REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

ARLYN SOLITA A. BRIONES, owner and proprietor of ELJ1 Medical Shop,
Petitioner,

- versus -

COMMISSIONER OF CUSTOMS,
Respondent.

CTA CASE NO. 10355

Members:

BACORRO-VILLENA, *Acting Chairperson,* and
CUI-DAVID, *JJ.*

Promulgated:
JAN 03 2024
4:10 p.m.

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DECISION

BACORRO-VILLENA, J.:

Before this Court is a "Petition for Review (With Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition)"[1] filed by petitioner Arlyn Solita A. Briones, owner and proprietor of ELJ1 Medical Shop (**petitioner/Briones**) against respondent Commissioner of Customs (**respondent/COC**), under Section 3(a)[2], Rule 8 in relation to Section 3(a)(4)[3], Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**).

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1 Filed on 17 September 2020, Division Docket, Volumes I and II, pp. 7-791, with annexes.

2 **SEC. 3**. *Who may appeal; period to file petition.* — (a) A party adversely affected by a decision, … or ruling of the Commissioner of Customs … may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling…[.]

3 **SEC. 3**. *Cases within the jurisdiction of the Court in Divisions*. – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
…

Petitioner seeks the nullification, reversal, and setting aside of respondent's Order dated 03 August 2020[4] (**assailed Order**), which affirmed the 21 May 2020 Decision[5] of then Acting District Collector of the Manila International Container Port (**MICP**), Guillermo Pedro A. Francia (**Acting District Collector Francia**). Petitioner essentially argues that she has fully discharged the burden of proof, demonstrating that the subject seized goods were validly purchased from local suppliers and carried the necessary registrations. Consequently, she asserts that respondent has no legal basis to effect the seizure and forfeiture of the subject goods.

PARTIES OF THE CASE

Petitioner is a Filipino citizen, of legal age and a resident of 8-M RD 4, 1st West Barangay, West Crame, 1500 San Juan City, Metro Manila. She is the owner of a sole proprietorship doing business under the name of ELJ1 Medical Shop. It is a duly registered enterprise, as evidenced by its Certificate of Business Name Registration[6] and its Business Permit[7] issued by the City of Manila. She is also the owner of the goods subject of the seizure and forfeiture proceedings in this case.[8]

Respondent, on the other hand, is being sued in his or her official capacity as the head of the Bureau of Customs (**BOC**), a government instrumentality which, among others, exercises original jurisdiction over seizure and forfeiture cases under Republic Act (**RA**) No. 10863 or the Customs Modernization and Tariff Act of 2016 (**CMTA**). He or she may be served with summons and other court processes through his or her counsel of record, the Office of the Solicitor General (**OSG**), with office address at 134 Amorsolo Street, Legazpi Village, Makati City.[9]

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(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[.]

4 Exhibit "P-2"/"R-6", Division Docket, Volume II, pp. 896-925.
5 Exhibit "P-1", id., Volume III, pp. 1260-1290.
6 Exhibit "P-4", id., Volume I, p. 104.
7 Exhibit "P-5", id., p. 105.
8 Paragraphs 1 and 10, I. Summary of Admitted Facts, Joint Stipulation of Facts and Issues (**JSFI**), id., Volume III, pp. 1079 and 1081, respectively.
9 Par. 2, id., pp. 1079-1080.

FACTS OF THE CASE

On 22 May 2020, petitioner, through counsel, received *via* email a copy of then MICP Acting District Collector Francia's Decision dated 21 May 2020[10] in Seizure Identification (**SI**) No. 074-2020, which ordered the forfeiture of the seized goods for having been imported in violation of Section 1113(f) and (l)(5)[11] of the CMTA.

On 05 June 2020, petitioner filed her Notice of Appeal[12] with Memorandum of Appeal[13], wherein she prayed that respondent reverse and set aside then MICP Acting District Collector Francia's Decision[14] and recall the subject Warrant of Seizure and Detention (**WSD**) dated 17 April 2020 (re: SI No. 074-2020).[15]

On 18 August 2020, petitioner received a copy of respondent's assailed Order[16] in SI No. 074-2020, wherein the latter affirmed the ruling of then MICP Acting District Collector Francia and thereby, denied petitioner's Memorandum on Appeal.

The assailed seizure and forfeiture proceedings initiated by respondent refers to petitioner's goods that were seized on 31 March 2020 during the implementation of the Letter of Authority (**LOA**) No. 03-31-16-2020[17] and Mission Order (**MO**) No. 03-31-2020-031[18] (which authorized a composite team of BOC and Philippine Coast Guard [**PCG**] personnel, led by Intelligence Officer III Alvin Y. Enciso [**IO Enciso**] as the group's team leader). The seized goods were covered by a WSD

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10 Exhibit "P-1", supra at note 5.

11 **SEC. 1113.** *Property Subject to Seizure and Forfeiture.* — Property that shall be subject to seizure and forfeiture include:

...

(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;

...

(l) Goods sought to be imported or exported:

...

(5) Through any other practice or device contrary to law by means of which such goods entered through a customs office to the prejudice of the government.

12 Exhibit "P-11", Division Docket, Volume III, pp. 1313-1328.

13 Exhibit "P-12", id., Volume II, pp. 727-784.

14 Exhibit "P-1", supra at note 5.

15 Exhibit "R-5", Division Docket, Volume II, pp. 962-975.

16 Exhibit "P-2"/"R-6", supra at note 4.

17 Exhibit "P-6"/"R-1", Division Docket, Volume II, pp. 938-939.

18 Exhibit "R-2", id., pp. 940-941.

dated 17 April 2020 that MICP Acting District Collector Francia issued previously.

In the assailed Order[19], respondent informed petitioner that, following a review, he or she is upholding MICP Acting District Collector Francia's Decision.[20] According to respondent, petitioner's documents do not prove her payment of duties and taxes; therefore, the seized goods in question should be forfeited in favor of the government and disposed of in a manner provided by law.

PROCEEDINGS BEFORE THE COURT

On 17 September 2020, petitioner filed the present Petition for Review[21] within thirty (30) days from her alleged receipt of respondent's assailed Order.[22] The same was raffled to the Third Division[23] and docketed as CTA Case No. 10355.

In the Resolution dated 29 September 2020[24], the Third Division directed petitioner to submit a compliant Verification within ten (10) days from notice. Petitioner filed her Compliance (with attached Verification)[25] on 13 October 2020.

Then, in the Resolution dated 30 October 2020[26], the Third Division noted petitioner's Compliance, directed the issuance of summons to respondent and ordered respondent to file an Opposition to petitioner's "Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition"[27] (**Motion to Suspend**) within five (5) days from notice.

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19 Exhibit "P-2"/"R-6", supra at note 4.
20 Exhibit "P-1", supra at note 5.
21 Supra at note 1.
22 Exhibit "P-2"/"R-6", supra at note 4.
23 The Third Division is composed of Associate Justice Erlinda P. Uy (Ret.), as Chairperson, and Associate Justice Ma. Belen M. Ringpis-Belen and Associate Justice Maria Rowena Modesto-San Pedro, as Members.
24 Division Docket, Volume II, pp. 793-794.
25 Id., pp. 795-798.
26 Id., pp. 801-802.
27 Embodied in the Petition for Review, supra at note 1, pp. 19-20.

On 06 November 2020, the Third Division issued Summons[28] to respondent.

On 26 November 2020, respondent filed his or her "Manifestation with Motion (To Admit Attached Opposition)"[29] (**Manifestation with Motion to Admit**). The Third Division noted respondent's Manifestation, granted the accompanying Motion, thereby admitting the attached Opposition[30] as part of the case records, and set the hearing on petitioner's Motion to Suspend on 02 February 2021.[31]

After the Third Division granted an extension of time[32], respondent filed his or her "Verified Answer (to the Petition for Review dated September 16, 2020)"[33] (**Answer**) on 13 January 2021. There, respondent cited the following special and affirmative defenses: (1) there was probable cause to justify the forfeiture of petitioner's goods in favor of the government; and, (2) petitioner failed to discharge her burden of proving that the subject goods were locally purchased and that the duties and taxes thereon were paid.

On 26 January 2021, the Court issued a Notice of Pre-Trial Conference[34] and set the case for pre-trial conference on 25 May 2021. In compliance with the Court's order therein, respondent filed *via* registered mail his or her Pre-Trial Brief[35] on 19 May 2021, while petitioner filed its Pre-Trial Brief[36] on 20 May 2021.

During the 02 February 2021 hearing on petitioner's Motion to Suspend[37], petitioner's counsel manifested that he will not present a witness and, upon motion, the Third Division granted the parties' counsels a period of fifteen (15) days, or until 17 February 2021, to file their respective memoranda.[38]

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28 Id., p. 803.
29 Id., pp. 806-808.
30 Id., pp. 809-815.
31 See Resolution dated 04 January 2021, id., p. 820.
32 See Resolution dated 15 January 2021, id., pp. 829-830.
33 Id., pp. 831-847.
34 Id., pp. 977-978.
35 Id., pp. 1058-1066.
36 Id., pp. 1041-1050.
37 Supra at note 27.
38 Referred to in the case records to be "Position Paper[s]" in the Order dated 02 February 2021, Division Docket, Volume II, pp. 980-981.

In compliance with the Court's directive, petitioner filed her "Memorandum (In Support of Petitioner's Motion to Suspend the Sale/Disposition of the Subject Goods)"[39] on 17 February 2021, while respondent filed *via* registered mail his or her Memorandum[40] on 16 February 2021.

Subsequently, in the Resolution dated 17 March 2021[41] (**assailed Resolution**), the Third Division denied petitioner's Motion to Suspend for lack of merit. It ruled that petitioner failed to provide proof that the disposition of the subject goods will jeopardize her business operations. Since the proceeds of the sale of the seized goods shall be held in escrow, subject to the final determination of petitioner's liability, it further held that both the government and petitioner's interests are protected. In other words, it found that petitioner failed to raise any compelling reason to justify the suspension of the sale or disposition of the subject seized goods.

On 25 May 2021, the Pre-Trial Conference proceeded *via* videoconference, during which the Third Division granted the parties a period of 30 days, or until 24 June 2021, to file their Joint Stipulation of Facts and Issues (**JSFI**) and set the initial presentation of petitioner's evidence on 14 July 2021 also *via* videoconference.[42] In compliance therewith, on 24 June 2021, the parties submitted their JSFI[43]. The Third Division approved the same in its Resolution dated 12 July 2021[44] and deemed the pre-trial terminated. Later, on 14 July 2021, the Third Division issued the corresponding Pre-Trial Order.[45]

On 09 June 2021, petitioner filed a Motion for Reconsideration[46] (**MR**) of the assailed Resolution. She argued that the seizure of the subject goods was arbitrary and without valid justification. According to her, this unwarranted seizure hampered the conduct of her business, causing financial injury, and any premature disposition of the subject

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39 Id., pp. 982-1003, with Annex "A" (copy of DOH Department Memorandum No. 2020-0345).
40 Captioned "Position Paper", id., Volume III, pp. 1017-1026.
41 Id., pp. 1034-1040.
42 See Minutes of the Hearing and Order, both dated 25 May 2021, id., pp. 1055 and 1056-1057, respectively.
43 Id., pp. 1079-1088.
44 Id., p. 1105.
45 Id., pp. 1114-1122.
46 Id., pp. 1071-1075.

goods would further risk her ability to continue business operations in the future.

On 05 July 2021, respondent filed his or her Comment[47] on petitioner's MR on the assailed Resolution. Respondent reiterated that petitioner's interest is amply protected under the provisions of the Joint DOH-DTI-DA-DOJ-DILG-BOC Circular No. 001 (S2020).[48] The proceeds of the sale of the subject seized medical supplies shall be held in escrow, without prejudice to the final determination of petitioner's liability after trial.

However, in the Resolution dated 23 November 2021[49], the Third Division still denied petitioner's MR for lack of merit. The Court noted that petitioner's bare allegations—that the seizure of the subject goods has already wreaked havoc on her operations, effectively impairing her ability to conduct her business normally—have no leg to stand on.

Meanwhile, on 05 July 2021, respondent transmitted to the Third Division the complete BOC Records of the case, which was noted in its Minute Resolution dated 12 July 2021.[50]

In the trial that ensued on 14 July 2021, petitioner presented her testimonial and documentary evidence. She offered her lone testimony, as the owner and proprietor of ELJ1 Medical Shop. However, upon motion of both counsels at the said hearing that they be given the opportunity to file Amended Judicial Affidavits of their respective witnesses, the Third Division reset the hearing to 12 August 2021 *via* videoconferencing, set a Commissioner's Hearing's to mark petitioner's evidence on 27 July 2021 and directed the parties to submit the Amended Judicial Affidavits no later than 05 August 2021.[51]

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47 Id., pp. 1124-1127.

48 IMPLEMENTATION OF SEIZURE AND RELATED PROCEEDINGS FOR GOODS NECESSARY TO ADDRESS THE COVID-19 PUBLIC HEALTH EMERGENCY PURSUANT TO REPUBLIC ACT (RA) 7581, AS AMENDED BY RA 10623, OTHERWISE KNOWN AS THE PRICE ACT AND RA 10863, OTHERWISE KNOWN AS THE CUSTOMS MODERNIZATION AND TARIFF ACT, IN RELATION TO RA 11469, OTHERWISE KNOWN AS THE BAYANIHAN TO HEAL AS ONE ACT.

49 Division Docket, Volume III, pp. 1173-1177.

50 Id., p. 1098.

51 See Minutes of the Hearing and Order, both dated 14 July 2021, id., pp. 1108 and 1111-1112, respectively.

After again resetting the videoconference hearing initially reset to 12 August 2021[52], the presentation of petitioner's evidence continued on 24 November 2021. On the witness stand, petitioner identified her Amended Judicial Affidavit dated 19 November 2021[53], in which she declared that:

(1) She owns "ELJ1 Medical Shop", a sole proprietorship that sells medical supplies and is registered with the Department of Trade and Industry (**DTI**) and the City of Manila;

(2) She actively oversees the business, working with several employees and managers;

(3) The inventory is sourced exclusively from domestic suppliers, wholesalers, and retailers within the Philippines, with no importations involved;

(4) On or about 31 March 2020, after showing her employees copies of the LOA[54] and the MO[55], the BOC raided her store and seized the goods found therein when they failed to show proof that the goods were not illegally imported;

(5) Subsequently, the BOC closed the store and inventoried the items found therein;

(6) The subject seized medical supplies were purchased from local businesses;

(7) She provided the BOC with sales invoices (**SIs**), official receipts (**ORs**), and other documents, including affidavits from local suppliers and Certificates of Product Registration, to support that the seized medical supplies were sourced from local suppliers;

(8) Following the seizure of the subject goods, she filed a Notice of Claim with Motion to Quash[56] and a Manifestation[57], with attached supporting documents;

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52 See Notice of Resetting dated 22 November 2021, id., p. 1153.
53 Exhibit "P-13", Amended Judicial Affidavit of Ms. Arlyn Solita A. Briones, id., pp. 1159-1170.
54 Exhibit "P-6"/"R-1", supra at note 17.
55 Exhibit "R-2", supra at note 18.
56 BOC Records, pp. 280-299.
57 Division Docket, Volumes I and II, pp. 393-500 and 501-710, respectively.

(9) On 18 May 2020, she received a copy of then MICP Acting District Collector Francia's Decision[58], forfeiting her goods;

(10) In response, she filed a Notice of Appeal[59] and a Memorandum on Appeal[60];

(11) On 18 August 2020, she received a copy of respondent's assailed Order[61]; and,

(12) She estimates the value of the seized goods at ₱3 million, based on her valuation.[62]

During cross-examination, petitioner stated that she began her medical supplies business only in 2020. She also confirmed that some products in her inventory were manufactured outside the Philippines, indicating that they were imported. While she declared that she purchased her inventory from local suppliers, she conceded that some items might have been imported. Furthermore, she acknowledged the LOA's[63] specific requirement for her to provide proof of payment for the import duties on such products.[64]

On redirect examination, petitioner clarified that she exclusively sources supplies from local suppliers, wholesalers, and retailers, and does not personally handle any imports. Upon further questioning about the documents submitted to prove the nature of the seized goods, she indicated that she had provided relevant ORs and SIs, Certificates of Product Registration, and affidavits from her local suppliers.[65]

Respondent did not conduct any re-cross examination.[66]

In response to the Court's clarificatory question, petitioner confirmed that her store had already reopened. However, due to financial constraints, she relocated to a smaller space because the rent at the original location was unaffordable. Addressing the challenge of matching ORs or vouchers to the seized items, she explained that the

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58 Exhibit "P-1", supra at note 5.
59 Exhibit "P-11", supra at note 12.
60 Exhibit "P-12", supra at note 13.
61 Exhibit "P-2"/"R-6", supra at note 4.
62 Exhibit "P-3", Division Docket, Volume I, pp. 88-103.
63 Exhibit "P-6"/"R-1", supra at note 17.
64 TSN dated 24 November 2021, pp. 8-16.
65 Id., pp. 16-17.
66 Id., p. 17.

BOC's inventory enumerates the items individually, while the ORs or vouchers categorize them by box. She also noted that, as a retailer, her store's inventory is updated daily, leading to frequent adjustments in item quantities. However, she did confirm that the seized goods were sourced from local suppliers. Nevertheless, when asked for proof of tax payment on these goods, she admitted her inability to provide such documentation, despite requests from her local suppliers.[67]

Upon the Court's further questioning, petitioner revised her earlier statement about the start of her medical supplies retail business, changing the year from 2020 to 2019. Following the seizure of the subject medical supplies, she has persisted in selling the leftover inventory in her store, especially the items that the BOC did not seize.[68]

On 21 December 2021, petitioner filed a "Motion to Set Additional Commissioner's Hearing (With Prayer to Defer Filing of Formal Offer of Evidence)".[69] The Third Division granted the motion, setting the requested Commissioner's Hearing for 23 December 2021 to mark petitioner's remaining exhibits. It also granted petitioner a period of fifteen (15) days from that date, or until 07 January 2022, to file her Formal Offer of Evidence (**FOE**).[70]

However, on 23 December 2021, respondent filed *via* email[71] a "Manifestation and Urgent Motion to Reset"[72], requesting a resetting of the Commissioner's Hearing. The reason cited was that his or her counsel was unable to attend physically due to intense adverse effects from a COVID-19 vaccine booster. The Third Division thus reset the said Commissioner's Hearing to 24 February 2022.[73]

On 23 February 2022, petitioner similarly filed a "Manifestation and Urgent Motion to Reset"[74], informing the Third Division that the 24 February 2022 setting for the Commissioner's Hearing is in conflict with a previously scheduled hearing for another case being handled by her counsel and that she could not find a substitute counsel. Hence, the

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67 Id., pp. 17-19.
68 Id., pp. 19-21.
69 Division Docket, Volume III, pp. 1197-1199.
70 See Order dated 22 December 2021, id., p. 1201.
71 See Commissioner's Report dated 23 December 2021, id., p. 1202.
72 Id., pp. 1203-1205.
73 See Resolution dated 15 February 2022, id., p. 1211.
74 Id., pp. 1212-1214.

Third Division yet again reset the Commissioner's Hearing to 10 March 2022.[75]

Due to the voluminous number of SIs and ORs, petitioner requested two (2) additional Commissioner's Hearings for her to finish marking her remaining documentary exhibits.[76] In the Resolution dated 22 March 2022[77], the Third Division granted the motion, setting the requested Commissioner's Hearings on 31 March 2022 and on 05 April 2022. It also granted petitioner a period of ten (10) days from that date, or until 15 April 2022, to file her FOE, and likewise granted respondent the same period to file his or her Comment/Opposition thereto. Further, it reset the initial presentation of respondent's evidence previously scheduled on 07 April 2022 to 03 August 2022.

On 18 April 2022, petitioner filed her FOE[78] consisting of Exhibits "P-1" to "P-13-A", inclusive of sub-markings. On 05 May 2022, respondent filed his or her "Comment (to Petitioner's Formal Offer of Documentary Evidence)"[79] thereto.

In a Resolution dated 20 June 2022[80], the Third Division admitted petitioner's documentary exhibits *except* for: (1) Exhibits "P-10-6-1" to "P-10-6-25" and "P-10-6-62" to "P-10-6-66"[81], for failure to present the originals for comparison; and, (2) Exhibits "P-10-6-100" and "P-10-6-153"[82], for not being found in the case records. In the same Resolution,

75 See Resolution dated 28 February 2022, id., p. 1219.

76 See Motion to Set Additional Commissioner's Hearing (With Prayer to Defer Filing of Formal Offer of Evidence), id., pp. 1223-1225.

77 Id., pp. 1228-1229.

78 Id., pp. 1245-1258.

79 Id., pp. 1330-1333.

80 Id., pp. 1339-1341.

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Exhibit No.	Description
"P-10-6-1" to "P-10-6-25"	Certificates of Product Registration for the Seized Goods. *(Found in Court Docket, Volume II, pp. 538-562)*
"P-10-6-62" to "P-10-6-66"	Certificates of Product Registration for the Seized Goods. *(Found in Court Docket, Volume II, pp. 599-603)*

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Exhibit No.	Description
"P-10-6-100"	Certificates of Product Registration for the Seized Goods.
"P-10-6-153"	

the Third Division set the initial presentation of respondent's evidence on 03 August 2022.

Subsequently, in view of the reorganization of the Court's Second and Third Divisions, the present case was transferred to the Second Division.[83] Thus, *per* Notice of Hearing dated 14 July 2022[84], the initial presentation of respondent's evidence was set before the Second Division on 03 August 2022.

During the 03 August 2022 hearing, respondent presented his or her lone witness, Special Agent I Manfred Rosete (**SA Rosete**), who, through his Amended Judicial Affidavit dated 30 July 2021[85], stated that:

(1) He was assigned as SA I at the Investigation Division of the BOC's Customs Intelligence and Investigation Service (**CIIS**) and has been with the BOC since 24 July 2018;

(2) His duties and responsibilities include (**a**) gathering, collecting, compiling and collating information on acts in violation of the CMTA and related laws, rules and regulations, (**b**) undertaking surveillance of persons and companies suspected of violating the CMTA and related laws, rules and regulations, (**c**) conducting searches, seizing illicit cargoes and/or baggage and other contraband, and executing arrests, (**d**) acting as process servers, (**e**) conducting inspections for purposes of enforcing the visitorial power of respondent pursuant to Section 224[86] of the CMTA, and (**f**) assisting other law enforcement agencies in the investigation, preparation and prosecution of customs-related cases, among other related functions;

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83 The Second Division is composed of Associate Justice Erlinda P. Uy (Ret.), as Chairperson, and Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.

84 Division Docket, Volume III, p. 1353.

85 Exhibit "R-7", Division Docket, Volume III, pp. 1140-1147.

86 **SEC. 224.** *Power to Inspect and Visit.* — The Commissioner or any customs officer who is authorized in writing by the Commissioner, may demand evidence of payment of duties and taxes on imported goods openly for sale or kept in storage. In the event that the interested party fails to produce such evidence within fifteen (15) days, the goods may be seized and subjected to forfeiture proceedings: *Provided*, That during the proceedings, the interested party shall be given the opportunity to prove or show the source of the goods and the payment of duties and taxes thereon: *Provided, further*, That when the warrant of seizure has been issued but subsequent documents presented evidencing proper payment are found to be authentic and in order, the District Collector shall, within fifteen (15) days from the receipt of the motion to quash or recall the warrant, cause the immediate release of the goods seized, subject to clearance by the Commissioner: *Provided, finally*, That the release thereof shall not be contrary to law.

(3) He was a member of the team that conducted an inspection of the warehouse belonging to 'ELJ1 Medical Shop' where the subject seized goods were stored;

(4) On 31 March 2020, a team composed of operatives from various divisions of the BOC and the PCG proceeded to inspect the goods inside the aforesaid warehouse, which is located at 1600 E. Remegio Street, Rizal Avenue, Santa Cruz, Manila;

(5) His team was authorized to conduct such inspection by virtue of LOA No. 03-31-016-2020[87] and MO No. 03-31-2020-031[88], both of which were issued by respondent on 30 March 2020;

(6) During the inspection, his team prepared an inventory of the various medical supplies stored inside the warehouse, *i.e.*, Memorandum dated 01 April 2020[89], and made a demand on petitioner, as the warehouse owner and sole proprietor of 'ELJ1 Medical Shop', through her authorized representative, to submit proof of payment of duties and taxes over such goods within 15 days from 31 March 2020, or until 15 April 2020;

(7) After further examination of the documents submitted by petitioner, his team determined that the same do not suffice to prove that the subject seized goods were locally purchased and that the duties and taxes thereon were paid;

(8) Despite a thorough cross-matching of the ORs/SIs presented and the list of inventoried goods, his team determined that a considerable number of goods have no corresponding ORs/SIs and that there are entries in the ORs/SIs that do not tally with the goods set out in the inventory; thus, petitioner failed to prove that all such goods were locally purchased and that the duties and taxes thereon were paid;

(9) His team reported the said findings to their team leader, IO Enciso, who, in turn, issued Memorandum dated 15 April 2020[90] to then MICP Acting District Collector Francia, recommending that a WSD be issued against the goods;

(10) Then MICP Acting District Collector Francia issued a WSD (SI No. 074-2020)[91], which was served upon petitioner;

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87 Exhibit "P-6"/"R-1", supra at note 17.
88 Exhibit "R-2", supra at note 18.
89 Exhibit "R-3", Division Docket, Volume II, pp. 942-951.
90 Exhibit "R-4", id., pp. 952-961.
91 Exhibit "R-5", supra at note 15.

(11) Thereafter, the forfeiture proceedings against the seized medical supplies continued, during which petitioner submitted documents to prove that such items were locally purchased and that the duties and taxes thereon were paid; and,

(12) Finding petitioner's submitted documents insufficient to prove that such medical supplies were indeed locally purchased and that the duties and taxes thereon were paid, respondent affirmed the findings outlined in then MICP Acting District Collector Francia's Decision[92] in his or her assailed Order.[93]

On cross-examination, SA Rosete admitted that he did not attach any evidence in his Amended Judicial Affidavit with which to establish the scope of his duties and responsibilities as SA. He also clarified that his group conducted an inspection pursuant to the LOA[94] and the MO[95] issued by respondent.[96]

Regarding his statement that he has been with the BOC since 24 July 2018, SA Rosete clarified that this date marks the beginning of his tenure as an SA. He further added that he actually began working at the BOC in April 2002, initially starting his career there as a Clerk.[97]

SA Rosete further confirmed that he was not among the examiners who prepared the inventory of the various medical supplies stored in petitioner's warehouse, as detailed in the Memorandum dated 01 April 2020.[98] He was also not involved in the cross-matching of the ORs/SIs presented and the list of inventoried goods, a task conducted by Customs Operations Officers (**COO**) III John Christopher Coquilla (**Coquilla**), COO III Datu Ahmad Timhar Kiram (**Kiram**), COO III Kimberly Labay (**Labay**) and COO III Nica Macaraig (**Macaraig**). Additionally, he admitted his lack of knowledge on whether examiners Coquilla, Kiram, Labay, and Macaraig possessed expertise in identifying medical supplies at the time of the inspection. He also stated that IO Enciso's Memorandum dated 15 April 2020[99] does not provide a detailed account of the results from the aforementioned cross-matching.[100]

92 Exhibit "P-1", supra at note 5.
93 Exhibit "P-2"/"R-6", supra at note 4.
94 Exhibit "P-6"/"R-1", supra at note 17.
95 Exhibit "R-2", supra at note 18.
96 TSN dated 03 August 2022, pp. 11-15.
97 Id., pp. 16-17.
98 Exhibit "R-3", supra at note 89.
99 Exhibit "R-4", supra at note 90.
100 TSN dated 03 August 2022, pp. 17-23.

When asked whether his team or the examiners had prepared a reconciliation in regard to the alleged discrepancies identified during the cross-matching of the ORs/SIs presented and the list of inventoried goods, SA Rosete stated that he was not aware if such reconciliation had been conducted. He explained that his division or unit does not typically handle such tasks and suggested that it might be the responsibility of the BOC's Law Division. Regarding his statement that a considerable number of goods have no corresponding ORs/SIs, he clarified that he really did not know the exact number of these goods in question since it was the examiners who reported this matter or finding.[101]

Lastly, when questioned about why his team recommended the forfeiture of all the goods listed in the inventory (although only a considerable number showed discrepancies based on the aforementioned cross-matching), SA Rosete explained that the decision to forfeit all the goods was prompted by petitioner's failure to submit proof of payment for the duties and taxes.[102]

On redirect examination, SA Rosete clarified that while he was not among the examiners who prepared the inventory of the various medical supplies stored in petitioner's warehouse, as detailed in the Memorandum dated 01 April 2020[103], he nonetheless signed the said document as a witness (which signifies that he was present during the inspection and the preparation of the inventory). He also confirmed that the results of the aforesaid cross-matching are detailed in the 'Table of Comparison' embodied in respondent's assailed Order.[104]

Furthermore, SA Rosete noted that respondent usually issues an MO for goods that are either imported or regulated. He emphasized that the primary reason for the confiscation of the subject medical supplies was petitioner's failure to provide proof of billing for duties and taxes, which is required for imported goods.[105]

During the re-cross examination, SA Rosete confirmed that, in his capacity as a witness rather than an examiner, he was not present for the entire inventory count. He explained that he was only present half

101 Id., pp. 24-28.
102 Id., p. 28.
103 Exhibit "R-3", supra at note 89.
104 TSN dated 03 August 2022, pp. 29-32.
105 Id., pp. 33-34.

of the time because he had to step out at times for meals and snack breaks. Later, he clarified that the task of tallying the inventoried items is assigned to the examiners, whereas his involvement was restricted to receiving information about the total count. As previously noted, he did not participate in cross-matching the ORs/SIs presented with the list of inventoried goods.[106]

When inquired about the existence of any document that could verify whether the items in petitioner's warehouse are imported or regulated, SA Rosete responded negatively. However, he noted that such information is typically indicated on the box containing the items, as in the case of a 'Made in China' label. Moreover, he verified that petitioner's store does, in fact, have an 'imported items' sign.[107]

Responding to the Court's clarificatory questions, SA Rosete confirmed his presence during the inventory count. From his personal observation, he noted that some items in the inventory were imported, while others were locally sourced. He explained that his team requested proof of tax payments for the imported goods; however, petitioner was only able to present receipts for purchases made locally. However, when queried whether the receipts could confirm the imported nature of the goods, he expressed uncertainty about whether this information was indicated on them. Finally, he affirmed that the seized medical supplies in question were imported, yet petitioner had acquired them from local suppliers.[108]

On 15 August 2022, respondent filed his or her FOE[109] consisting of Exhibits "R-1" to "R-7-A". On 25 August 2022, petitioner filed her Comment/Opposition[110] thereto.

In the Resolution dated 05 September 2022[111], the Second Division admitted all of respondent's exhibits. In the same Resolution, the Court likewise granted the parties a period of 30 days within which to file their respective memoranda.

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106 Id., pp. 35-38.
107 Id., pp. 39-41.
108 Id., pp. 41-46.
109 Division Docket, Volume III, pp. 1357-1363.
110 Id., pp. 1368-1370.
111 Id., pp. 1373-1374.

Thereafter, on 24 October 2022, petitioner filed her Memorandum,[112] while respondent filed his or her Memorandum[113] on 18 November 2022 (after being granted an extension of time by the Second Division[114]). Accordingly, on 04 January 2023, the Second Division considered the case submitted for decision.[115]

ISSUE

As the parties so stipulated[116], the main issue for this Court's determination is —

> WHETHER THE SEIZED MEDICAL SUPPLIES FROM PETITIONER ARLYN SOLITA A. BRIONES, OWNER AND PROPRIETOR OF ELJ1 MEDICAL SHOP, SHOULD BE FORFEITED IN FAVOR OF THE GOVERNMENT.

ARGUMENTS

In support of the above issue, petitioner essentially argues that respondent erred in ordering the forfeiture of the subject seized medical supplies. She insists that there is insufficient probable cause for the issuance of a WSD against her goods. She adds that she is a 'buyer in due course' and asserts that the seized goods were locally purchased. Likewise, she asserts that respondent has failed to substantiate the alleged discrepancies.

Petitioner expounds that she is a legitimate 'buyer in due course,' having sourced the medical supplies from local suppliers. According to her, respondent presented no evidence that the seized medical supplies were imported in violation of the CMTA or that she was aware of any illegal importation. On this note, petitioner emphasizes that, as a retailer, she only purchases goods from licensed local suppliers, and that such goods are not illegal or contraband. She claims to have purchased these goods in good faith and without knowledge of any legal issues.

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112 See Annex "A" to Petitioner's "Motion to Admit Attached Memorandum for Petitioner", id., pp. 1379-1411, with annex.
113 Id., pp. 1420-1432; Received by the Court on 29 November 2022.
114 See Resolution dated 22 November 2022, id., p. 1419.
115 See Resolution dated 04 January 2023, id., p. 1436.
116 II. ISSUE/S TO BE RESOLVED, JSFI, Division Docket, Volume III, p. 1082.

Petitioner further argues that to warrant forfeiture, respondent must prove the fraud employed by the consignee/importer to evade the duty pay duties and taxes. She asserts that respondent has failed to demonstrate any intentional fraud or deception on her part under the circumstances. Accordingly, petitioner highlights the lack of probable cause for the seizure of the subject medical supplies stored in her shop's warehouse and questions the methodology used to determine alleged discrepancies. She also points out that respondent's reliance on Section 1123[117] of the CMTA is unfounded due to a lack of evidence proving that the subject goods were contraband or smuggled.

On the other hand, respondent insists on the legality of the forfeiture (of the subject seized medical supplies) claiming that petitioner failed to prove payment of duties and taxes on these goods. According to petitioner, the seizure and forfeiture of medical supplies in this case stemmed from the exercise of his or her 'visitorial power' under Section 224[118] of the CMTA. Under this provision, he or she is authorized to effect seizure when the interested party, *i.e.*, petitioner herein, cannot provide evidence of duty and tax payments on imported goods openly for sale or kept in storage within 15 days from demand.

Respondent further notes that, under Section 1123[119] of the CMTA, once forfeiture proceedings begin, it is incumbent upon petitioner (as the claimant), to prove (**a**) the source of the goods and (**b**) the payment of duties and taxes thereon. Respondent thus asserts that petitioner has failed to demonstrate the concurrence of these twin elements.

Additionally, respondent contends that petitioner's ORs and SIs do not constitute proof of payment of applicable duties and taxes. Petitioner allegedly failed to present any document originating from the BIR or the BOC to substantiate such payments. Since forfeiture proceedings are *in rem* or against the goods, petitioner, as the person possessing the goods, must prove that the applicable duties and taxes were paid. Respondent thus argues that petitioner failed in this regard.

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117 SEC. 1123. *Burden of Proof in Forfeiture Proceedings.* — In all proceedings for the forfeiture of any vehicle, vessel, aircraft, or goods under this Act, the burden of proof shall be borne by the claimant.

118 Supra at note 86.

119 Supra at note 117.

Respondent maintains that petitioner's pieces of evidence do not satisfy the requirements of proving that the seized medical supplies were locally purchased and that the duties and taxes thereon were paid. The fact that the composite inspection team noted discrepancies, such as a lack of corresponding ORs/SIs for some medical supplies and mismatches between the nature/quantity of goods and the documents provided, purportedly shows that petitioner failed to discharge the burden of proof in forfeiture proceedings.

Respondent submits that specifying each circumstance of fraud is not necessary for seizure under the CMTA, as fraud in importations is often clandestine.

Respondent likewise draws parallels with an earlier case, *BSJ Fishing and Trading, Inc. v. Hon. Napoleon Morales, in his capacity as Commissioner of the Bureau of Customs*[120], where the Court in Division held that the documents presented by therein petitioner were not sufficient to prove the local source of the seized diesel fuel as well as the payment of duties and taxes thereon. Similar to the said case, respondent contends that herein petitioner failed to sufficiently prove the local source of the subject seized medical supplies and the payment of the duties and taxes thereon.

RULING OF THE COURT

Before the Court proceeds to address the above-stated issue, it deems propitious to first determine the timeliness of petitioner's appeal as this is determinative of this Court's jurisdiction.

THE PRESENT PETITION FOR REVIEW
WAS TIMELY FILED.

Section 7(a)(4) of RA 1125[121], as amended by RA 9282[122], provides:

---

120 CTA Case No. 8026, 03 February 2015.

121 AN ACT CREATING THE COURT OF TAX APPEALS.

122 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. 7. *Jurisdiction.* — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

...

(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[.][123]

...

In relation thereto is Section 1136 of the CMTA and Section 11 of RA 1125, as amended by RA 9282, which are quoted hereunder for ready reference:

...

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.

Unless an appeal is made to the CTA in the manner and within the period prescribed by law and regulations, the ruling or decision of the Commissioner or the Secretary of Finance shall be final and executory.

...

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 action as referred to in Section 7(a)(2) herein.

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123 Italics in the original text and emphasis supplied.

> **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. ...[124]
>
> ...

Likewise, Section 3(a), Rule 8 of the RRCTA states:

> ...
>
> 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 taxes.[125]
>
> ...

Based on the foregoing provisions, the party aggrieved by a decision or ruling of the COC may appeal to this Court within 30 days from receipt of the said adverse decision or ruling.

The records of the case reveal that, on 03 August 2020, respondent rendered herein assailed Order[126], denying petitioner's appeal and affirming then MICP Acting District Collector Francia's Decision.[127] Considering that petitioner received a copy of the assailed Order on 18 August 2020[128], petitioner thus had 30 days therefrom, or **until 17 September 2020**, to file an appeal before this Court.

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124 Emphasis supplied.
125 Emphasis supplied.
126 Exhibit "P-2"/"R-6", supra at note 4.
127 Exhibit "P-1", supra at note 5.
128 Par. 5, I. Summary of Admitted Facts, JSFI, supra at note 43, p. 1080.

Given that the present Petition for Review[129] was timely filed on 17 September 2020, this Court has jurisdiction over the case.

We will now proceed to discuss the merits of the case.

After an assiduous review of the case records and the parties' arguments, this Court finds the present petition bereft of merit.

THE SEIZURE OF IMPORTED GOODS WAS VALID UNDER RESPONDENT'S VISITORIAL POWER.

The instant case stemmed from respondent's exercise of his 'visitorial power' granted under Section 224 of the CMTA, to wit:

> ...
>
> **SEC. 224.** *Power to Inspect and Visit.* — The Commissioner or **any customs officer who is authorized in writing by the Commissioner, may demand <u>evidence of payment of duties and taxes on imported goods openly for sale or kept in storage</u>**. In the event that the interested party fails to produce such evidence within fifteen (15) days, **the goods may be seized and subjected to forfeiture proceedings**: *Provided,* That during the proceedings, the interested party shall be given the opportunity to prove or show the source of the goods and the payment of duties and taxes thereon: *Provided, further,* That when the warrant of seizure has been issued but subsequent documents presented evidencing proper payment are found to be authentic and in order, the District Collector shall, within fifteen (15) days from the receipt of the motion to quash or recall the warrant, cause the immediate release of the goods seized, subject to clearance by the Commissioner: *Provided, finally,* That the release thereof shall not be contrary to law.[130]
>
> ...

Clearly from the foregoing, there is a valid seizure or forfeiture pursuant to respondent's 'visitorial power' when the following conditions are satisfied: (1) the seizure was conducted by personnel duly authorized by respondent; (2) there are imported goods; (3) that are openly for sale or kept in storage; (4) the interested party fails to

[129] Supra at note 1.
[130] Emphasis and underscoring supplied.

produce proof of payment of duties and taxes within 15 days from demand; and, (5) during the forfeiture proceedings, the interested party is given an opportunity to produce proof of payment of duties and taxes.

Anent the ***first*** **condition**, there was prior written authorization from the COC to carry out such 'visitorial power', as evidenced by the LOA[131] and the MO[132] issued and signed by respondent, then Customs Commissioner Rey Leonardo B. Guerrero (**Commissioner Guerrero**), on 30 March 2020. Accordingly, duly authorized BOC and PCG officials named therein conducted an inspection or examination at the business premises of petitioner's 'ELJ1 Medical Shop' located at 1600 E. Remegio St., Brgy. 316 Zone 32, Sta. Cruz, Manila. This inspection was aimed at investigating suspected storage of smuggled medical supplies.

Given that medical supplies were indeed discovered thereat, in compliance with the ***third*** and ***fourth*** **conditions**, respondent demanded evidence of payment of the duties and taxes on these suspected imported goods, which were openly for sale and kept in storage. However, petitioner was unable to provide the necessary proof of payment, leading to the seizure and initiation of forfeiture proceedings for the medical supplies. Furthermore, when BOC personnel requested such evidence, petitioner failed to sufficiently demonstrate the origin or source of the medical supplies and the payment of duties and taxes on them. Therefore, respondent had valid grounds to seize the medical supplies and initiate forfeiture proceedings.

As regards the ***second*** **condition**, there must be preponderant evidence to establish that the subject seized medical supplies in question were imported or obtained from outside the Philippines. Section 224 of the CMTA clearly states that only imported goods fall under respondent's visitorial power. The prior determination that the seized medical supplies are imported or foreign-manufactured could be discerned from the cross-examination[133] of SA Rosete, *viz*:

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[131] Exhibit "P-6"/"R-1", supra at note 17.
[132] Exhibit "R-2", supra at note 18.
[133] TSN dated 03 August 2022, pp. 39-43; Emphasis supplied.

...

ATTY. LI:

Maraming salamat. Mr. Witness, binanggit mo rin na sa iyong Letter of Authority or Mission Order ay **mayroon kasing imported items or regulated items**. Tama po ba?

WITNESS:

Yong regulated items na sinabi ko po eh usually.

ATTY. LI:

Ulitin ko po, Mr. Witness. Tama or mali lang po. Tama or mali bang sabihin na noong sinabi mo kanina na usually nagkakaroon ng Letter of Authority or Mission Order may kinalaman ito sa imported items or regulated items. Tama?

WITNESS:

Tama.

ATTY. LI:

Para sa particular na sitwasyon na ito sa kasong ito dito kay Ms. Arlyn Solita A. Briones, sa personal mong pagkakaalam, **mayroon ka bang nakitang dokumento na nagsasabing imported or regulated items yong n[a]kalagay or matatagpuan sa nasabing tindahan**?

WITNESS:

Wala pong dokumento... (interrupted)

ATTY. LI:

Maraming salamat, Mr. Witness.

WITNESS:

Pero nakalagay po sa karton. Nakalagay po sa karton.

ATTY. LI:

Mr. Witness, binanggit mo din na **may nakalagay na imported items sa tindahan ni Ms. Briones**, tama po ba?

WITNESS:

Opo.

ATTY. LI:

Mr. Witness, maaari ko po ba kayong tanungin kung pamilya[r] ba kayo sa iba't ibang medical products?

WITNESS:

Hindi ko po linya yan.

ATTY. LI:
So, tama rin po bang sabihin na hindi kayo familiar sa mga manufacturers ng medical products?

WITNESS:
Mayroon lang akong idea dyan.

ATTY. LI:
So tama rin po bang sabihin na mayroon kayong alam or masasabi mo sa isang tingin mo ang manufacturer ay domestic or imported?

WITNESS:
Opo.

ATTY. LI:
Ano ang basehan ng iyong kaalaman, Mr. Witness?

WITNESS:
Pag yong karton po ay nakita kong made in China, alam kong imported.

ATTY. LI:
Pero dito sa nasabing para sa specific na kaso na ito ni Arlyn Solita A. Briones, wala kayong inattached sa Affidavit mo nitong sinasabi mong may nakita kayong nakasulat na made in China. Tama po ba?

ASSOC. SOL. MANABAT:
Objection, Your Honors. Article speaks for itself, Your Honors.

JUSTICE UY:
All right.

ATTY. LI:
We submit, Your Honors.

JUSTICE UY:
Mr. Witness, just a few questions, **so yong paggawa ng inventaryo nakita ninyo**?

WITNESS:
Opo, opo.

JUSTICE UY:
So nakita ninyo?

WITNESS:
Opo, Your Honors.

JUSTICE UY :
And noong nag inventaryo tiningnan mo ba yong nga produkto?

WITNESS:
Opo. Tinitingnan ko po. Store po sya kaya kita mo po kung ano ang binibilang.

JUSTICE UY:
Nakita mo ba kung local o imported?

WITNESS:
Opo, opo.

JUSTICE UY:
So anong nakita mo?

WITNESS:
May mga imported po at may local.

JUSTICE UY:
Hiningian ba ng resibo si Ms. Solita?

WITNESS:
Opo. Ang hining[i] ay proof of payment po.

JUSTICE UY:
Payment of taxes for the imported goods?

WITNESS:
Yes po.

...

Moreover, petitioner herself admitted[134] that some of the medical supplies in question were imported goods, as follows:

...
Sol. Manabat:
Your Honor, my question will be anchored on or necessitates if prior showing of the exhibits, Your Honor. Perhaps, Your Honor, if the witness has a copy of the exhibits, I will just direct her to read and confirm some matters.

[134] TSN dated 24 November 2021, pp. 12-14; Emphasis supplied.

Atty. Li:

If the good counsel, Atty. Manabat can specify so I can prepare, so I can at least provide the copy of the attachment of the witness.

Sol. Manabat:

Actually, [it is] P-8-25-27, it is a CPR with item Silkam Braided Natural Silk.

Atty. Li:

Your Honor, we will be providing Ms. Briones a copy, I think she is already holding a copy of the attachment being cited by the good Solicitor. We will also be sharing our screen for reference of the Honorable Justices as well as the Honorable Court.

JUSTICE LIBAN:

Alright.

Sol. Manabat:

Madam Witness, kindly refer to that document and can you read to us the nature of the product in this exhibit that you are holding.

Witness:

Certificate of Product Registration.

Sol. Manabat:

Yung product po.

Witness:

Silkam Braided Natural Silk non-absorbable suture.

Q:

Madam Witness, can you also read to the Honorable Court the manufacturer?

A:

Manufacturer po is malabo na po.

Q:

Malabo, pero sa dulo po nung manufacturer we can see Barcelona Spain.

A:

Barcelona Spain.

Q:

And sasang-ayon po ba kayo sa akin, Madam Witness, na ibig sabihin **itong mga produktong ito ay na-manufacture sa Spain**? tama po ba?

A:

Opo.

Q:

Punta po tayo sa Exhibit P-8-5-31, Atty. Li.

JUSTICE LIBAN:

Attorney, can you just stipulate that some of products or listed in that product registration are not manufactured in the Philippines? I think that is what you want to - Atty. Manabat that is your questions [sic], isn't it?

Sol. Manabat:

Yes, Your Honor.

JUSTICE LIBAN:

So, can you just stipulate? **That some of the products listed are not manufactured in the Philippines but manufactured in other countries.**

Atty. Li:

Yes, Your Honor.

...

JUSTICE SAN PEDRO:

That is the stipulation that numerous items were manufactured outside the Philippines.

Atty. Li:

Yes, Your Honors, we would like to clarify on [sic] that.

Sol. Manabat:

Madam Witness, would you agree therefore-sang-ayon ho ba kayo na dahil ang iilang produkto ay na-manufactured sa ibang bansa, **may import po sila dito sa Pilipinas, tama po?**

A:

Opo.

...

Furthermore, it is worth noting that some affidavits[135] that the authorized representatives of petitioner's local suppliers executed and

[135] Affidavits executed by Mr. Michael G. Lui, the authorized representative of Champion Biotech and Pharma Corp. (Exhibit "P-10-5-1", BOC Records, pp. 220-221; Division Docket, Volume I, pp. 490-491) and Ms. Kaye Aquino, the authorized representative of Newlife Pharmaceuticals, Inc. (Exhibit "P-10-5-2", BOC Records, p. 217; Division Docket, Volume I, p. 494).

attached to petitioner's Manifestation dated 07 May 2020[136] (which was filed with the BOC during the course of the forfeiture proceedings), include the following statement:

> ...
>
> 2. I am executing this affidavit to confirm that [name of supplier] **imports** the following items with the corresponding brand/s[.][137]
>
> ...

As can be gleaned from the foregoing, respondent has sufficiently established the ***second* condition** for a valid seizure or forfeiture under Section 224 of the CMTA, *i.e.*, that the subject seized medical supplies were imported goods.

It is settled that forfeiture proceedings are proceedings *in rem* and are directed against the *res*. The pronouncement in *Commissioner of Customs v. Manila Star Ferry, Inc., et al.*[138], is most enlightening, *viz*:

> ...
>
> **Forfeiture proceedings are proceedings *in rem*** (Commissioner of Customs v. Court of Tax Appeals, 138 SCRA 581 [1985] *citing* Vierneza v. Commissioner of Customs, 24 SCRA 394 [1968]) **and are directed against the *res*.** It is no defense that the owner of the vessel sought to be forfeited had no actual knowledge that his property was used illegally. **The absence or lack of actual knowledge** of such use is a defense personal to the owner himself which **cannot in any way absolve the vessel from the liability of forfeiture** (Commissioner of Customs v. Court of Appeals, *supra*; U.S. v. Steamship "Rubi," 32 Phil. 228, 239 [1915]).
>
> ...

Respondent's assailed Order[139] in this case, as in other seizure proceedings, concerns the *res* or object itself rather than the *persona* or person. The proceeding is a probe on illegally imported goods. These goods are deemed to have violated the country's revenue law, and as such, are prevented from being assimilated in lawful commerce until the corresponding duties thereon are paid and the penalties imposed and

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136 Exhibit "P-10", Division Docket, Volume I, pp. 393-411.

137 Emphasis supplied.

138 G.R. Nos. L-31776-78, 21 October 1993; Italics in the original text and emphasis supplied.

139 Exhibit "P-2"/"R-6", supra at note 4.

satisfied either in the form of fines or of forfeiture in favor of the government, which then disposes them according to the law.[140]

Analogously applying the foregoing pronouncements, the absence of knowledge or consent of petitioner on any irregularities or illegalities which attended the imported goods found in her possession cannot absolve such goods from the liability of forfeiture. Therefore, petitioner's defense of purchasing them from local suppliers deserves scant consideration.

Once the goods are sufficiently determined to be imported or sourced from outside the Philippines, Section 224[141] of the CMTA mandates the possessor to show proof of payment of the duties and taxes; otherwise, the goods may be seized.[142] This requirement supports the State's policy of combating smuggling and other customs fraud, ensuring that all imported goods are properly declared and appropriate duties and taxes are paid. It is a crucial tool for enforcing customs regulations, safeguarding revenue collection, and protecting the local economy from illegal imports.[143]

The essence of Section 224[144] of the CMTA is to reinforce the implementation of customs laws, particularly in ensuring that all imported goods have undergone proper customs clearance and that applicable taxes and duties are paid. It aims to prevent the circulation of smuggled or improperly imported goods in the market. By requiring

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140 See *People of the Philippines v. Court of First Instance of Rizal, Branch IX, Quezon City, et al.*, G.R. No. L-41686, 17 November 1980.

141 Supra at pp. 22-23.

142 See *Board of Commissioners of the Bureau of Immigration and the Jail Warden, Bureau of Immigration Detention Center v. Yuan Wenle*, G.R. No. 242957, 28 February 2023; *Carrara Marble Phil., Inc. v. Commissioner of Customs*, G.R. No. 129680, 01 September 1999, citing 21 Am Jur 2d, Customs Duties and Import Regulations §125 (1965).

143 Republic Act (**RA**) No. 10863 or the Customs Modernization and Tariff Act (**CMTA**)

SEC. **101**. *Declaration of Policy.* — It is hereby declared the **policy of the State to protect** and enhance **government revenue**, institute fair and transparent customs and tariff management that will efficiently facilitate international trade, **prevent and curtail any form of customs fraud and illegal acts**, and modernize customs and tariff administration. ... (Emphasis supplied.)

SEC. **202**. *Functions of the Bureau.* — The Bureau shall exercise the following duties and functions:

...

(d) Prevention and **suppression of smuggling and other customs fraud**;

...

(k) **Enforcement of [the CMTA] and all other laws, rules and regulations related to customs administration**. (Emphasis supplied.)

144 Supra at pp. 22-23.

proof of payment of duties and taxes, the BOC can verify that the goods were legally imported and the appropriate taxes have been paid. Again, this aids in safeguarding the local economy, protecting legitimate businesses, and ensuring that the government collects the correct amount of revenue from imports.[145]

Even if this Court were to consider the ORs/SIs[146] submitted by petitioner, these documents only prove her purchases from specific local suppliers within the given period. However, they still fail to confirm that the supplies listed therein are identical to the medical supplies seized from petitioner. This distinction is crucial as *not* all of petitioner's inventory was seized during the inspection — only the items identified as imported or foreign-manufactured.[147]

As regards the discrepancies identified during the cross-matching of the ORs/SIs presented and the list of inventoried goods, petitioner could have presented a schedule of inventory or the general ledger of her inventory to show the movement of her inventory, *i.e.*, local purchases, importations and disposals. Notably, the ORs/SIs provided by petitioner lack serial identification numbers for cross-referencing, which would have aided in correlating them with the confiscated items.

Lastly, respondent has also fulfilled the ***fifth* condition**. During the forfeiture proceedings, petitioner was afforded the opportunity to demonstrate the origin of the seized medical supplies and the payment of relevant duties and taxes. Despite this, petitioner again failed to provide sufficient evidence for both the source of such articles and the payment of duties and taxes thereon.

In her "Notice of Claim with Motion to Quash"[148], petitioner merely stated that she had requested import documents from her local suppliers to substantiate the payment of duties and taxes. However, she cited the enhanced community quarantine (ECQ) in 2020 as a

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[145] See *Narciso O. Jao and Bernardo M. Empeynado v. Court of Appeals, et al.*, G.R. No. 104604, 06 October 1995, citing *Commissioner of Customs v. Judge Ramon P. Makasiar and The Distillers Co. Ltd. of England*, G.R. No. 79307, 29 August 1989, re: the government's drive not only to prevent smuggling and other frauds upon customs, but also, and more importantly, to render effective and efficient the collection of import and export duties due the state.

[146] Exhibits "P-10-4-1" to "P-10-4-45", BOC Records, pp. 225-270.

[147] See Clarificatory Questions Propounded by the Court on Petitioner Arlyn Solita A. Briones, TSN dated 24 November 2021, p. 21.

[148] Exhibit "P-10-1", BOC Records, p. 280-299.

hindrance, making it difficult for suppliers to provide the documents due to the variety and volume of items involved.[149] Nevertheless, despite the eventual lifting of the ECQ restrictions and throughout the trial proceedings before this Court, petitioner failed to present any evidence or demonstrate her efforts to obtain the necessary documentation to prove the payment of duties and taxes on the imported goods in question.

With the foregoing disquisition, the evidence presented by petitioner was not sufficient to convince this Court that the seized medical supplies were locally purchased, nor that the duties and taxes due thereon had been paid.

THE BASIS FOR THE SEIZURE OF PETITIONER'S MEDICAL SUPPLIES IS SECTION 224, NOT SECTION 1113, OF THE CUSTOMS MODERNIZATION AND TARIFF ACT (CMTA).

Petitioner further contends that respondent erred in finding that the subject seized medical supplies are liable to forfeiture in favor of the government since respondent failed to show that fraud has been committed by the consignee or importer thereof to evade the payment of duties and taxes due thereon, citing Section 1113(f) and (l)(5) of the CMTA, which provide:

> ...
> **SEC. 1113**. *Property Subject to Seizure and Forfeiture.* — Property that shall be subject to seizure and forfeiture **include**:
> ...
>
> (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;
>
> ...

[149] Id., p. 284.

> (l) Goods sought to be imported or exported:
>
> ...
>
> (5) Through any other practice or device contrary to law by means of which such goods entered through a customs office to the prejudice of the government.[150]
>
> ...

On the contrary, respondent, through the OSG, points out that a finding of fraud is not a condition under Section 224[151] of the CMTA before an imported good may be seized. Respondent thus maintains that he acted within the bounds of his visitorial power under Section 224 of the CMTA.

We rule for respondent.

At the outset, it should be noted that there is no indication that the list of properties subject to seizure and forfeiture under Section 1113 of the CMTA is exclusive. This means that the said provision is not a complete or closed list, and other properties not specifically mentioned might still fall under the scope of seizure and forfeiture under the CMTA. That being said, insisting on a finding of fraud, when such a requirement is *not* stipulated under Section 224 of the CMTA, would effectively set at naught the said provision and restrict respondent's visitorial power.

A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis*. It is expressed in the maxim, *index animi sermo*, or "speech is the index of intention". Furthermore, there is the maxim *verba legis non est recedendum*, or "from the words of a statute there should be no departure".[152]

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150 Emphasis supplied.
151 Supra at pp. 22-23.
152 *Romeo Tumabini v. People of the Philippines*, G.R. No. 224495, 19 February 2020, citing *Cynthia S. Bolos v. Danilo T. Bolos*, G.R. No. 186400, 20 October 2010.

In this case, applying the principle of *verba legis* in statutory construction, as earlier discussed, respondent has fully adhered to all the conditions specified in Section 224[153] of the CMTA to effectuate a valid seizure or forfeiture.

Moreover, the foregoing interpretation aligns with Customs Administrative Order (**CAO**) No. 010-20[154], which was issued on 11 May 2020 (subsequent to the inspection conducted in this case). The enumeration of properties subject to seizure and forfeiture under Section 4.1 thereof explicitly includes "[i]mported goods offered openly for sale or kept in storage, which were discovered in the exercise of the Commissioner's power to inspect and visit pursuant to Section 224 of CMTA, when proof of payment of duties and taxes cannot be presented after the lapse of fifteen (15) days".

In sum, this Court finds no compelling reason to annul or reverse respondent's assailed Order[155] dated 03 August 2020, affirming then MICP Acting District Collector Francia's Decision[156] dated 21 May 2020, which order caused the forfeiture of petitioner's imported medical supplies in favor of the government (to be disposed in accordance with the law).

WHEREFORE, in view of the foregoing considerations, the instant Petition for Review filed by petitioner Arlyn Solita A. Briones, owner and proprietor of ELJ1 Medical Shop on 17 September 2020 is hereby **DENIED** for lack of merit. Accordingly, respondent Commissioner of Customs' assailed Order dated 03 August 2020 is hereby **AFFIRMED.**

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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153 Supra at pp. 22-23.
154 *Seizure and Forfeiture Proceedings and Appeals Process.*
155 Exhibit "P-2"/"R-6", supra at note 4.
156 Exhibit "P-1", supra at note 5.

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

ATTESTATION

I attest 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.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 2nd Division Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Special 2nd Division Acting Chairperson's Attestation, 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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice