REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

BSJ FISHING AND TRADING, INC,
Petitioner,

- versus -

COMMISSIONER NAPOLEON L. MORALES, IO IV ERIC G. ALBANO, IO I MITCHELL V. VERDEFLOR, IO II CARMELITA VALEROZO, IO I BIENVENIDO Y. RUBIO, Atty. CHRISTIAN O. FLORES, SA II ARAMIS PERNIA, SA II REYCRISTO RUANTO, SA II VICTOR ANGELES, SA I GEORGE ANTICAMARA, SA I VINCENT MARINAS, SA I JUAN JOSE APOLLO MONTEMAYOR, SA I JOVER JORDAN, SA I ROMMEL OFRASIO, SA I CARMELITA OCAYA, SA I MARY MAGDALENE YBARZABAL, COO III JESUS G. LLORANDO, COO III ALVIN JOTOJOT, AS MEMBERS OF CIIS,
Respondents.

C.T.A. CASE NO. 7831

Members:

CASTAÑEDA, JR., *Chairperson*
UY, *and*
PALANCA-ENRIQUEZ, *JJ.*

Promulgated:
OCT 0 2 2008
4:15 p.m.

x--x

RESOLUTION

For consideration is petitioner BSJ Fishing and Trading, Inc.'s "**Urgent Motion for Issuance of Temporary Restraining Order"** filed on September 18, 2008 with the following prayer:

To enjoin and restrain the respondents:

1. From implementing the Letters of Authority;
2. From occupying the premises, compound, buildings, offices and dockyard of Petitioner;
3. From restraining and restricting the movements of the barges, vessels, equipment motor vehicles, truck tractors, tankers and other movable properties of the Petitioner;
4. From posting guards and armed men inside and outside the premises of the Petitioner;
5. From posting guards and armed men on the vessels, barges, truck tankers and other equipment of the Petitioner; and
6. From continuously possessing the seized oil and water tankers valued at Two Million (Php2,000,000.00) pesos;
7. From doing or committing any act or deed which will impede or interfere in the operation and daily business of the petitioner.

Initially, on September 12, 2008, petitioner filed a "**Petition for Review with prayer for Temporary Restraining Order (TRO) and Petition for Issuance of a Writ of Preliminary Injunction.**"

On September 16, 2008, the Court issued a resolution ordering the respondents to file within five (5) days their Comment on petitioner's prayer for issuance of TRO and Petition for Issuance of a Writ of Preliminary Injunction incorporated in the Petition for Review. It was followed by a hearing set on September 22, 2008. During hearing both parties were required to submit their memoranda within a non-extendible period of three (3) days from September 22, 2008. Both parties submitted their memoranda on September 25, 2008.

The factual backdrop of the case are as follows:

There were three Letters Of Authority (LOAs) issued by the respondent Commissioner authorizing the Bureau of Customs Officials namely : IO IV Eric G. Albano, IO I Mitchell V. Verdeflor, IO II Carmelita Valerozo, IO I Bienvenido Y. Rubio, Atty. Christian O. Flores, SA II Aramis

Pernia, SA II Reycristo Ruanto, SA II Victor Angeles, SA I George Anticamara, SA I Fernando Barcelonia, IA I Vincent Marinas, SA I Juan Jose Apollo Montemayor, SA I Jover Jordan, SA I Rommel Ofrasio, SA I Carmelita Ocaya and SA I Mary Magdalene Ybarzabal (herein referred as respondent agents), to implement Section 2536 of the Tariff and Customs Code of the Philippines (TCCP) in relation to Sections 2208 and 2210 of the TCCP to petitioner's main compound in Malabon City and to several vessels enumerated below docked in Navotas City, to wit:

M/V Buena Suerte J-106
M/V Buena Suerte J-47
M/V Buena Suerte J-1 and
M/V Buena Suerte J-55

The first LOA addressed to "The Owner, Possessor or In-Charge, M/V Buena Suerte J-106, Pier 2, Navotas Fish Port Complex, Navotas City" was enforced by respondent agents on the said M/V Buena Suerte J-106 on August 30, 2008, Saturday.

Later on the same day, respondent agents presented to the petitioner the second LOA dated August 30, 2008 addressed to "The Owner, Possessor or In-Charge, M/V Buena Suerte J-47, M/V Buena Suerte J-1 & M/V Buena Suerte J-55, Pier 2, Navotas Fish Port Complex". Respondent agents alleged that during the implementation of the first LOA, it was found that M/V Buena Suerte J-106 was empty of fuel, crude oil or gasoline because they were transferred or unloaded to vessels beside it prompting the issuance of the second LOA. Petitioner denied the transfer of diesel from M/V Buena Suerte J-106 to the other vessels subject of the second LOA.

According to respondent agents, during the implementation of the second LOA, it was found that M/V Buena Suerte J-47, M/V Buena Suerte J-1 & M/V Buena Suerte J-55 were carrying fuel, crude oil or gasoline unloaded from M/V Buena Suerte J-106. Petitioner failed to present any evidence of payment of the customs duties and taxes on the fuel, crude oil or gasoline, hence, the vessels, container truck and the barrels contained subject fuel were seized and sealed. This is in contrast with petitioner's allegation that on the same day of August 30, 2008, it submitted to respondents documentary proofs that all its purchases of diesel, lubricants, and allied products were all purchased locally or within the Philippines. [1]

In the afternoon of September 1, 2008, Monday, a *Formal Letter* [2] signed by petitioner's counsel was submitted to the Office of the Commissioner of Customs together with documents in support of petitioner's claim. In the same letter, petitioner earnestly requested that the documents submitted be immediately examined and scrutinized and thereafter the seals be removed, barges and supply vessels be allowed to sail to deliver provisions and rations to the vessels on the high seas.

In the early morning of Tuesday, September 2, 2008, respondent agents claimed that M/V Buena Suerte J-47, one of the subject vessels of the second LOA, which was fully loaded with diesel oil surreptitiously left the port without clearance from the Bureau of Customs while container truck with plate no. UHF-184 attempted to leave the port but was prevented by the Bureau of Customs personnel. According to them, there was an attempt to switch the container truck with plate no. UHF-184 carrying diesel oil with another container truck with plate no. WCJ-307 carrying water. Hence, both container trucks were seized and brought to the Port of Manila to prevent the occurrence of a similar incident. [3] This was denied by the petitioner asserting that it was placed in a dilemma whether to comply with the restriction unreasonably imposed by respondents and the lives and limbs of its crew members whose safety was at stake, thus, it asked the permission of the respondents posted at its dockyard to which the latter verbally agreed.

Subsequently, the third LOA dated September 2, 2008 addressed to "The Owner, Possessor or In-Charge, BSJ FISHING & TRADING, INC., Lot 4, Gozun Compound, Letre Road, Tonsuya, Malabon City." was served at the petitioner's main compound on September 3, 2008, Wednesday. During the

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[1] Petitioner's Memorandum, page 6.
[2] Annex "D", Petition.
[3] Annex "6", Respondents' Memorandum.

implementation of all these LOAs, petitioner charges respondent agents of grave misconduct, grave abuse of right and discretion amounting to lack or excess of jurisdiction. Furthermore, petitioner alleges that respondent agents used excessive and unnecessary force to its employees [4], sealed portions of the vessels, barges and tractor tanker without any authority[5] and seized, hauled the oil and water tanker of petitioner without a warrant of seizure or detention and no receipt for these tankers were issued. [6]

On September 3, 2008, petitioner counsel's *Formal Letter* dated September 1, 2008, together with the attached documents was referred to the Customs Intelligence and Investigation Service (CIIS) for its comment and recommendation. [7] On the same day, respondent agents submitted a *Memorandum* [8] on the enforcement of the first and second LOAs and recommended the issuance of warrant of seizure and detention (WSD) against the undetermined volume of diesel fuel loaded on the aforesaid vessels and container trucks of petitioner.

On September 10, 2008, Cesar Charlie Lim, OIC-Regional Director of the Bureau of Internal Revenue wrote a letter [9] to Director Racquel Huliganga of the Energy Research Testing Laboratory Services, Department of Energy, requesting said office to conduct quality analysis of the eleven (11) bottles of oil samples taken from seized diesel oil of petitioner.[10]

On September 12, 2008, respondents Michell V. Veldeflor, Atty. Christian Flores, Mary Magdalene Ybarzabal and Bienvenido Rubio submitted their *Memorandum*[11] on the enforcement of the third LOA recommending that a WSD be issued on petroleum products or bio diesel stored at the two (2) container/tanker trucks of petitioner.

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[4] Petition for Review, page 13.
[5] *Ibid.*
[6] *Ibid.*, page 22.
[7] Respondents' Memorandum, page 7.
[8] *Supra*, note 3.m.
[9] Annex "7", Respondents' Memorandum.
[10] Respondents Memorandum, pages 7-8.
[11] Annex "8", Respondents' Memorandum.

On the same day, petitioner filed the present Petition for Review with application for the issuance of a TRO and/or writ of preliminary injunction seeking to annul, cancel and set aside the three (3) LOAs issued by respondent Commissioner. I

On September 16, 2008, the CIIS received a notice of hearing[12] of even date from Atty. Roberto Mario Bauson, Hearing Officer of the Law Division, Port of Manila informing that the hearing on the determination of probable cause on the application of the Warrant of Seizure and Detention by the CIIS against the undetermined volume of diesel oil found loaded on board vessels M/V Buena Suerte J-106, M/V Buena Suerte J-47, M/V Buena Suerte J-1, M/V Buena Suerte J-55, Container Trucks with Plate Nos. UHF 184 and WCJ 307 was set on September 19, 2008 at 10:00 in the morning.

Thereafter, or on September 18, 2008, director Huliganga sent a reply-letter to Regional Director Cesar Charlie Lim of the result of the laboratory analysis conducted on the diesel oil samples submitted to her for laboratory examination. [13] The same report shows that the quality of the samples taken from the diesel oil of petitioner failed as to the required contents of sulfur and biodiesel as mandated under the Clean Air Act and the Biofuel Act, thus it could not have been locally purchased. According to petitioner, it did not violate the Clean Air Act since the requirement of the law refers to automotive diesel while petitioner uses industrial diesel fuel. In addition, samples taken were not properly handled thus, the test result does not represent the product as a whole.

On September 18, 2008, petitioner filed an "Urgent Motion for Issuance of Temporary Restraining Order" which is now the subject of the present resolution. In its motion, petitioner alleges that respondents are still continuously restraining its support vessels and preventing the same from sailing thus preventing the delivery of rations of diesel, food, ice and other provisions to the fishing vessels of the petitioner which are on the high seas endangering not only the vessels and their cargoes but also its crewmembers.

[12] Annex "9", Respondents' Memorandum.
[13] Respondents' Memorandum, page 9.

To date, petitioner claims that as a result of the continuous restraint and disallowance of the support vessel to supply the vessels on the high seas, one of its vessels together with its crew members went missing since September 19, 2008. [14]

On September 19, 2008, the Collector of Customs issued a WSD[15] against the seized diesel fuel found loaded on M/V Buena Suerte J-106, Barge Buena Suerte J-1, Barge Buena Suerte J-55, and undetermined volume of diesel oil loaded at M/V Buena Suerte J-47 and container trucks with plate no. UHF 184 & WCJ 307. On September 23, 2008, another WSD was issued by Collector of Customs against petroleum products stored at depot tanks of the petitioner and container truck/tractor head with plate nos. CSZ-309, PUT-664 and NUU-576.

After a careful study of the facts attendant to the case and after scrutiny of the records, the Court resolves to deny petitioner's "Urgent Motion For Issuance of Temporary Restraining Order."

The Court of Tax Appeals (CTA) has no jurisdiction to try the case.

CTA is a court of limited and special jurisdiction and can act only in matters where it has exclusive original jurisdiction as well as in aid of its appellate jurisdiction.[16] Section 7 (a)(4) of Republic Act (RA) No. 9282 grants exclusive jurisdiction to the CTA to review by appeal decisions of the Commissioner of Customs in cases involving (a) liability for customs duties, fees or other money charges (b) **seizure, detention or release of property affected (c) fines, forfeitures or other penalties in relation thereto and** (d) other matters arising under the Customs Law or other laws administered by the Bureau of Customs. The pertinent provision of Section 7 (a) (4) of RA 9282 reads:

SEC.7. Jurisdiction. – The CTA shall exercise:

[14] Petitioner's Memorandum, pages 6 and 7.
[15] Annex "A", Petitioner's Memorandum.
[16] *Ker & Co., Ltd. et al. vs. The Court of Tax Appeals and The Collector of Internal Revenue*, G.R. No. L- 12396, January 31, 1962, 4 SCRA 160.

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

(1.) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

(2.) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

(3.) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;

(4.) <u>Decisions of the Commissioner of Customs in cases</u> involving liability for customs duties, fees or other money charges, <u>seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto</u>, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs; (underlining ours)

(5.) Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals:

(6.) Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Sec. 2315 of the Tariff and Customs Code;

(7.) Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product,

> commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Sec. 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties.
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> xxx

From the decision of the Commissioner of Customs, the taxpayer may file with the CTA a petition for review within the 30-day reglementary period. [17] There being no decision on the part of the respondent Commissioner, the Court cannot act on the matter.

Petitioner invoked the wrong Mode of Appeal in filing the instant Petition for Review under Rule 42 of the 1997 Rules of Civil Procedure before this Court, as the Letters of Authority are NOT appealable.

The LOAs issued by respondent Commissioner of Customs are not judgments or orders that finally dispose of the case, but are merely interlocutory orders.

The term "interlocutory" refers to something between the commencement and end of the suit which decides some point or matter, but it is not a final decision of the whole controversy. [18]

Hence, an interlocutory order does not terminate or finally dismiss or finally dispose of the case, but leaves something to be done by the court before the case is finally decided on the merits. The test to ascertain whether an order is interlocutory or final is "*Does it leave something to be done in the*

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[17] Section 11 of RA 9282.
[18] *Herrera, Remedial Law*, Vol. II page 526, 2000 ed. Citing *Black's Law Dictionary*, page 731, 5th ed.

trial court with respect to the merits of the case? If it does, it is interlocutory; if it does not, it is final." [19]

A perusal of the LOAs issued by respondent Commissioner shows that they are not judgment or orders that finally dispose of the case. They merely constitute the initial step on the seizure and forfeiture proceedings of the articles involve, as the same merely authorize respondent's agents to implement *Section 2536 of the Tariff and Customs Code of the Philippines (TCCP)*, to wit:

> " This is to introduce the following Bureau of Customs officials :
>
> 1. IO IV ERIC G. ALBANO
> 2. IO I MITCHELL V. VERDEFLOR
> 3. IO II CARMELITA VALEROZO
> 4. IO I BIENVENIDO Y. RUBIO
> 5. ATTY. CHRISTIAN O. FLORES
> 6. SA II ARAMIS PERNIA
> 7. SA II REYCRISTO RUANTO
> 8. SA II VICTOR ANGELES
> 9. SA I GEORGE ANTICAMARA
> 10. SA I FERNANDO BARCELONIA
> 11. SA I VINCENT MARINAS
> 12. SA I JUAN JOSE APOLLO MONTEMAYOR
> 13. SA I JOVER JORDAN
> 14. SA I ROMMEL OFRASIO
> 15. SA I CARMELITA OCAYA
> 16. SA I MARY MAGDALENE YBARZABAL
> 17. COO III JESUS G. LLORANDO
> 18. COO III ALVIN JOTOJOT
>
> to implement Section 2536 of the Tariff and Customs Code of the Philippines (TCCP) which is hereunder quoted for your information: xxx
>
> xxx xxx.
>
> Thank you for your cooperation."

Clearly, said LOAs are not appealable to the Court in Division under *Section 11 of RA 9282*, in relation to *Section 3 (4), Rule 4 of the Revised*

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[19] *Metropolitan Bank & Trust Company vs. Court of Appeals*, G.R. No. 110147, April 17, 2001, 356 SCRA 563.

Rules of the Court of Tax Appeals. The decision or order which is appealable to the Court in Division is that which has resolved the case with finality, and in effect terminates or finally disposes of a case, as it leaves nothing to be done by the court as the case has finally been decided on the merits.

Corollary thereto, *Section 1, Rule 41 of the 1997 Rules of Civil Procedure, as amended*, expressly provides that an appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these rules to be appealable. On the other hand, *Section 1 (c) of the same rule* also provides that no appeal may be taken from an interlocutory order.

The issuance of the third LOA and the LOA itself does not constitute the FINAL DECISION of the Commissioner of Customs.

In the instant case, petitioner contends that there being no other response on the petitioner's *Formal Letter* dated September 1, 2008 addressed to respondent Commissioner, the subsequent issuance by the respondent Commissioner of the third LOA on September 2, 2008 and the seizure of oil and water tanker are the FINAL RULING and ACTION by respondent Commissioner. Hence, the present petition is well within the ambit of the CTA.

We do not agree.

Upon examination of the three LOAs issued by the respondent Commissioner, the court noted that they were uniformly anchored on *Section 2536 TCCP* which provides:

> SEC. 2536. SEIZURES OF OTHER ARTICLES. - The Commissioner of Customs and Collector of Customs and/or any other customs officer, with the prior authorization in writing by the Commissioner, may demand evidence of payment of duties and taxes on foreign articles openly offered for sale or kept in storage, and if no such evidence can be produced, such articles may be seized and subjected

> to forfeiture proceedings: Provided, however, that during such proceedings the person or entity from whom such articles have been seized shall be given the opportunity to prove or show the source of such articles and the payment of duties and taxes thereon.

In the above provision, the Commissioner of Customs, Collector of Customs and any other customs officer with prior authorization in writing by the Commissioner may exercise "visitorial power" in any place where foreign articles are openly offered for sale or kept in storage. Collector of Customs and any other customs officer may only exercise "visitorial power" upon prior written authorization from the Commissioner of Customs. This prior written authorization refers to LOAs signed by the Commissioner himself, identifying the place, subject and the person/s authorized to carry out the visitorial power of the Bureau of Customs. This power is duly vested by no less than the law itself upon the Commissioner of Customs and other Customs Officer. Ancillary to visitorial power is the authority of the Commissioner of Customs to issue LOAs which is entirely left to his discretion. Consequently, the Court has no jurisdiction to restrain or enjoin or even control the exercise of this discretionary power granted by law.

Moreover, the third LOA cannot be considered as FINAL DECISION of the respondent Commissioner. There is nothing in the said LOA which finally disposes of the issues raised by petitioner in its *Formal Letter* dated September 1, 2008. In fact the content and tenor of the third LOA were the same as the first and second LOAs except for the subject matter of visitorial power. The Court noted that the first LOA was addressed to the Owner/Possessor of M/V Buena Suerte J-106; while the second LOA was addressed to Owner/Possessor of M/V Buena Suerte J-47, M/V Buena Suerte J-1 and M/V Buena Suerte J-55. Meanwhile, the third LOA was addressed to Owner/Possessor of BSJ Fishing and Trading, Inc. There can be no finality of action on the issuance of third LOA as it refers to a different subject matter. **Even the act itself of issuing the third LOA cannot be considered as the FINAL RULING since the third LOA pertaining to a different**

subject matter merely authorizes herein respondent agents to inspect the main compound of the petitioner. Clearly, respondent Commissioner and respondent agents have not yet terminated the investigation. It is merely an initial step towards a possible seizure and forfeiture proceeding against the alleged smuggled diesel oil and other petroleum products. Hence, it cannot support the theory that it was the final act of the respondent Commissioner.

Furthermore, petitioner's *Formal Letter* with the attached documents was referred to CIIS for its comment and recommendation. This strengthens the position that the seizure proceeding has not yet been finally disposed of and acted upon by the respondent Commissioner. The respondent Commissioner has not yet ruled on whether or not the documents presented by the petitioner are sufficient. There is still an on-going investigation in the administrative level as evidenced by the Memoranda [20] submitted by respondent agents, notice of hearing [21] issued by Atty. Roberto Mario F. Bauson, Hearing Officer of Port of Manila and the exchange of correspondence[22] between OIC-Regional Director of the Bureau of Internal Revenue Cesar Charlie C. Lim and Director Racquel Huliganga of the Energy Research Testing Laboratory Services, Department of Energy.

The seizure of oil and water tanker cannot be considered as the FINAL RULING of the Commissioner of Customs.

With regard to the subsequent seizure of oil and water tanker, petitioner alleges that it constitutes as FINAL RULING and ACTION by respondent Commissioner.

We do not agree.

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[20] *Supra*, notes 3 and 7.
[21] *Supra*, note 8.
[22] *Supra*, notes 5 and 9.

Seizure in this case is concurrent to the exercise of visitorial power and will only take place should the person or entity from whom such articles have been seized failed to present evidence of its source and proof of payment of duties and taxes. In this case, the seizure was effected by the other customs officers making such seizure subject to review by Collector of Customs and Commissioner of Customs. This is clear from the law itself that after seizure the person from whom the articles have been seized is given an opportunity to present his case.

At the same time, the law provides remedies immediately available to petitioner. As enumerated in the case of *Acting Collector of Customs vs. Caluag,* [23] herein petitioner may (1) **secure the release of the seized articles upon filing of a sufficient bond with the Customs Collector** [24] and/or (2) **to file a protest with the Customs Collector.** [25] Thus, petitioner is not without remedy.

Also, petitioner alleges grave misconduct, grave abuse of right and discretion amounting to lack or excess of jurisdiction on the part of respondent agents in implementing all three LOAs. In determining whether or not the seizure has been properly carried out lies with the Commissioner of Customs in the exercise of its primary jurisdiction. In a Mission Order No. 037-2008, [26] respondent Commissioner instructed the respondent agents to submit report upon completion of mission to which the latter complied by submitting Memoranda [27] dated September 1, 2008 and September 3, 2008. This establishes that the seizure proceeding has not yet terminated and the Commissioner of Customs has not yet rendered a FINAL DECISION.

The question of seizure and forfeiture is for the administrative authorities to determine, the Collector of Customs in the first instance and then the Commissioner of Customs. This is a field where the doctrine of

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[23] G.R. No. L-23925, May 24, 1967, 20 SCRA 204.
[24] SEC. 2301, Tariff and Customs Code of the Philippines.
[25] SEC 2308, *Ibid.*
[26] Annex "3", Respondent's Memorandum.
[27] *Supra*, note 8 and 12.

primary jurisdiction controls. [28] Where there is competence or jurisdiction vested upon an administrative body to act upon a matter, no resort to courts may be made before such administrative body shall have acted upon the matter.

Furthermore, in the case of *Chia vs. Acting Collector of Customs,* [29] the Supreme Court held that **upon effecting the seizure of the goods, the Bureau of Customs acquired exclusive jurisdiction not only over the case but also over the goods seized for the purpose of enforcing the tariff and customs laws.** A party dissatisfied with the decision of the Collector may appeal to the Commissioner of Customs, whose decision is appealable to the Court of Tax Appeals in the manner and within the period prescribed by law and regulations. **Appeal to the Court of Tax Appeals applies only after exhausting administrative remedies in the Bureau of Customs.** [30]

Moreover, the Supreme Court in the case of *Señeres vs. Frias,* [31] held that the Commissioner of Customs must first review the Collector's ruling and **"by a formal decision"** rule on the legality of the importation. It is only after a decision adverse to the importer is rendered that the importer may then "summon the aid of the corresponding court." It is settled rule, therefore, that the Bureau of Customs acquires exclusive jurisdiction over imported goods, for the purpose of enforcement of the customs laws, from the moment the goods are actually in its possession or control, even if no warrant of seizure or detention had previously been issued by the Collector of Customs in connection with seizure and forfeiture proceedings.[32]

In the present case, neither the Collector of Customs nor the respondent Commissioner had rendered a decision or ruling on the seizure

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[28] *Commissioner of Customs and The Collector of Customs vs. Navarro*, G.R. No. L-33146, May 31, 1977, 77 SCRA 356.

[29] G.R. No. L-43810, September 26, 1989, 177 SCRA 755.

[30] *Rigor vs. Rosales*, G.R. No. L-33756, October 23, 1982, 117 SCRA 780, citing *Señeres vs. Frias,* G.R. Nos. L-32921-40, June 10, 1971, 39 SCRA 533, *Commissioner of Customs vs. CA*, G.R. Nos. 111202-05, January 31, 2006, 481 SCRA 109.

[31] G.R. L-32921-40, June 10, 1971, 39 SCRA533, citing *Commissioner of Customs vs. Cloribel*, January 31, 1967, 19 SCRA 234.

[32] *Ibid.*, citing *Papa vs. Mago*, February 28, 1968, 22 SCRA 857.

and forfeiture proceeding which the Court may review. Petitioner's act of filing a Petition for Review to this Court before any decision was rendered by the respondent Commissioner is therefore premature as there is yet no adverse decision ripe for judicial review.

WHEREFORE, premises considered, the petitioner's "Urgent Motion for Issuance of Temporary Restraining Order" is hereby **DENIED**. Accordingly, "Petition for Review with prayer for Temporary Restraining Order (TRO) and Petition for Issuance of a Writ of Preliminary Injunction" filed by petitioner on September 12, 2008 is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

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

ON LEAVE
ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice