] after the Court granted several motions of petitioner. The final *Amended Pre-Trial Order* was issued[30] on October 22, 2019.

Petitioner submitted its *Formal Offer of Evidence*[31] on August 28, 2019. Respondent, on the other hand, posted his *Comment (to Formal Offer of Evidence)*[32] on September 27,

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[19] *Id.*, Resolution dated January 23, 2018, pp. 700-715.
[20] Docket, Vol 2, pp. 818-836.
[21] *Id.*, Vol. III, pp. 1142-1151.
[22] *Id.*, Vol. 2, Notice of Pre-Trial Conference dated March 16, 2018, pp. 784-785.
[23] *Id.*, Vol. 2, Resolution dated April 20, 2018, p. 792; Docket, Vol. 2, Resolution dated June 29, 2018, p. 800.
[24] *Id.*, Vol. III, Order dated September 25, 2018, p. 1374.
[25] *Id.*, Vol. III, pp. 1386-1394.
[26] *Id.*, Vol. III, Resolution dated October 25, 2018, p.1396.
[27] *Id.*, Vol. III, pp. 1404-1417.
[28] *Id.*, Vol. III, pp. 1440-1453.
[29] *Id.*, Vol. III, pp. 1501-1512.
[30] *Id.*, Vol. IV, pp. 1746-1757.
[31] *Id.*, Vol. III, pp. 1530-1537.
[32] *Id.*, Vol. IV, pp. 1720-1733.

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2019. On November 13, 2019, the Court admitted the evidence offered by petitioner.[33]

On February 27, 2020,[34] respondent started to present his witnesses after the earlier scheduled hearing was cancelled under Order dated December 2, 2019 and Resolution dated January 23, 2020.

On September 24, 2020, respondent, after the presentation of his witnesses, posted his *Formal Offer of Evidence.*[35] Petitioner, on the other hand, posted its *Comment*[36] on October 5, 2020. The Court then admitted respondent's evidence under Resolution dated October 16, 2020[37].

On January 14, 2021, petitioner filed its *Memorandum*[38] while respondent posted his *Memorandum*[39] also on even date. Thus, the instant case was submitted for decision on February 9, 2021.[40]

ISSUE

Whether or not respondent violated petitioner's right to due process.

Petitioner's Arguments[41]

Petitioner argues that respondent erred in affirming, *sub silentio*, the WSD issued by the District Collector, violating its right to procedural due process by not issuing an Alert Order (AO).

Petitioner also argues that respondent erred in affirming, *sub silentio*, the Decision on the merits promulgated by the District Collector in violation of substantive due process by not

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[33] *Id.*, Vol. IV, Resolution dated November 13, 2019, pp. 1763-1764.
[34] Id., Vol. IV, Order dated February 27, 2020, pp. 1791-1792.
[35] Docket, Vol. IV, pp. 1833-1841.
[36] *Id.*, pp. 1910-1918.
[37] *Id.*, pp. 1923-1924
[38] *Id.*, pp. 1943-1974.
[39] *Id.*, pp. 1976-2000.
[40] *Id.*, Resolution dated February 9, 2021, p. 2004.
[41] *Supra*, Note 37.

conducting a hearing on its case and by engaging in pure speculation, conjectures, and surmises.

Respondent's Arguments[42]

Respondent, on the other hand, argues that petitioner was not denied of his right to due process when the District Collector rendered his decision to seize and detain the ships MT Alpine Magnolia and MT Malolos.

Respondent insists that an AO is not a condition *sine qua non* to the issuance of WSD so long as the District Collector has determined the existence of probable cause.

Respondent further insists that probable cause exists in the issuance of WSD as petitioner violated Section 1113(A), (F), and (L)(3)(5) of Republic Act (RA) No. 10863, otherwise known as the "Customs Modernization and Tariff Act" (CMTA), by submitting import documents containing inconsistent information and facilitating the loop loading of fuel oil prior to entry lodgment and payment of customs duties and taxes

RULING OF THE COURT

This Court shall determine first whether it has jurisdiction on the instant petition. Sections 7(a) and 11 of RA No. 1125[43], as amended by RA No. 9282[44], provides as follows:

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

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[42] *Supra*, Note 38.
[43] AN ACT CREATING THE COURT OF TAX APPEALS.
[44] 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.

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> **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;"
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> xxx xxx xxx
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> "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 Internal Revenue, the **Commissioner of Customs**, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA **within thirty (30) days after** the receipt of such decision or ruling or after **the expiration of the period fixed by law** for actions as referred to in Section 7(a)(2) herein.
>
> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA **within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon**. A Division of the CTA shall hear the appeal: *Provided, however*, That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that provided for under rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case en banc..." *(Emphasis supplied)*

Further, Section 1126 of the CMTA provides:

> "Sec. 1126. *Appeal to the Commissioner.* – **In forfeiture cases, the person aggrieved by the decision of a District Collector may, within fifteen (15) days** or five (5) days in case of perishable goods, **from receipt of the decision, file a written notice of appeal**, together with the required appeal fee to the District Collector, furnishing a copy to the Commissioner. The District Collector shall immediately transmit all the records of the proceedings to **the Commissioner, who shall review and decide on the appeal within thirty (30) days from receipt of the records,** or fifteen (15) days in the case of perishable goods: Provided, **That if within thirty (30) days, no decision is rendered, the decision of the District Collector under appeal shall be deemed affirmed.** An appeal filed beyond the period herein prescribed shall be dismissed..."

The records of the case reveal that the District Collector transmitted the records of the case to respondent COC on January 23, 2017. Applying the above-mentioned provision, respondent had thirty (30) days from January 23, 2017 or until February 22, 2017 to decide on the instant case. However, respondent had no decision on the latter date, hence, the decision rendered by the District Collector was affirmed.

Petitioner, thus, had 30 days from February 22, 2017 or until March 24, 2017 to file an appeal before this Court. The filing of the instant Petition for Review on March 23, 2017 was therefor on time.

Alert Order is necessary prior to the issuance of WSD.

Petitioner avers that respondent failed to issue an AO prior to the issuance of the WSD while the latter counters that such AO is not a condition *sine qua non* to the issuance of the same.

Chapters 3 and 4, Title XI-Administrative and Judicial Proceedings of the CMTA governs the issuance of an AO and WSD, respectively, by the BOC against imported goods or article found to have violated the same law. More particularly, Sections 1111 and 1112, Chapter 3, Title XI provide:

> "CHAPTER 3
>
> ALERT ORDERS
>
> Sec. 1111. *Alert Orders.* – **Alert orders are written orders issued by customs officers as authorized by the Commissioner on the basis of derogatory information regarding possible noncompliance with this Act. An alert order will result in the suspension of the processing of the goods declaration and the conduct of physical or nonintrusive inspection of the goods** within forty-eight (48) hours from issuance of the order. Within forty-eight (48) hours or, in the case of perishable goods, within twenty-four (24) hours from inspection, **the alerting officer shall recommend the continuance of processing of goods in case of a negative finding, or <u>issuance of a warrant of seizure and detention if a discrepancy between the declaration and actual goods is found</u>.** The Bureau's information system shall immediately reflect the imposition or lifting of an alert order.

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> Derogatory information shall indicate the violations and other necessary specifics thereof. For this purpose, the following shall not be considered derogatory information:
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> (a) General allegations of undervaluation;
>
> (b) General allegations of misclassification without providing the appropriate tariff heading and duty of the shipment to be alerted;
>
> (c) General allegations of over-quantity without indicating the source of information supporting the allegation;
>
> (d) General allegations of misdeclaration in the entry without indicating the suspected actual contents thereof; and
>
> (e) General allegations of importations contrary to law without indicating the specific law or rule to be violated.
>
> No alert order shall be issued on account of allegations of undervaluation unless said undervaluation is caused by the submission to customs of forged or spurious invoice or other commercial documents.
>
> **An alert order may be issued only after lodgement of the goods declaration and prior to the release of goods from customs custody.** Under no circumstances shall, the suspension of the processing of goods declaration be allowed except through an alert order issued by an authorized customs officer.
>
> The costs of the physical inspection shall be borne by the Bureau: *Provided,* That such cost shall be reimbursed by the owner prior to the release of the goods if the physical inspection results in the assessment of additional duties or taxes or the issuance of a warrant of seizure.
>
> The Commissioner shall be notified of the recommendation by the alerting officer within twenty-four (24) hours from the issuance of the alert order. Alert orders shall be dated and assigned a unique reference number in series which shall be the basis for reporting to and monitoring by the Commissioner and the Secretary of Finance.
>
> The Bureau shall create a central clearing house for alert orders and shall submit reports quarterly on the status thereof.
>
> Sec. 1112. *Alert Orders on Perishable Goods.* – When the subject of the alert order are perishable goods, the Bureau shall attach to the recommendation a certificate stating that the goods are perishable." (*Emphasis and underscoring supplied*)

Based on the aforequoted provisions of CMTA, an AO is a written order intended to stop the processing of the goods

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declaration and the authority of the Alerting Officer to conduct physical or non-intrusive inspection of the goods. After such physical inspection and a resultant discrepancy is found between the declaration and actual goods imported, the alerting officer shall recommend the issuance of a WSD then that is the only time when a WSD can be issued. **There is no indication under the said law of any exception as to the issuance of an AO**.

Respondent justified the non-issuance of the required AO by citing Customs Memorandum Order (CMO) No. 23-2016 that revoked the authority of the District Collector to issue an AO. Hence, he cannot be faulted for such non-issuance.

It should be noted that the implementing rules for the issuance of an AO and Seizure proceedings under the CMTA is codified in Customs Administrative Order (CAO) No. 10-2020, which was only promulgated by respondent on May 11, 2020 and approved by the Secretary of Finance on June 5, 2020. Said implementing rules was only registered on August 18, 2020 in the Office of the National Administrative Register, University of the Philippines.

Thus, the existing rules and regulations for the issuance of an AO at the time of the assailed WSD was CMO No. 35-2015 dated September 23, 2015. Paragraph 3.5 of said CMO No. 35-2015 provides for the authorized BOC officials to issue an AO which includes among others the District Collectors of the BOC.

On the other hand, under CMO No. 23-2016 dated September 7, 2016, except for the respondent, the authority to issue an AO given to other BOC Officials under CMO No. 35-2015 was revoked.

However, a closer look at the said CMO No. 23-2016 shall reveal that it is only the authority of said officials that was revoked and not the other provisions of CMO No. 35-2015. It only centralized the issuance of AO through BOC's Command Center (ComCen), Office of the Commissioner but retained the other provisions of CMO No. 35-2015.

Paragraph 4.1 of CMO No. 35-2015 provides that an AO may be issued through BOC's Electronic Alert System or the e2m Alert System. Thus, the BOC personnel, as the Alerting

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Officer, in the Port of Limay, Bataan may request for the issuance of the required AO to stop the processing of the import declaration and the conduct of physical or nonintrusive inspection of the imported IFO. However, they boarded the subject ships authorized by the Assailed WSD and not by the required AO. Thus, respondent's personnel violated petitioner's right to due process.

Respondent insists that the existence of probable cause was enough for the issuance of the said WSD. On the other hand, petitioner insists that prior to the issuance of the WSD, an AO should first be served and received by it in observance of its right to due process.

It is presumed under the law that a public official doing an "official duty has been regularly performed."[45] Thus, the issuance of the subject WSD enjoys the presumption of regularity. However, such presumption cannot prevail over the rights guaranteed under the Philippine Constitution as held in *People of the Philippines v. Pablo Arposeple y Sanchez and Jhunrel Sulogaol y Datu*:[46]

> "The presumption of regularity of performance of official duty stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty. And even in that instance the presumption of regularity will not be stronger than the presumption of innocence in favor of the accused. **Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right** to be presumed innocent." (*Emphasis supplied*)

In the instant case, it is petitioner's right to due process, which is the first and foremost right in Article III-Bill of Rights of the 1987 Philippine Constitution, that was violated by respondent's agents and representative in the issuance of WSD without issuing first the required AO.

It may be true that the existence of probable cause in the issuance of WSD had complied with the substantive due process requirement of the Constitution but its issuance failed to observe petitioner's right to procedural due process. In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[47], the Supreme Court nullified the action of

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[45] Section 3(m), Rule 131 of the Rules of Court.
[46] G.R. No. 205787, November 22, 2017.
[47] G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

a government agency, (*i.e.* BIR), for not following its own rules and regulations which constitutes a violation of taxpayer's right to procedural due process, to wit:

> "In this case, Avon was able to amply demonstrate the Commissioner's **disregard of** the due process standards raised in *Ang Tibay* and subsequent cases, and of the **Commissioner's own rules of procedure**. Her disregard of the standards and rules renders the deficiency tax assessments null and void. ...." (*Emphasis supplied*)

In the instant case, it is not only the respondent's own rules and regulation that were violated but the provisions of the law itself. Thus, the WSD is null and void.

The conduct of a hearing before the Commissioner is not necessary

Petitioner avers that respondent erred in affirming the decision of the District Collector without conducting a hearing on its case and by engaging in pure speculation, conjectures, and surmises in the Assailed Decision. On the other hand, respondent denied such allegation.

Sections 114, 1119, 1125, and 1126 of CMTA govern the procedure in serving the WSD and administrative proceedings before the District Collector and respondent COC, to wit:

> Sec. 114. *Right of Appeal, Forms and Ground.* – Any party adversely affected by a decision or omission of the Bureau pertaining to an importation, exportation, or any other legal claim shall have the right to appeal within fifteen (15) days from receipt of the questioned decision or order.
>
> An appeal in writing shall be filed within the period prescribed in this Act or by regulation and shall specify the grounds thereof.
>
> The Bureau may allow a reasonable time for the submission of supporting evidence to the appeal.
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> xxx xxx xxx
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> Sec. 1119. *Service of Warrant of Seizure.* – The District Collector shall cause the service of warrant of seizure to the owner or importer of the goods or the authorized representative thereof. **The owner or importer shall be given an opportunity to be heard during the forfeiture proceedings**.

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For the purpose of serving the warrant, the importer, consignee, or person holding the bill of lading or airway bill shall be deemed the "owner" of the goods. For the same purpose, "authorized representative" shall include any agent of the owner and if the owner or the agent is unknown, any person having possession of the goods at the time of the seizure.

Service of warrant to an unknown owner shall be effected by posting the warrant for fifteen (15) days in a public place at the concerned district, and by electronic or printed publication.

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Sec. 1125. *Decision in Forfeiture Cases.* – **In forfeiture cases, the District Collector shall issue an order for hearing within fifteen (15) days**, or five (5) days in case of perishable goods, **from issuance of the warrant. The District Collector shall render a decision within thirty (30) days upon termination of the hearing,** or within ten (10) days in case of perishable goods. The decision shall include a declaration of forfeiture, the imposition of a fine or such other action as may be proper.

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Sec. 1126. *Appeal to the Commissioner.* – **In forfeiture cases, the person aggrieved by the decision of a District Collector may, within fifteen (15) days** or five (5) days in case of perishable goods, **from receipt of the decision, file a written notice of appeal**, together with the required appeal fee to the District Collector, furnishing a copy to the Commissioner. The District Collector shall immediately transmit all the records of the proceedings to **the Commissioner, who shall review and decide on the appeal within thirty (30) days from receipt of the records,** or fifteen (15) days in the case of perishable goods: Provided, **That if within thirty (30) days, no decision is rendered, the decision of the District Collector under appeal shall be deemed affirmed.** An appeal filed beyond the period herein prescribed shall be dismissed.

Appeals to protest cases shall be governed by Section 114 of this Act.

The decision of the Commissioner may be served through the recognized modes of service under existing law.

As shown in the above-cited provisions of CMTA, after the service of WSD to the importer or its representative, the District Collector shall conduct a **hearing** within fifteen (15) days from the issuance of said WSD. After the termination of said hearing, the District Collector shall render a decision within thirty (30) days from such termination.

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If the importer is aggrieved by said decision, it has 15 days from receipt of the same to file a written notice of appeal before the respondent, who shall **review** and decide the appeal within thirty (30) days from receipt of the records of the case, and if after the said 30-day period, no decision is rendered, the decision of the District Collector under appeal shall be deemed affirmed.

Thus, petitioner is totally mistaken that respondent COC should conduct a hearing on the former's appeal. The law is very clear that when the decision of the District Collector is appealed to the respondent, the latter shall review and decide on the case without need to conduct hearing thereon.

Considering that respondent failed to render a decision during the prescribed period for him to review and decide on the instant case, the District Collector's decision was deemed affirmed. Hence, petitioner had a thirty (30)-day period to file a petition before this Court which it did.

However, since the WSD is null and void due to the non-issuance of the required AO, the subsequent actions of the respondent, the District Collector and his representatives, are also null and void due to flagrant violation of petitioner's right to due process.

WHEREFORE, in light of the foregoing, the present *Petition for Review* filed by SL Harbor Bulk Terminal Corporation is hereby **GRANTED**.

Accordingly, the January 20, 2017 Decision of the Collector of Customs, Julius B. Premediles, is **REVERSED** and **SET ASIDE**; and, the Warrant of Seizure and Detention No. 001-2016 is **RECALLED** and **LIFTED**. The order of the Court in January 23, 2018 Resolution to release to petitioner SL Harbor Bulk Terminal Corporation the 44,000 MT of imported industrial fuel oil, subject of the present case, is **DECLARED PERMANENT**. The Surety Bond (PISC Bond No. 0091951 dated January 25, 2018) issued by Pioneer Insurance and Surety Corporation in the amount of Php122,714,962.50 shall be **RELEASED AND DISCHARGED UPON FINALITY OF JUDGMENT**.

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SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice