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.*****,**
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and,*
CUI-DAVID, ***JJ.***

Promulgated:
FEB 22 2022 4:10pm

x - x

DECISION

BACORRO-VILLENA, J.:

Before the Court *En Banc* is a Petition for Review[1] pursuant to Section 3(b)[2], Rule 8 of the Revised Rules of the Court of Tax Appeals

[1] Filed on 01 July 2020, *Rollo*, pp. 1-54.

[2] **SEC 3.** *Who may appeal; period to file petition.* —

...

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an

(**RRCTA**), filed by petitioner Primeline Products Philippines, Inc. (**petitioner/PPPI**). It seeks the reversal of the Decision dated 26 September 2019[3] (**assailed Decision**) and Resolution dated 07 February 2020[4] (**assailed Resolution**), respectively, of the Court's Third Division[5] 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.*

Petitioner likewise prays for the issuance of an order to release the subject motor vehicle after the Bureau of Customs (**BOC**) shall have determined the correct duties and taxes due and that it be allowed to pay the same. Alternatively, petitioner prays that the subject motor vehicle be released and re-exported to the country of origin at its expense or that it be allowed to settle the forfeiture case either by payment of fine or by redemption.

PARTIES OF THE CASE

Petitioner is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines and duly represented by licensed customs broker Leo B. Pilapil (**LCB Pilapil**), as attorney-in-fact by virtue of a Special Power of Attorney (**SPA**) duly executed by petitioner's Board of Directors (**BOD**).[6]

Respondent Alberto D. Lina (**respondent/Commissioner Lina**), on the other hand, is being sued in his official capacity as the then Commissioner of the BOC and vested with the authority to carry out the functions and duties of said office; among which, is the enforcement of importation and tariff laws.

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additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

3 *Rollo*, pp. 27-44.

4 Id., pp. 46-51.

5 Penned by Hon. Associate Justice Ma. Belen M. Ringpis-Liban, with Hon. Associate Justice Erlinda P. Uy and Hon. Associate Justice Maria Rowena Modesto-San Pedro, concurring.

6 Exhibits "P-2" and "P-2-A" and paragraph 1, Summary of Admitted Facts, Joint Admission and Stipulation of Facts (JASF), Division Docket, Volume I, pp. 28-29 and 317, respectively.

FACTS OF THE CASE

On 07 September 2014, petitioner purchased one (1) "brand new" 2014 Model Ford F-150 Supercab SVT Raptor 4x4 SS with VIN#-1FTFX1R63EFD13485 (**motor vehicle**) from Galpin Ford, an authorized Ford Motor Dealer located at 15505 Roscoe Blvd., North Hills CA 91343 USA, as evidenced by Invoice No. 16325 dated 07 September 2014.[7]

After petitioner paid US$46,444.83, as evidenced by Metrobank Telegraphic Transfer of Funds dated 08 September 2014[8], the subject motor vehicle was loaded on board the vessel S/S Cosco Beijing 053W in Long Beach, California. Thereafter, on 24 June 2015, it was shipped to the Philippines under Bill of Lading No. COSU8011860679[9] duly issued by Cosco Container Lines Company, Ltd. On 13 August 2015, it arrived at the Manila International Container Port (**MICP**).[10]

Later, petitioner lodged with the BOC and MICP its Customs Consumption Entry No. C-181121-15[11], with complete shipping documents, docketed as Import Entry & Internal Revenue Declaration (**IEIRD**) SN 00383492593.[12]

On 17 August 2015, the Deputy Commissioner of Customs, Enforcement Group issued Alert Order No. A/EG/20150819-101[13] on the shipment for suspected violation of Executive Order (**EO**) No. 156, Series of 2002.[14]

In the Memorandum dated 28 August 2015[15] issued to then MICP District Collector, M/Gen. Elmir Dela Cruz (Ret.) [**MICP District Collector Dela Cruz**], the COO III of Section 5, Formal Entry Division

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7 Paragraphs, 2 and 3, Summary of Admitted Facts, JASF, id., p. 318; Exhibit "P-7", BOC Records, p. 26.
8 Paragraph 4, Summary of Admitted Facts, JASF, Division Docket, Volume I, p. 318.
9 Exhibit "P-6", BOC Records, p. 28; paragraph 5, id.
10 Exhibit "P-5", id., p. 41; paragraph 5, id.
11 Exhibit "P-5", id.; paragraph 7, id.
12 Exhibit "P-5", id.
13 Id., pp. 56-58; paragraph 8, Summary of Admitted Facts, JASF, Division Docket, Volume I, p. 318.
14 PROVIDING FOR A COMPREHENSIVE INDUSTRIAL POLICY AND DIRECTIONS FOR THE MOTOR VEHICLE DEVELOPMENT PROGRAM AND ITS IMPLEMENTING GUIDELINES.
15 BOC Records, pp. 14-15; paragraph 6, Summary of Admitted Facts, and paragraph 15, Joint Stipulation of Facts, JASF, Division Docket, Volume I, pp. 318 and 319, respectively.

(FED)-MICP, Nenita D. Delos Reyes (**Delos Reyes**) noted that, upon physical examination, the subject motor vehicle had an odometer reading of 1,064.5 miles or 1,713 km. The physical examination was conducted in the presence of the representative of petitioner's broker and officers of the Enforcement and Security Service, Motor Vehicle Monitoring and Clearance Office (**EMVMCO**).[16]

On 01 September 2015, petitioner's counsel, Atty. Richard S. Flores (**Atty. Flores**), wrote a letter[17] to MICP District Collector Dela Cruz, stating that petitioner bought the subject motor vehicle as "brand new" directly from the manufacturer's dealer in the USA. In the same letter, Atty. Flores requested the recall of the Warrant of Seizure and Detention (**WSD**) issued against the subject shipment.

On 04 September 2015, MICP District Collector Dela Cruz issued a WSD[18], docketed as Seizure Identification Case No. 208-2015, that was served upon petitioner on 10 September 2015.[19]

In its Position Paper filed with the MICP Law Division on 21 September 2015, petitioner invoked Section 2.1(a)[20], Article 2 of EO No. 156, Series of 2002, and Revenue Memorandum Circular (**RMC**) No. 52-2010[21] in arguing that the subject motor vehicle is brand new.[22] Prosecutor Marlon M. Agaceta (**Prosecutor Agaceta**) then filed his Comment/Opposition[23] thereto on 21 October 2015.[24]

16 Paragraph 16, Joint Stipulation of Facts, JASF, Division Docket, Volume I, p. 319.

17 Exhibit "P-13", BOC Records, pp. 152-153; paragraph 18, id., p. 320.

18 Exhibit "P-12", BOC Records, pp. 61-62.

19 Paragraph 19, Joint Stipulation of Facts, JASF, Division Docket, Volume I, p. 320.

20 **Sec. 2. Brand new vehicles**
2.1 The importation of brand new motor vehicles shall be allowed pursuant to Executive Order No. 264, series of 1995 and Monetary Board Circular No. 92, series of 1995. To be considered brand new, the motor vehicle shall be **(a) of current or advance year model in the country of origin and/or manufacture**, or (b) of year model immediately preceding year in the country of origin and/or manufacture provided that:
2.1.1 The motor vehicle has a mileage of not more than 200 kilometers; and
2.1.2 The motor vehicle has been acquired by the importer from the dealer as first owner.
(Emphasis supplied).

21 *Publishing the Full Text of JOINT ORDER No. 1-2010 dated April 5, 2010 by the Secretary of the Department of Finance (DOF) and Commissioners of Bureau of Customs (BOC) and Bureau of Internal Revenue (BIR), Respectively, entitled Valuation of Motor Vehicles.*

22 Paragraph 20, Joint Stipulation of Facts, JASF, Division Docket, Volume I, p. 320.

23 BOC Records, pp. 214-217.

24 Paragraph 21, Joint Stipulation of Facts, JASF Division Docket, Volume I, p. 320.

On 05 November 2015, after the MCIP Law Division conducted its hearings, MICP District Collector Dela Cruz issued an Order[25] forfeiting the subject motor vehicle in favor of the government.[26] The dispositive portion of the Order reads as follows:

> ...
>
> **WHEREFORE**, premises considered, pursuant to the authority vested in me by law, it is hereby ordered and decreed that the subject shipment of 1x40' Container No. FSCU8660653 STC: One (1) Unit Ford F-150 Super Cab SVT Raptor Pick Up, which arrived at this Port on August 13, 2015 [on] board the vessel COSCO BEIJING under Voyage No. 053W with Registry No. CCL-020, covered by Bill of Lading No. COSU8011860679 consigned to Claimant **PRIMELINE PRODUCTS PHIL., INC.** and declared under Entry No. C-181121-15 is hereby Ordered **FORFEITED** in favor of the Government, the same to be disposed of in a manner provided by law.
>
> Let a copy of this Order be furnished all parties and Offices concerned for their information and guidance.
>
> SO ORDERED.
>
> ...

Petitioner then filed a Letter dated 10 November 2015, appealing the 05 November 2015 Order of forfeiture to respondent Commissioner Lina.[27]

On November 25, 2015, MICP District Collector Dela Cruz issued another Order[28] (1) denying petitioner's request for the release of the subject motor vehicle under bond as contained in its Letter dated 10 November 2015; and, (2) ordering the transmittal of the case to respondent in view of petitioner's "Notice of Appeal/Notice to Elevate the Case to the Office of the Commissioner" dated 12 November 2015.[29]

In a 2nd Indorsement dated 25 November 2015[30], MICP District Collector Dela Cruz forwarded to respondent petitioner's appeal (for

25 Exhibit "P-14", BOC Records, pp. 220-227.
26 Paragraph 12, Summary of Admitted Facts, JASF, Division Docket, Volume I, p. 319.
27 Paragraph 13, id.
28 BOC Records, pp. 232-235.
29 Paragraph 22, Joint Stipulation of Facts, JASF, Division Docket, Volume I, p. 320.
30 BOC Records, p. 236.

Clearance/Approval of his Orders dated 05 November 2015 and 25 November 2015, respectively).[31]

Subsequently, petitioner received a copy of respondent Commissioner Lina's Decision, affirming *in toto* MICP District Collector Dela Cruz's 05 November 2015 Order.[32] As alleged by petitioner, respondent Commissioner Lina's Decision was sent *via* registered mail on 26 January 2016 and was received by petitioner's counsel on 09 February 2016.[33]

PROCEEDINGS BEFORE THE COURT

On 03 March 2016, petitioner filed its prior "Petition for Review with Urgent Motion to Release Vehicle Under Cash Bond"[34] within thirty (30) days from receipt of Commissioner Lina's Decision. The same was raffled to the Third Division. After the trial on the merits, the Third Division promulgated the assailed Decision[35] denying the said prior Petition for Review for lack of merit. The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE**, premises considered, the instant Petition for Review is **DENIED** for lack of merit. Accordingly, the Decision of the Commissioner of Customs, affirming the Order dated November 05, 2015 issued by the District Collector, Manila International Container Port, forfeiting the subject motor vehicle to be disposed of in a manner provided by law, is likewise **AFFIRMED**.
>
> **SO ORDERED.**
>
> ...

Aggrieved, petitioner filed a Motion for Reconsideration[36] (**MR**) on 16 October 2019. After receipt of respondent's Comment[37] thereon, the Third Division promulgated the assailed Resolution[38] denying

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31 Paragraph 23, Joint Stipulation of Facts, JASF, Division Docket, Volume I, p. 320.
32 Paragraph 9, Brief Statement of Facts, Petition for Review, id., p. 12; the existence of Commissioner Lina's Decision was admitted in paragraph 4 of respondent's Answer, p. 120.
33 Paragraph 9, Timeliness of the Petition, id., p. 11.
34 Id., pp. 10-40, with annexes.
35 Supra at note 3.
36 Division Docket, Volume II, pp. 578-582.
37 Filed on 22 November 2019, id., pp. 588-593.
38 Supra at note 4.

petitioner's MR for lack of merit. The dispositive portion of the assailed Resolution states:

> ...
>
> **WHEREFORE**, premises considered, Petitioner's **Motion for Reconsideration** is **DENIED** for lack of merit.
>
> **SO ORDERED.**
>
> ...

With the denial of its MR, petitioner filed the instant Petition for Review[39] with the Court *En Banc* on 01 July 2020. After receipt of respondent's Comment/Opposition[40] on 14 December 2020, the Court *En Banc* submitted the case for decision on 12 January 2021.[41]

ISSUES

In support of the instant Petition for Review, petitioner assigns the following errors on the Third Division's actions:

I.

THE HONORABLE COURT OF TAX APPEALS (CTA) THIRD DIVISION ERRED IN UPHOLDING THE DECISION OF RESPONDENT COMMISSIONER OF CUSTOMS;

II.

THE HONORABLE COURT OF TAX APPEALS (CTA) THIRD DIVISION ERRED IN NOT RULING THAT THE MOTOR VEHICLE MAY BE CONSIDERED AS BRAND NEW UNDER THE FACTS AND CIRCUMSTANCES OF ITS IMPORTATION;

III.

GRANTING ARGUENDO THAT THE MOTOR VEHICLE MAY NOT BE CONSIDERED AS BRAND NEW, THE HONORABLE COURT OF TAX APPEALS (CTA) THIRD DIVISION ERRED IN NOT RULING THAT THE IMPORTATION THEREOF IS NOT ABSOLUTELY PROHIBITED;

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39 Supra at note 1.
40 *Rollo*, pp. 74-82.
41 *See* Resolution dated 12 January 2021, id., pp. 85-86.

IV.
THE HONORABLE COURT OF TAX APPEALS (CTA) THIRD DIVISION ERRED IN NOT GRANTING THE MOTION TO RELEASE THE MOTOR VEHICLE UNDER CASH BOND; AND,

V.
THE HONORABLE COURT OF TAX APPEALS (CTA) THIRD DIVISION ERRED IN NOT RULING THAT PETITIONER PRIMELINE PRODUCTS PHILIPPINE, INC.'S CONSTITUTIONAL RIGHT TO DUE PROCESS WAS VIOLATED AND THAT IT WAS ILLEGALY DEPRIVED OF ITS PROPERTY WHEN IT HELD THAT THE APPLICABLE RULE IS EXECUTIVE ORDER NO. 877-A YET IT STILL APPLIED THE PENALTY UNDER EXECUTIVE ORDER NO. 156.

ARGUMENTS

In support of the assigned errors above, petitioner advances the following arguments:

First, petitioner claims that respondent Commissioner Lina's Decision had no basis in fact and in law.

Second, petitioner avers that it presented substantial evidence to prove that, under Section 2(a)[42], Article 2 of EO No. 877-A, the subject motor vehicle is brand new because it was of current or advance year model in the country of origin and/or manufacture when it arrived in the Philippines. According to it, respondent hastily concluded that the 2014 model cannot be considered as the current year model due to the existence of a 2015 model thereof.

Contrary to respondent's allegation, petitioner insists that there was no such 2015 model of the subject motor vehicle, citing a website link showing that Ford did not release or manufacture a 2015 model

[42] SECTION 2. *Brand New Vehicles.* – The importation of brand new motor vehicles shall be allowed pursuant to Executive Order No. 264, series of 1995 and Monetary Board Circular No. 92, series of 1995. To be considered brand new, the motor vehicles shall be **(a) of current or advance year model in the country of origin and/or manufacture**, or (b) of year model immediately preceding year in the country of origin and/or manufacture, provided that:

a. The motor vehicle has a mileage of not more than 200 kilometers; and
b. The motor vehicle has been acquired by the importer from the dealer as first owner.

thereof in the USA or anywhere else. It further alleged that, as confirmed from online sources, the First Generation of SVT Raptors were manufactured by Ford only from 2010 to 2014. Petitioner then points out that respondent did not give credence to the Certification issued by a certain Tommy Rezaie (**Rezaie**), stating that the 2014 model of the subject motor vehicle was the current model at the time of importation. Moreover, aside from the Rezaie's Certification, supervening events such as the launching of the Second Generation SVT Ford Raptors only in 2017 (after the 2014 model) likewise proves that the current model at the time of importation is the 2014 model. As such, there is substantial evidence to prove that the subject motor vehicle is brand new.

Third, petitioner argues that the forfeiture of the subject motor vehicle is not warranted as a used motor vehicle falls under one of the exceptions enumerated in Section 3[43] of EO No. 877-A, Series of 2010.

According to petitioner, the Third Division erroneously concluded that the subject motor vehicle is a pick-up truck [having a Gross Vehicle Weight (**GVW**) not exceeding three (3) tons *per* Bill of Lading and IEIRD] and thus, it cannot be classified as a regulated and liberalized vehicle that may be subject to redemption pursuant to the guidelines implementing EO No. 156, Series of 2002, and should further be subjected to forfeiture applying Section 2530(f)[44] of the Tariff and Customs Code of the Philippines (**TCCP**).

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43 **SEC. 3.** *Used Motor Vehicles.* — The importation into the customs territory or the Philippine territory outside the secured fenced-in Freeport zones of all types of used motor vehicles is prohibited except for the following:

a. A vehicle that is owned and for the personal use of a returning resident or immigrant and covered by an authority to import issued under the No-Dollar Importation Program. Such vehicles cannot be resold for at least three (3) years;
b. A vehicle for the use of an official of the Diplomatic Corps and authorized to be imported by the Department of Foreign Affairs;
c. Trucks with GVW of 2.5 tons and above covered by an authority to import issued by the Department of Trade and Industry (DTI);
d. Buses with GVW of 6 tons and above covered by an authority to import issued by the DTI;
e. Special purpose vehicles:

...

f. Motorcycles covered by an authority to import issued by the DTI.

44 **SEC. 2530.** *Property Subject to Forfeiture Under Tariff and Customs Laws.* — Any vessel or aircraft, cargo, articles and other objects shall, under the following conditions, be subject to forfeiture:

...

f. Any article of prohibited importation or exportation, the importation or exportation of which is effected or attempted contrary to law, and all other articles which, in the opinion of the Collector, have been used, are or were intended to be used as instrument in the importation or exportation of the former.

...

Petitioner further explains that the Third Division is mistaken considering that the proceedings before the Customs Commissioner indicated that the discrepancy was for lack of an authority to import the motor vehicle and there was no indication that the importation of the subject motor vehicle is prohibited (the consequence of which is seizure without redemption under EO No. 156).

Petitioner added that the literal reading of the phrase "[t]rucks, excluding pick-up trucks" in the said regulations failed to consider that the same set of regulations carved out pick-up trucks with GVW exceeding three (3) tons (as they are neither pick-up trucks nor trucks as defined therein). According to petitioner, the Third Division should have given greater weight to the conclusion of the Tariff Commission, classifying the "Ford F-150 SVT Raptor 2014 Model" under AHTN 8704.31.29 with GVW rating of 3,197 kg or 3.197 tons.

Fourth, contrary to the assailed Decision, petitioner maintains that the subject motor vehicle can be classified as a regulated and liberalized vehicle; hence, it may be redeemed pursuant to Section 2307[45] of the TCCP. Not being an absolutely prohibited motor vehicle, the forfeiture of the subject motor vehicle under Section 2530(f)[46] of the TCCP had no basis in law. Accordingly, petitioner also ascribes error upon the Third Division when it denied the release of the subject motor vehicle by bond under Section 2301[47] of the TCCP.

Fifth, petitioner also submits that the assessments made in its importation of the subject motor vehicle are null and void for having

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45 **SEC. 2307**. *Settlement of Case by Payment of Fine or Redemption of Forfeited Property*. — If, in any seizure case, the owner or agent shall, while the case is yet before the Collector of the district of seizure, pay to such Collector the fine imposed by him or, in case of forfeiture, shall pay the appraised value of the property, or, if after appeal of the case, he shall pay to the Commissioner the amount of the fine as finally determined by him, or, in case of forfeiture, shall pay the appraised value of the property, such property shall be forthwith surrendered, and all liability which may or might attach to the property by virtue of the offense which was the occasion of the seizure and all liability which might have been incurred under any bond given by the owner or agent in respect to such property shall thereupon be deemed to be discharged.

46 Supra at note 42.

47 **SEC. 2301**. *Warrant for Detention of Property — Bond*. — Upon making any seizure, the Collector shall issue a warrant for the detention of the property; and if the owner or importer desires to secure the release of the property for legitimate use, the Collector may surrender it upon the filing of a sufficient bond, in an amount to be fixed by him, conditioned for the payment of the appraised value of the article and/or any fine, expenses and costs which may be adjudged in the case: *Provided*, That articles the importation of which is prohibited by law shall not be released under bond.

been issued in violation of the requirements of the law and pertinent regulations. Since the Alert Order was issued on the shipment for suspected violation of EO No. 156, Series of 2002, and the WSD cited the same violation, specifically for lack of import permit from the Department of Trade and Industry's Bureau of Import Services (**DTI-BIS**), the importation of the subject motor vehicle is not prohibited but merely requires an authority to import should it be proven that it was a "used" and not a "brand new" motor vehicle.

Considering that the Third Division categorically ruled that the applicable regulations in this case is EO No. 877-A, Series of 2010, petitioner points out that the Third Division incorrectly applied the penalty under EO No. 156, Series of 2002. Respondent's Decision charging it of violations under EO No. 156, Series of 2002, thus prevented it from intelligently defending its case and is violative of its constitutional right to due process.

Additionally, petitioner claims that respondent was never able to comply with the probable cause requirement under Section 2535[48] of the TCCP. It then stressed that the due process requirement under the law is premised upon affording the taxpayer the right to be apprised of the reason why he or she is being assessed and to give him the opportunity to dispute a tax assessment or agree with it. Such can only be effectively enjoyed by the taxpayer if the procedure and requirements laid down by law and the relevant BOC issuances are observed strictly.

On the other hand, in his comment, respondent reiterates his contention before the Third Division that he has the legal authority to seize petitioner's imported motor vehicle. He principally argues that the importation of motor vehicles to the Philippines is regulated by EO Nos. 156 and 877-A, and under both regulations, the importation of all types of "used" motor vehicles is prohibited, subject to certain exceptions.

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48 **SEC. 2535**. *Burden of Proof in Seizure and/or Forfeiture.* — In all proceedings taken for the seizure and/or forfeiture of any vessel, vehicle, aircraft, beast or articles under the provisions of the tariff and customs laws, the burden of proof shall lie upon the claimant: Provided, **That probable cause shall be first shown for the institution of such proceedings and that seizure and/or forfeiture was made under the circumstances and in the manner described in the preceding sections of this Code**. (Emphasis supplied)

Respondent maintains that under the aforesaid regulations, the subject motor vehicle does not meet the legal definition of a "brand new" motor vehicle. According to respondent, at the time of its importation, the subject motor vehicle was a previous year model and already has a mileage of 1,713 km, which is 1,513 km over the maximum mileage allowed by law. Being a "used" motor vehicle, the importation of the subject vehicle is thus prohibited and subject to seizure and forfeiture.

RULING OF THE COURT *EN BANC*

After an assiduous review of the parties' contrasting arguments as well as records of the case, the Court finds the instant Petition for Review unmeritorious. We essay the reasons below, in *seriatim*.

At the outset, the arguments raised by petitioner in its Petition for Review are a mere rehash of its previous arguments raised before the Third Division that have been duly considered and exhaustively discussed by the Court in the assailed Decision and Resolution. Nonetheless, the Court shall pass upon the arguments to fully settle the issues in this case.

I. THE SUBJECT IMPORTED MOTOR VEHICLE CANNOT BE CONSIDERED A BRAND NEW VEHICLE.

In this case, the subject matter in controversy is petitioner's imported motor vehicle, *i.e.*, Ford F-150 SVT Raptor 2014 Model, which arrived at the MICP on 13 August 2015 and ordered forfeited in favor of the government for alleged violation of Section 2530(f) of the TCCP, as amended by Republic Act (**RA**) No. 7651[49], and EO No. 156 for lack of import permit from DTI-BIS, pursuant to respondent's 26 January 2016 Decision.

49 AN ACT TO REVITALIZE AND STRENGTHEN THE BUREAU OF CUSTOMS, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED.

Petitioner avers that the subject motor vehicle is "brand new" under Section 2(a), Article 2 of EO No. 877-A, which reads:

> ...
>
> Sec. 2. *Brand new vehicles*
>
> 2.1 The importation of brand new motor vehicles shall be allowed pursuant to Executive Order No. 264, series of 1995 and Monetary Board Circular No. 92, series of 1995. To be considered brand new, the motor vehicle shall be **(a) of current or advance year model in the country of origin and/or manufacture**, or (b) of year model immediately preceding year in the country of origin and/or manufacture provided that:
>
> 2.1.1 The motor vehicle has a mileage of not more than 200 kilometers; and
> 2.1.2 The motor vehicle has been acquired by the importer from the dealer as first owner. (Emphasis supplied)
>
> ...

From the foregoing, an imported motor vehicle is considered "brand new" when it is: (1) of current or advance year model in the country of origin and/or manufacture; or, (2) of year model immediately preceding year in the country of origin and/or manufacture provided that: (**a**) it has a mileage of not more than 200 km, and, (**b**) it has been acquired by the importer from the dealer as first owner.

It is undisputed that the subject motor vehicle is a 2014 model of the Ford F-150 SVT Raptor that arrived in the Philippines in 2015. However, the Court cannot lend credence to petitioner's claim that the 2014 model thereof is the current model as it failed to adduce evidence to prove such claim. Unfortunately for petitioner, We cannot also appreciate its citations from online sources considering that it did not submit screenshots of the information contained therein. Moreover, it is worth noting that information from websites such as www.motortrend.com, en.wikipedia.org and www.cjponyparts.com can hardly be considered reliable.

Given that the subject motor vehicle is *not* of a current model, it can only be deemed as "brand new" under Section 2(b) above if it meets two (2) conditions, *i.e.*, it should have a mileage of not more than 200 km and the importer thereof is the first owner.

Notably, as found in the assailed Decision and as admitted by petitioner, the subject motor vehicle had an odometer reading of 1,064.5 miles or 1,713 km. Clearly, the first condition is not met. Thus, the subject motor vehicle cannot qualify as a "brand new" vehicle. Instead, it is a "used" motor vehicle, the importation of which is prohibited, subject to certain exceptions.

II. THE SUBJECT MOTOR VEHICLE'S IMPORTATION IS PROHIBITED.

Having established that the subject motor vehicle is not a "brand new" vehicle, the prohibition against the importation of "used" motor vehicles under Section 3, Article 2 of EO No. 877-A is applicable. However, there are exceptions to the said used vehicle importation prohibition and such will require an authority to import from DTI-BIS.

Sections 3 and 4, Article 2 of EO No. 877-A provide:

> ...
> SEC. 3. *Used Motor Vehicles.* — The importation into the customs territory or the Philippine territory outside the secured fenced-in Freeport zones of all types of used motor vehicles is prohibited except for the following:
>
> a. A vehicle that is owned and for the personal use of a returning resident or immigrant and covered by an authority to import issued under the No-Dollar Importation Program. Such vehicles cannot be resold for at least three (3) years;
>
> b. A vehicle for the use of an official of the Diplomatic Corps and authorized to be imported by the Department of Foreign Affairs;
>
> c. Trucks with GVW of 2.5 tons and above covered by an authority to import issued by the Department of Trade and Industry (DTI);

> d. Buses with GVW of 6 tons and above covered by an authority to import issued by the DTI;
>
> e. Special purpose vehicles:
>
> ...
>
> f. Motorcycles covered by an authority to import issued by the DTI.
>
> SEC. 4. *Exempted Used Vehicles.* — Used vehicles exempted from the prohibition on importation shall require an authority to import from the DTI.
>
> ...

In the assailed Decision, the Third Division classified the subject motor vehicle as a "pickup truck", as defined under the guidelines to implement EO No. 156, which states:

> ...
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> Part II
> Prohibition of Used Vehicle Importation
>
> Section 1. *Definition of Terms.* —
>
> ...
>
> 4) Truck shall refer to any motor vehicle whose body configuration is designed to carry heavy loads, general freight, or for special purpose regardless of gross vehicle weight. **For purposes of the EO, [pickups] are not considered trucks.**
>
> ...
>
> 6) Pickup truck shall refer to a light truck having an enclosed cab and an open body with low sides and tailgate. **For purposes of this EO, [pickup] truck is a vehicle with gross weight up to 3 tons. ([Pickup] trucks with GVW exceeding 3 tons fall under the classification of trucks.)** The BOI shall determine allowable vehicles that can be considered as pick-up based on its listing. BOI may revise said list upon consultation with the industry and concerned agencies.[50]
>
> ...

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50 Italics in the original text and emphasis supplied.

Contrary to petitioner's claim that the GVW of the subject motor vehicle is 3,204.55 kg or 3.20 tons, the records show that its GVW is actually 2,650.82 kg or 2.65 tons (as indicated in the Bill of Lading and IEIRD). Hence, for purposes of EO No. 156, the subject motor vehicle is a pickup truck (having a GVW not exceeding 3 tons).

Since the subject motor vehicle is a pickup truck, it cannot be classified as a regulated and liberalized vehicle that may be subject to redemption pursuant to the aforesaid guidelines implementing EO No. 156, the pertinent provisions of which are as follows:

> ...
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> Part II
> Prohibition of Used Vehicle Importation
>
> Section 2.Coverage. —
>
> a. The importation into the country, [inclusive of all Freeports], of all types of used motor vehicles is prohibited, except used motor vehicles that are liberalized and those which importation is regulated, as provided for under Section 3.1, Article 2 of the EO.
>
> b. The provisions of these guidelines shall apply to the importation of used motor vehicles that are liberalized and those which importation is regulated, subject to compliance with roadworthiness and emission standards in the country of origin and with the Philippine roadworthiness and emission regulations prior to registration and use on the roads and highways of the Philippines.
>
> c. The importation of the following used motor vehicles or parts and components require prior authorization from the BIS:
>
> i. A vehicle that is owned and for the personal use of a returning resident or immigrant;
> ii. A vehicle for the use of an official of the Diplomatic Corps and authorized to be imported by the Department of Foreign Affairs;
> iii. Trucks, **excluding [pickup] trucks**, with GVW of 2.5-6.0 tons;
> iv. Buses, with GVW of 6-12 tons; and
> v. Used motor vehicle engines, transmissions/drivelines, axles (front and rear) or steering system for rebuilding/remanufacturing purposes. Importation of used replacement motor vehicle parts and components shall be

covered by the existing Guidelines of Central Bank Circular No. 1389.

d. The following motor vehicles are liberalized for importation and require no prior authorization from the BIS:

i. Trucks, **excluding [pickups]**, with GVW above 6 tons;
ii. Buses, with GVW above 12 tons; and
iii. Special purpose vehicles enumerated under Section 2, Article 2 of the EO.

All motor vehicles falling below the abovementioned Gross Vehicle Weight (GVW) limits shall be prohibited from being imported.

...

Section 5. General Provisions. —

...

b. Penalty

The following penalties shall be imposed as provided for under Section 5 of the EO:

1) All imported used motor vehicles and parts and components found to be in violation of any provision of the EO and provisions of these guidelines shall be subject to the following:

i. **For prohibited vehicles — seizure without redemption by BOC**;
ii. For regulated and liberalized vehicles — Seizure with redemption by BOC[.][51]

...

From the foregoing provisions, We affirm the Third Division's finding that the subject imported used motor vehicle is a pickup truck 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.

Nevertheless, even assuming for the sake of argument that the subject motor vehicle is not a pickup truck but a truck that is a regulated and liberalized vehicle, the importation thereof is still

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51 Emphasis supplied.

prohibited because petitioner failed to secure the required prior authorization from DTI-BIS.

III. THE IMPOSITION OF THE PENALTY OF SEIZURE WITHOUT REDEMPTION IS VALID.

As provided in Section 5.1, Article 2 of EO No. 156 and its implementing guidelines above, the penalty for the importation of a prohibited vehicle is seizure without redemption by the BOC, to wit:

> ...
>
> SEC. 5. *Penalty*
>
> 5.1 All imported vehicles found to be in violation of any provision in this EO 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.
>
> ...

The penalty under Section 7, Article 2 of EO No. No. 877-A (which is the later issuance), however, is the immediate seizure and re-exportation of the prohibited vehicle at the expense of the importer or consignee, to wit:

> ...
>
> SEC. 7. *Penalty.* — All vehicles imported found to be in violation of this Executive Order shall be subject to seizure and re-exported at the expense of the importer/consignee immediately.
>
> ...

In reconciling the differing provisions above, the Third Division explained in the assailed Resolution that since the repealing clause of EO No. 877-A does not specifically mention a repeal of any provision of EO No. 156 and the pertinent provisions of the latter are not inconsistent with the provisions of the former, the penalty under the latter may still be imposed.

Indeed, the repealing clause of EO No. No. 877-A does not specifically mention a repeal of any provision of EO No. 156. The legislature is presumed to know the existing laws, such that whenever it intends to repeal a particular or specific provision of law, it does so expressly. The failure to add a specific repealing clause particularly mentioning the statute to be repealed indicates that the intent was not to repeal any existing law on the matter, unless an irreconcilable inconsistency and repugnancy exists in the terms of the new and the old laws.[52]

Relevantly, in *Demetria Estrada v. Uldarico Caseda*[53], the Supreme Court has held that "[w]here an amendment leaves certain portions of the original act unchanged, such portions are continued in force, with the same meaning and effect they had before the amendment. So where an amendatory act provides that an existing statute shall be amended to read as recited in the amendatory act, such portions of the existing law as are retained, either literally or substantially, are regarded as a continuation of the existing law, and not as a new enactment."

Here, there is no irreconcilable inconsistency between Section 5.1, Article 2 of EO No. 156 and Section 7, Article 2 of EO No. 877-A. The two (2) provisions are basically the same in that they have the same definition of a "brand new" vehicle and, in addition, both also prohibit the importation of all types of used motor vehicles except in certain cases. The difference only lies in the penalty provided, *i.e.*, while EO No. 156 provides that all imported vehicles found to be in violation of any provision in the EO shall be subject to seizure without redemption, EO No. 877-A provides that aside from being subject to seizure, the same shall be re-exported at the expense of the importer/consignee immediately. This does not make the two (2) provisions inconsistent with each other.

We thus agree with the Third Division's conclusion that respondent may impose the penalty of seizure without redemption under Section 5.1, Article 2 of EO No. 156 in this case where petitioner's importation of the subject motor vehicle is prohibited.

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52 *Lazaro C. Gayo v. Violeta G. Verceles*, G.R. No. 150477, 28 February 2005, citing *Commission on Audit of the Province of Cebu v. Province of Cebu*, G.R. No. 141386, 29 November 2001.

53 G.R. No. L-1560, 84 Phil. 791 (1949).

IV. RESPONDENT DID NOT VIOLATE PETITIONER'S RIGHT TO DUE PROCESS IN CITING EXECUTIVE ORDER NO. 156 AS BASIS FOR THE SEIZURE OF THE SUBJECT MOTOR VEHICLE.

Lastly, We find no merit in petitioner's claim that respondent violated its right to due process in citing EO No. 156 as basis for the seizure of the subject motor vehicle.

As the Third Division aptly held - "albeit the BOC cited EO No. 156 as its basis for the seizure of the subject imported motor vehicle, the pertinent provisions of EO No. 156 are not inconsistent with the provisions of EO No. 877-A, which therefore, continues to be in force."

It well-settled that the essence of due process in administrative proceedings is the opportunity to explain one's side or seek a reconsideration of the action or ruling complained of. As long as the parties are given the opportunity to be heard before judgment is rendered, the demands of due process are sufficiently met.[54] The standard of due process that must be met in administrative tribunals allows a certain degree of latitude as long as fairness is not ignored.[55]

In this case, petitioner was given an opportunity to be heard, as in fact, it was able to raise its defenses and arguments, by filing its Letter dated 01 September 2015 and Position Paper with MICP District Collector Dela Cruz and even filed an appeal with respondent Commissioner Lina. Evidently, there was no violation of petitioner's right to due process.

All told, the Court *En Banc* finds no cogent reason to reverse or modify the assailed Decision and Resolution of the Third Division.

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[54] *Hon. Flores, et al. v. Atty. Montemayor*, G.R. No. 170146, 08 June 2011.

[55] *Samalio v. Court of Appeals, et al.*, G.R. No. 140079, 31 March 2005; *Missouri Square, Inc. v. Commissioner of Internal Revenue*, CTA Case No. 8707 (Amended Decision), 08 September 2016.

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**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
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.

ROMAN G. DEL ROSARIO
Presiding Justice