REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

PRIMELINE PRODUCTS PHILIPPINES, INC., AS REPRESENTED BY LCB LEO B. PILAPIL BY VIRTUE OF A SPECIAL POWER OF AUTHORITY DULY EXECUTED BY THE COMPANY THRU THEIR BOARD OF DIRECTORS,
Petitioner,

- versus -

HON. ALBERTO D. LINA, COMMISSIONER OF CUSTOMS,
Respondent.

CTA EB NO. 2275
(CTA Case No. 9281)

Present:

DEL ROSARIO, *P.J.*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, and
FERRER-FLORES, *JJ.*

Promulgated:
MAY 25 2023 2:57 pm

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is respondent Commissioner of Customs, Alberto D. Lina's (**respondent**'s/**Customs Commissioner Lina**'s) "Motion for Reconsideration"[1] (**MR**) filed on 12 October 2022, with petitioner Primeline Products Philippines, Inc. (**petitioner**'s/**PPPI**'s) "Opposition to the Motion for Reconsideration"[2] (**Opposition**) filed *via* registered mail on 27 October 2022.[3]

---

1 *Rollo*, pp. 199-205.
2 Id., pp. 211-214.
3 Received by the Court on 08 November 2022.

Respondent seeks the affirmance of the Court *En Banc*'s Original Decision dated 22 February 2022[4] (**Original Decision**) and thereby, the reconsideration of the Court *En Banc*'s Amended Decision dated 19 September 2022[5] (**Amended Decision**). The dispositive portion thereof reads:

> ...
>
> **WHEREFORE**, the foregoing premises considered, petitioner Primeline Products Philippines, Inc.'s "Motion for Reconsideration with Motion to Cite Respondent in Contempt" filed on 16 March 2022 is **PARTIALLY GRANTED**. Accordingly, the Court's Decision dated 22 February 2022 is **AMENDED** to read as follows:
>
>> ...
>>
>> **WHEREFORE**, in light of the foregoing considerations, the instant Petition for Review filed by petitioner Primeline Products Philippines, Inc. on 01 July 2020 is hereby **DENIED** for lack of merit. Accordingly, the Third Division's Decision and Resolution dated 26 September 2019 and 07 February 2020, respectively, in CTA Case No. 9281 entitled *Primeline Products Philippines, Inc., as represented by LCB Leo B. Pilapil by Virtue of a Special Power of Authority duly Executed by the company thru their Board of Directors v. Hon. Alberto D. Lina, Commissioner of Customs* are hereby **AFFIRMED with MODIFICATION** only insofar as the penalty corresponding to the seizure of one (1) unit Ford F-150 SVT Raptor 2014 Model, covered by Customs Consumption Entry No. C-181121-15 is concerned. Accordingly, respondent Hon. Alberto D. Lina, Commissioner of Customs, is hereby **ORDERED** to immediately re-export the said vehicle to its country of origin at the expense of petitioner Primeline Products Philippines, Inc., pursuant to Executive Order No. 877-A, Series of 2010.
>>
>> **SO ORDERED.**
>>
>> ...
>
> **SO ORDERED.**
>
> ...

In his MR[6], respondent insists that the amendment to the Original Decision[7] is not in accord with prevailing law and jurisprudence. *Firstly*, respondent argues that the penalty of seizure and re-exportation at the expense of the importer or consignee under Executive Order (EO) No.

4 *Rollo*, pp. 88-109.
5 Id., pp. 184-198.
6 Supra at note 1.
7 Supra at note 4.

877-A Series of 2010[8] (**EO No. 877-A**) should not be construed to have repealed, by implication, the counterpart penalty of seizure without redemption under EO No. 156 Series of 2002[9] (**EO No. 156**) since implied repeals are not favored.

Respondent further points out that it can be inferred from a subsequent issuance of the President, *i.e.*, the third whereas clause[10] of EO No. 182 Series of 2015[11] (**EO No. 182**), that EO No. 877-A was not issued to repeal or supersede EO No. 156 and as such, both issuances are valid and subsisting and their respective provisions are applicable and should be used in the final determination of the instant case. The mere fact that a later enactment may relate to the same subject matter as that of an earlier statute is not sufficient to cause an implied repeal. Thus, every reasonable effort must be made to reconcile EO Nos. 156 and 877-A so that both can be given effect.

Secondly, respondent argues that there is no irreconcilable conflict between EO Nos. 156 and 877-A. Both issuances provide for the penalty of seizure of the imported vehicle. The later issuance only provides or gives the Bureau of Customs (**BOC**) the additional option to re-export the vehicle at the expense of the importer or consignee.

Lastly, respondent cites Section 1146[12] of Republic Act (**RA**) No. 10863 or the Customs Modernization and Tariff Act of 2016 (**CMTA**), which sanctions the disposal of seized vehicles, as further basis for imposing the penalty of seizure without redemption. Thus, respondent maintains that the penalty of seizure without redemption under Section 5.1[13], Article 2 of EO No. 156 may be imposed in this case where petitioner's importation of the subject motor vehicle is prohibited.

---

8 THE COMPREHENSIVE MOTOR VEHICLE DEVELOPMENT PROGRAM.

9 PROVIDING FOR A COMPREHENSIVE INDUSTRIAL POLICY AND DIRECTIONS FOR THE MOTOR VEHICLE DEVELOPMENT PROGRAM AND ITS IMPLEMENTING GUIDELINES.

10 WHEREAS, EO Nos. 156 (s. 2002) and 877-A (s. 2010) provide for a comprehensive industrial policy and directions for the Motor Vehicle Development Program to accelerate the sound development of the Philippine Motor Vehicle Industry, recognizing the need to attain competitiveness in the ASEAN region in particular[.]

11 PROVIDING FOR A COMPREHENSIVE AUTOMOTIVE RESURGENCE STRATEGY PROGRAM.

12 **SEC. 1146.** *Disposition of Prohibited Good.* – Prohibited goods, as provided in Section 118 of [the CMTA], shall be destroyed, except paragraph (d) thereof which shall be turned over to the BSP. All goods suitable for shelter, foodstuffs, clothing materials or medicines may be disposed in accordance with Section 1141 of this Act.

13 **SEC. 5.** *Penalty*

> 5.1 All imported vehicles found to be in violation of any provision in [EO No. 156] shall be subject to seizure without redemption by the BOC and will not be subject to registration by the LTO unless disposed of in accordance with the Tariff and Customs Code.

In its Opposition[14], petitioner calls for the Court *En Banc* to deem respondent's MR *pro forma* considering that it is a mere rehash of the arguments already raised in his submissions before the Court in Division and *En Banc*. Thus, it should not toll the reglementary period of appeal.

Petitioner also echoes the Court *En Banc*'s ruling in its Amended Decision[15] that, while implied repeals are not favored in our jurisdiction, the failure to include the penalty of seizure without redemption in Section 7[16], Article 2 of EO No. 877-A[17] signifies the repeal of the penalty under Section 5.1[18], Article 2 of EO No. 156[19] as these provisions are patently inconsistent with one another. On this note, petitioner concludes that respondent is mistaken in arguing that the penalty of seizure without redemption under EO No. 156 is applicable in this case; the applicable law being EO No. 877-A, which prescribes the penalty of seizure and re-exportation at the expense of the importer or consignee.

We resolve.

After a careful perusal of the present MR[20] and the arguments raised therein, We find the same bereft of merit.

To be sure, the present MR[21] is not *pro forma* just because it reiterated the arguments earlier passed upon and rejected by the appellate court.[22] However, mere reiterations of previously settled arguments are usually dealt with by this Court summarily following the Supreme Court's ruling in the case of *Ortigas and Company Limited Partnership v. Judge Tirso Velasco and Dolores V. Molina.*[23] Nonetheless, if only to put respondent's mind to rest, the Court will proceed to clarify the basis for the amendment to the Original Decision.[24]

---

14 Supra at note 2.
15 Supra at note 5.
16 **SEC. 7.** *Penalty.* — All vehicles imported found to be in violation of [EO No. 877-A] shall be subject to seizure and re-exported at the expense of the importer/consignee immediately.
17 Supra at note 8.
18 Supra at note 13.
19 Supra at note 9.
20 Supra at note 1.
21 Supra at note 1.
22 *Security Bank and Trust Company, Inc. v. Rodolfo M. Cuenca,* 396 Phil. 108 (2000); *Department of Agrarian Reform v. Vicente K. Uy,* 544 Phil. 308 (2007); and, *Valencia (Bukidnon) Farmers Cooperative Marketing Association, Inc. v. Heirs of Amante P. Cabotaje, et al.*, G.R. No. 219984, 03 April 2019.
23 G.R. No. 109645, 04 March 1996.
24 Supra at note 4.

To recall, the Court *En Banc* affirmed the Third Division's findings (1) that the subject imported motor vehicle is not "brand new" because it exceeded the mileage limit of 200 km under EO No. 877-A[25], and (2) that it is a "pickup truck" (having a Gross Vehicle Weight [**GVW**] not exceeding 3 tons), as defined under the guidelines to implement EO No. 156[26], which is not a regulated and liberalized vehicle. Accordingly, the importation thereof is prohibited, and such importation does not fall under any of the enumerated exceptions under Section 3, Article 2 of EO No. 877-A.

The Court *En Banc* later amended its Original Decision but *only* as to the penalty for the prohibited importation of the subject used motor vehicle. Specifically, in the Amended Decision[27], the Court *En Banc* modified the imposable penalty to seizure and re-exportation at the expense of the importer or consignee under EO No. 877-A, mainly because the penalty of seizure without redemption under EO No. 156 is "less than fair" to petitioner.

Notably, petitioner did not file an MR of the Amended Decision and respondent only challenged the propriety of the above modification to the imposable penalty in the present MR.[28] Thus, by virtue of the doctrine of *res judicata*, the Court *En Banc*'s determination in its Original Decision, *i.e.*, that the importation of the subject used motor vehicle, classified as a "pickup truck", is prohibited under Section 3, Article 2 of EO No. 877-A, is already settled and conclusive upon the parties.

Therefore, what remains an issue is the Court *En Banc*'s imposition of the penalty of seizure and re-exportation at the expense of the importer or consignee under EO No. 877-A[29] (instead of the penalty of seizure without redemption under EO No. 156[30]).

It must be stressed that, in declaring that the penalty of seizure without redemption under EO No. 156 is not the proper penalty under the circumstances, the Court *En Banc* exercised its equity jurisdiction as a matter of fairness since there was no showing that petitioner was

25 Supra at note 8.
26 Supra at note 9.
27 Supra at note 5.
28 Supra at note 1.
29 Supra at note 8.
30 Supra at note 9.

aware of the subject vehicle's excess mileage prior to its importation. Here, the Court recognized the possibility that non-compliance with the mileage limit may not *fully* fall on petitioner's shoulders as, to some extent, it could be beyond petitioner's control. It is for this reason that, to the Court's mind, the penalty meted upon petitioner may not be commensurate to the nature of its breach or may be too harsh than required.

Besides the fact that seizure without redemption is too harsh a penalty and runs counter to the doctrine or principle of fair play and equity, the Court *En Banc*, upon further review and reflection, realized that there exists an irreconcilable difference between the two (2) EOs as regards the proper penalty. Since both EOs punish the same offenses, the rules of statutory construction also dictate that EO No. 877-A (which is the later issuance) should prevail over EO No. 156, insofar as penalties are concerned, given the apparent conflicts that arise in their simultaneous application.

Consistent with the foregoing, the Court *En Banc* likewise adopted the contemporaneous construction of the Department of Trade and Industry (**DTI**) as regards the effect (*i.e.*, implied repeal) of EO No. 877-A's promulgation on inconsistent provisions of EO No. 156.

As a final point, the Court *En Banc* noted that, while implied repeals are not favored in this jurisdiction, it may be applied in this case since Section 5.1[31], Article 2 of EO No. 156 and Section 7[32], Article 2 of EO No. 877-A are patently inconsistent with one another.

In the case of *Antonio A. Mecano v. Commission on Audit*[33], the Supreme Court held that implied repeal should be given effect once it is clearly shown that the new law intends to replace the old one, *viz*:

> ...
>
> Repeal by implication proceeds on the premise that where a statute of later date clearly reveals an intention on the part of the legislature to abrogate a prior act on the subject, that intention must be given effect. Hence, before there can be a repeal, there must be a clear showing on the part of the lawmaker that the intent in enacting the new law was to abrogate the old one. The intention to repeal must

---

31 Supra at note 13.
32 Supra at note 16.
33 G.R. No. 103982, 11 December 1992; Citations omitted and emphasis supplied.

> be clear and manifest; otherwise, at least, as a general rule, the later act is to be construed as a continuation of, and not a substitute for, the first act and will continue so far as the two acts are the same from the time of the first enactment.
>
> There are two categories of repeal by implication. **The first is where provisions in the two acts on the same subject matter are in an irreconcilable conflict, the later act to the extent of the conflict constitutes an implied repeal of the earlier one.** The second is if the later act covers the whole subject of the earlier one and is clearly intended as a substitute, it will operate to repeal the earlier law.
>
> **Implied repeal by irreconcilable inconsistency takes place when the two statutes cover the same subject matter; they are so clearly inconsistent and incompatible with each other that they cannot be reconciled or harmonized; and both cannot be given effect, that is, that one law cannot be enforced without nullifying the other.**
>
> ...

In this case, while it is true that EO No. 877-A[34] did not identify EO No. 156[35] as among the orders, rules and regulations or parts thereof, which are inconsistent with it, the very fact that both EOs deal with the same subject of regulating the importation of both "brand new" and "used vehicles" for the purpose of strengthening the motor vehicle industry, and there is irreconcilable inconsistency between them insofar as Section 7[36], Article 2 of EO No. 877-A allows the immediate re-exportation at the expense of the importer or consignee, necessarily results in an implied repeal or amendment of Section 5.1[37], Article 2 of EO No. 156.

Considering that the remedies of redemption and re-exportation in seizure and forfeiture cases are similar in the sense that both allow the owner or importer to recover their seized property, it becomes apparent that, as to penalty, EO No. 877-A[38], which allows re-exportation, is inconsistent and incompatible with EO No. 156[39], which prohibits redemption.

---

34 Supra at note 8.
35 Supra at note 9.
36 Supra at note 16.
37 Supra at note 13.
38 Supra at note 8.
39 Supra at note 9.

We cannot subscribe to respondent's contention that pursuant to a subsequent issuance, *i.e.*, EO No. 182, EO No. 877-A was not issued to repeal or supersede EO No. 156 since there is nothing in the cited third whereas clause[40] thereof that suggests the same.

Lastly, as to respondent's argument that the penalty of seizure without redemption is also authorized under Section 1146[41] of the CMTA, it will not change the resolution of the issue at hand because the Court has already established that such penalty is too harsh and "less than fair" to petitioner under the circumstances.

All told, the Court *En Banc* finds no cogent reason to reverse or modify the Amended Decision.

WHEREFORE, premises considered, the present Motion for Reconsideration filed by respondent Hon. Alberto D. Lina, Commissioner of Customs on 12 October 2022, is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

40 Supra at note 10.
41 Supra at note 12.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

ON OFFICIAL BUSINESS

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice