REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

CHARILYN M. ZITA,
Petitioner,

-versus-

HONORABLE COMMISSIONER OF THE BUREAU OF CUSTOMS,
Respondent.

CTA Case No. 10604

Members:

MANAHAN, Chairperson,
REYES-FAJARDO, and
ANGELES, *JJ.*

Promulgated:

SEP 27 2024

3:20 p.m.

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DECISION

ANGELES, J.:

THE CASE

Before this Court is a Petition for Review filed by Charilyn M. Zita (petitioner) against the Commissioner of Customs (respondent), praying that the Resolution[1] dated June 22, 2021 (assailed Resolution) issued by the latter in Seizure Identification No. 2021-003, be reconsidered and set aside. The assailed Resolution ordered the forfeiture of a motor vehicle specified as a 1996 Toyota Granvia van with plate no. BEM 904, for violation of Section 1113 (a) and (k) of Republic Act (RA) No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

ANTECEDENT FACTS

Petitioner is an individual residing in East Bajac-Bajac, Olongapo City.[2] Respondent is the duly appointed Commissioner of the

[1] Exhibit "P-2", Docket – Vol. I, pp. 35 to 42.
[2] Par. 4, *Petition for Review*, Docket – Vol. I, p. 13.

Bureau of Customs (BOC) having exclusive original jurisdiction over forfeiture cases under the CMTA.

On February 4, 2021, a white Toyota Granvia van with plate no. BEM 904 (subject vehicle) was exiting the Subic Bay Freeport Zone (SBFZ) when it was apprehended by elements of the Subic Bay Metropolitan Authority (SBMA). In the Incident Report[3] dated February 4, 2021 of the SBMA - Intelligence and Investigation Office (IIO), the event was narrated as follows:

> At 0830H, 04 February 2021 (Thursday), Security Officer Enrico C. DAGUN of Port Sentinel Branch, LED, SBMA, referred to this office Christian Z. GALANG, driver of Toyota Granvia bearing License Plate No. BEM-904 and Crisanta Z. CAMPAÑA, as passenger, for attempting to exit Rizal Gate Outbound Lane without documentation of its load.
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> Interview with Security Officer DAGUN revealed that about 0730H, same date, he was manning Rizal Gate Outbound Lane (Sentry 7) when he held a white Toyota Granvia bearing License Plate No. BEM-904 driven by GALANG for inspection. Upon inspection, SO DAGUN found out that the Toyota Granvia was loaded with 15 Master Case of DD Charcoal filter cigarettes. SO Dagun added that he accosted GALANG after the latter failed to present any pertinent documents and escorted GALANG along with his driven vehicle to IIO, SBMA, for proper disposition.
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> CAMPAÑA claimed that the said cigarettes were given to her by Ah Shing Tan of Bumi Jaya International Corporation Warehouse located at #28-#31 Lot 49-51 Unit F, Faith Street corner, Innovative Street, Subic Bay Gateway Park, SBFZ, and to be transported to Olongapo City.

The same narration can be found in the SBMA Blotter Report.[4]

On February 5, 2021, the District Collector of the Port of Subic Maritess T. Martin (DC Martin) issued a Memorandum[5] directing the District Commander S/P Capt. Regino A. Tuason and Supervisor of the Customs Intelligence and Investigation Service (CIIS) IO3 Verne Y. Enciso, to conduct an investigation on the matter. On the same day, Tuason and Enciso recommended the conduct of a physical examination of the shipment and issuance of a Warrant of Seizure and

[3] Exhibit "R-2", BOC Records – Folder I, p. 144.
[4] Exhibit "R-3", BOC Records – Folder I, p. 145.
[5] Exhibit "R-9", BOC Records – Folder I, p. 174.

Detention (WSD) against the subject vehicle and the fifteen (15) Master Cases of DD Brand Charcoal Filter cigarettes loaded thereon.[6]

On February 11, 2021, a preliminary investigation was conducted by CIIS Special Investigator Benjamin T. Yu (SI Yu). Petitioner submitted a Sinumpaang Salaysay[7] while Ah Seng Tan submitted an Affidavit of Denial.[8]

In her Sinumpaang Salaysay, petitioner claimed that she is the owner of the subject vehicle, and that Campaña, who is her elder sister, borrowed the same from her at 6:00 in the morning of February 4, 2021, allegedly to pick up a certain item from Bumi Jaya Warehouse. Petitioner also claimed that Christian Galang is her nephew and was instructed by Campaña to drive the subject vehicle. Petitioner maintained that she had nothing to do with the loading of the cigarettes onto the subject vehicle. Meanwhile, in his Affidavit of Denial, Ah Seng Tan claimed to be the majority stock owner of Bumi Jaya International Corporation (Bumi Jaya), and vehemently denied any involvement in the attempted smuggling of the cigarettes out of the SBFZ.

After examination, SI Yu issued a Memorandum[9] with the following findings:

> After careful inspection the followings facts was found:
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> a. The cigarettes are all expired
> b. The cigarettes are all undocumented
> c. Bumi Jaya and Ah Seng Tan admitted that they are the real owner of the cigarettes
> d. The vehicle was owned by a certain Jonathan Ong/Charilyn M. Zita.
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> As to the vehicle, it was found that the real owner was Charilyn M. Zita, who borrowed it to her Nephew Mr. Galang. This office found no evidence as to the participation of Ms. Charilyn M. Zita to the present case.

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[6] Exhibit "R-8", BOC Records – Folder I, p. 197.
[7] *Sinumpaang Salaysay* dated February 11, 2024, Exhibit "R-11", BOC Records – Folder I, pp. 183 to 184.
[8] *Affidavit of Denial* dated February 11, 2024, Exhibit "R-12", BOC Records – Folder I, pp. 181 to 182.
[9] Exhibit "R-10", BOC Records – Folder I, p. 171.

On February 15, 2021, DC Martin issued a Warrant of Seizure and Detention[10] ordering the seizure of the cigarettes and the subject vehicle. The said Warrant provides:

> WHEREAS, on 04 February 2021, a One (1) Unit Toyota Granvia van bearing license plate no. BEM904 loaded with fifteen (15) master cases of expired DD brand charcoal cigarettes driven by a certain Mr. Galang and Ms. Campaña was apprehended by the SBMA-LED at Rizal Gate;
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> WHEREAS, upon further investigation, it was found that the cigarettes were all undocumented and allegedly intended for exportation. However, said cigarettes were given to Ms. Campaña by Mr. Ah Seng Tan of Bumi Jaya Int'l Corp. because it is already expired and without any value;
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> WHEREAS, on 11 February 2021, Benjamin T. Yu, Special Investigator 1, CIIS, this Port submitted through a Memorandum his recommendation that a Warrant of Seizure and Detention be issued against the abovementioned goods.
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> WHEREAS, based on the foregoing and the recommendation of Benjamin T. Yu, Special Investigator 1, CIIS, this Port, probable cause exists for violation of Section 1113 (f) of the Republic Act No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA) in relation to Section 263 of the National Internal Revenue Code of 1997, as amended by the Republic Act No. 11346 and Section 1113 l (1) of the CMTA for the fifteen (15) Master Cases of expired DD Brand Charcoal Cigarettes and Section 1113 (a) and (k) of the CMTA for the One (1) Unit 1996 Toyota Granvia van bearing plate no. BEM 904.
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> WHEREFORE, by virtue of the authority vested in me by law, pertinent Customs laws, rules and regulations, you are hereby ordered to seize the Fifteen (15) Master Cases of expired DD Brand Charcoal Cigarettes for violation of Section 1113 (f) of the Republic Act No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA) in relation to Section 263 of the National Internal Revenue Code of 1997, as amended by the Republic Act No. 11346 and Section 1113 l (1) of the CMTA and the One (1) Unit 1996 Toyota Granvia van bearing plate no. BEM 904 for violation of Section 1113 (a) and (k) of the CMTA for the One (1) Unit 1996 Toyota Granvia van bearing plate no. BEM 904, and to turn over the same to the custody of the Auction and Cargo Disposal Committee pending termination of the seizure proceeding or until further ordered by this Office. In this connection, please be guided by Section 11 19 of R.A. no. 10863 regarding the proper service of the warrant of seizure, and Customs Memorandum Order No. 8-84, particularly on the matter

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[10] Exhibit "R-6", BOC Records – Folder I, pp. 160 to 161.

of making return of service and the submission of inventory of the articles seized.

SO ORDERED.

Customs Examiner Imelda Vilaruel issued an Examination Report[11] dated February 17, 2021, stating that an examination of the subject vehicle was conducted on even date at the vicinity of the Subic Customs Office Bldg; that it was witnessed by four (4) persons including petitioner; and that the subject vehicle was, indeed, found to be loaded with fifteen (15) Master Cases of "DD Charcoal" Filter cigarettes, with no Gate Pass and other pertinent documents.[12]

On February 23, 2021, a Notice of Hearing[13] signed by Atty. Willie B. Sarmiento, Chief of the Law Division of the BOC - Port of Subic, was issued to Bumi Jaya as "owner/claimant" of the cigarettes, and to Jonathan Ong as "owner/claimant" of the subject vehicle. However, instead of Jonathan Ong, it was petitioner who submitted a Position Paper[14] dated March 5, 2021 as "owner/claimant" of the subject vehicle.

Bumi Jaya likewise submitted a position paper[15] dated March 15, 2021 where it denied giving any person, not Campaña nor Galang, the cigarettes to be brought out of the SBFZ, or the authority to do so. Notwithstanding its denials and explanations, Bumi Jaya did not contest the forfeiture of the cigarettes.

DC Martin issued a Decision[16] dated May 6, 2021, ordering the forfeiture of the cigarettes as well as the release of the subject vehicle. The dispositive portion reads:

> **WHEREFORE**, the foregoing considered, the 15 Master Cases of "DD Charcoal" filter cigarettes is hereby ordered **FORFEITED** in favor of the government. As to One (1) Unit 1996 Toyota Granvia van with plate number BEM 904, the claimant having proven that she has neither knowledge nor participation in the loading and transport of the seized cigarettes to the subject vehicle, the same is hereby ordered **RELEASED**.

[11] Exhibit "R-7", BOC Records – Folder I, pp. 166 to 167.
[12] *Id.*
[13] Exhibit "R-5", BOC Records – Folder I, pp. 158 to 159.
[14] Exhibit "P-3", Docket – Vol. I, p. 43.
[15] Exhibit "R-14", BOC Records – Folder I, pp. 44 to 58.
[16] Exhibit "P-1", Docket – Vol. I, pp. 35 to 42.

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The said Decision was automatically reviewed by respondent. Respondent thereafter issued the assailed Resolution[17], which modified the said Decision to include the forfeiture of the subject vehicle. The dispositive portion reads:

> **WHEREFORE**, the foregoing considered, the Decision dated 06 May 2021 of the District Collector, Port of Subic, is hereby AFFIRMED with MODIFICATION. The Fifteen (15) Master Cases of "DD Charcoal" filter cigarettes and the One (1) unit 1996 Toyota Granvia Van with plate number BEM 904 are hereby **FORFEITED** in favor of the government for violation of Section 1113 (a) and (k) of the CMTA to be disposed of in the manner provided by law.

Aggrieved, petitioner filed the instant Petition.

PROCEEDINGS BEFORE THE COURT

On November 17, 2021, the Court issued a Resolution[18] directing petitioner to comply with the directive under Section 6, Rule 7 of the Revised Rules of Court. On January 6, 2022, petitioner filed a Motion for Extension of Time[19] to file an amended petition, which the Court granted.[20]

On February 7, 2022, petitioner filed a Manifestation with Attached Amended Petition for Review[21], together with the Judicial Affidavit of petitioner[22], in compliance with the Court's Resolution dated November 17, 2021.

Summons[23] was issued to respondent. Respondent filed his Answer[24] dated May 25, 2022 attaching thereto the Judicial Affidavits of Atty. Sarmiento[25], SI Yu[26] and SO Dagun. Respondent also submitted the BOC records of this case on June 13, 2022.[27] Respondent later withdrew the said BOC records and in compliance with the Court's

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[17] Exhibit "P-2", Docket – Vol. I, pp. 35 to 42.
[18] Docket – Vol. I, pp. 63 to 64.
[19] Docket – Vol. I, pp. 65 to 67.
[20] Docket – Vol. I, pp. 101 to 102.
[21] Docket – Vol. I, pp. 70 to 97.
[22] Exhibit "P-6", Docket – Vol. I, pp. 91 to 97.
[23] Docket – Vol. I, p. 103.
[24] Docket – Vol. I, pp. 111 to 128.
[25] Exhibit "R-20", Docket – Vol. I, pp. 129 to 136.
[26] Exhibit "R-19", Docket – Vol. I, pp. 142 to 151.
[27] Docket – Vol. I, p. 259.

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Resolution dated June 21, 2022[28], re-submitted the same on July 6, 2022 with proper pagination.[29]

The case was thereafter referred to mediation before the Philippine Mediation Center of the Court of Tax Appeals (PMC-CTA). After the Court received a No Agreement to Mediate[30] filed by the parties, the case was set for Pre-Trial Conference.[31] Petitioner filed her Pre-Trial Brief[32] on August 22, 2022, while respondent filed his Pre-Trial Brief[33] on September 9, 2022.

On October 20, 2022, Pre-Trial commenced.[34] The parties failed to submit their Joint Stipulation of Facts and Issues.[35] The Pre-Trial Order[36] was then issued.

Trial ensued. On February 21, 2023, Charilyn M. Zita herself was presented as sole witness for petitioner.[37] Petitioner filed her Formal Offer of Evidence[38] on March 7, 2023, while respondent filed his Comment[39] thereto on March 24, 2023. In the Resolution[40] dated May 22, 2023, the Court admitted all of petitioner's exhibits.

On May 23, 2023, during its presentation of evidence, respondent manifested in open court that it will no longer present the testimony of SO Dagun. Respondent then proceeded to present SI Yu and Atty. Sarmiento.[41]

On June 2, 2023, the case was transferred to the Third Division of the CTA pursuant to Administrative Circular No. 01-2023 (Reorganizing the Divisions of the Court) dated May 23, 2023.[42]

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[28] Docket – Vol. I, p. 268.
[29] Docket – Vol. I, p. 269.
[30] Docket – Vol. I, p. 272.
[31] Docket – Vol. I, p. 274.
[32] Docket – Vol. I, pp. 289 to 299.
[33] Docket – Vol. I, pp. 279 to 287.
[34] Docket – Vol. I, pp. 320 to 322.
[35] Docket – Vol. I, p. 365.
[36] Docket – Vol. I, p. 373 to 387.
[37] Docket – Vol. I, p. 390-C to 390-D.
[38] Docket – Vol. I, pp. 392 to 396.
[39] Docket – Vol. I, pp. 398 to 402.
[40] Docket – Vol. I, pp. 405 to 406.
[41] Docket – Vol. I, pp. 410 to 412.
[42] Docket – Vol. I, p. 413.

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Respondent filed his Formal Offer of Evidence[43] on June 7, 2023, while petitioner filed her Opposition/Comment thereto on June 23, 2023.[44] In the Resolution[45] dated September 15, 2023, the Court admitted respondent's exhibits. Exhibit "R-1" was not admitted for failure to present the original for comparison. The Court gave the parties a period of thirty (30) days from notice to file their respective memoranda.

Petitioner and respondent filed their memoranda on October 23, 2023[46] and October 18, 2023[47], respectively.

The case was then submitted for decision on December 11, 2023.[48]

ISSUE

WHETHER OR NOT RESPONDENT HONORABLE COMMISSIONER OF THE BUREAU OF CUSTOMS COMMITTED A SERIOUS AND GRAVE ERROR OF JUDGEMENT WHEN HE REVERSED AND SET ASIDE THE EARLIER DECISION DATED MAY 6, 2021 OF THE DISTRICT COLLECTOR OF THE PORT OF SUBIC IN SEIZURE IDENTIFICATION NO. 2021-003 AND ORDERED THE FORFEITURE IN FAVOR OF THE GOVERNMENT OF THE SUBJECT MOTOR VEHICLE SPECIFIED AS ONE (1) UNIT 1996 TOYOTA GRANVIA VAN WITH PLATE NUMBER BEM 904.[49]

ARGUMENTS OF THE PARTIES

Petitioner's arguments

Petitioner challenges the assailed Resolution, insofar as it ordered the seizure of the subject vehicle, for: (a) lack of factual and legal basis; and (b) she had neither knowledge nor participation in the loading and transport of the seized cigarettes onto the subject vehicle.[50]

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[43] Docket – Vol. I, pp. 414 to 422.
[44] Docket – Vol. I, pp. 429 to 436.
[45] Docket – Vol. I, pp. 439 to 440.
[46] Docket – Vol. I, pp. 460 to 472.
[47] Docket – Vol. I, pp. 441 to 457.
[48] Docket – Vol. I, p. 504.
[49] *Pre-Trial Order* dated February 14, 2023, Docket – Vol. I, p. 380.
[50] *Memorandum for the Petitioner* dated November 8, 2023, Docket – Vol. I, p. 464.

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Petitioner avers that she is the lawful owner and possessor of the subject vehicle, and that she bought the same from Jonathan Ong on August 9, 2018.[51] To support her claim, petitioner offered in evidence: (1) a Deed of Sale of Motor Vehicle[52] dated August 9, 2018 apparently executed between Jonathan Ong and petitioner for the sale of the subject vehicle in favor of the latter; (2) a Certificate of Registration (CR)[53] dated December 7, 2011 indicating the same details as the subject vehicle; and (3) an Official Receipt (OR)[54] dated August 19, 2020 likewise indicating the same details.

Petitioner also avers that the subject vehicle was utilized as a delivery van for "Shopee Xpress" with Galang as driver.[55]

Further, in her Memorandum[56], petitioner maintains that the following events took place:

> 2. Sometime on February 4, 2021, at around 6 o'clock in the morning, the petitioner's sister, Crisanta Zita Campaña, suddenly arrived at the petitioner's house situated at No. 59 Fontaine Street, East Bajac-Bajac, Olongapo City for purposes of borrowing from her the aforesaid Toyota Granvia van with plate number BEM-904. According to the petitioner's sister, Crizanta Zita Campaña, she was only directed to do so by her husband, Dennis Campaña, who then allegedly had to obtain and pick-up some good from Bumijaya warehouse inside the Subic Bay Freeport Zone.
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> 3. Crizanta Zita Campaña then woke up the petitioner's niece, Christian Galang, for purposes requesting him to drive said motor vehicle. Christian Galang immediately woke up and readily acceded to the request of Crizanta Zita Campaña, as he had to deliver some goods at 7:30 o'clock in the morning of the same day for Shopee Xpress. Christian Galang then went out using the petitioner's motor vehicle, together with Ernest Campaña, Crizanta Zita Campaña's son, as the petitioner reminded her sister that she never allowed Christian Galang to drive inside the Subic Bay Freeport Zone.
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> 4. After several minutes, Crizanta Zita Campaña then called up the petitioner to inform her that Christian Galang and Ernest Campaña were both apprehended at the Rizal Avenue Gate of Subic Bay Freeport Zone. Crizanta Zita Campaña immediately went to the Rizal Avenue Gate of Subic Bay Freeport Zone and she found thereat

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[51] *Memorandum for the Petitioner* dated November 8, 2023, Docket – Vol. I, p. 465.
[52] Exhibit "P-3-a", Docket – Vol. I, p. 47.
[53] Exhibit "P-3-b", Docket – Vol. I, p. 50.
[54] Exhibit "P-3-c", Docket – Vol. I, p. 50.
[55] Id at 51.
[56] *Memorandum for the Petitioner* dated November 8, 2023, Docket – Vol. I, p. 460 to 462.

> Christian Galang and Ernest Campaña, and they were brought to the Subic Bay Metropolitan Authority (SBMA) Intelligence and Investigation Office (IIO). During the course of the investigation that said office conducted, the investigator said that Bumijaya International Corporation had to coordinate with them, and that Bumijaya International Corporation had to confirm to them that said company indeed conveyed to Christian Galang and Ernest Campaña said cigarettes.
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> 5. Crisanta Campaña then called up Bumijaya International Corporation warehouse and informed them about what happened. According to the concerned personnel of Bumijaya International Corporation warehouse, their company would just prepare and submit the necessary documentation and that they would then proceed to the Intelligence and Investigation Office (IIO) of the Subic Bay Metropolitan Authority (SBMA). However, no representative of Bumijaya International Corporation warehouse ever appeared at the IIO. Herein petitioner then received an advice from a certain individual, who told her that all that she needed to was to submit an affidavit of undertaking.
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> 6. Because the IIO was already closed at the time that the petitioner went back to submit her Affidavit of Undertaking, she was only able to submit said affidavit the next morning. However, the petitioner was quite surprised since she could no longer see thereat her aforesaid motor vehicle. According to the IIO, the petitioner's motor vehicle was already turned over to the Bureau of Customs. Upon reaching their office and upon claiming her aforesaid motor vehicle, their personnel told the petitioner that her papers were not enough and told her just to come back to their office on February 8, 2021, a Monday. The petitioner told the concerned personnel at Bumijaya International Corporation warehouse about everything that transpired and they undertook that they would just settle everything and all that herein petitioner had to do was to wait. When herein petitioner did not receive any positive information and development from Bumijaya International Corporation after a few days, she decided to personally go to the Bureau of Customs for purposes of claiming her aforesaid vehicle, so that she could continue utilizing the same as a delivery van for Shopee Xpress.

Based on the foregoing, petitioner insists that she had no personal knowledge that her motor vehicle would be used in transporting the seized cigarettes from Bumi Jaya, and neither did she participate in said transportation. Citing Sections 1113 (a) and (k) and 1114 of the CMTA, petitioner submits that the subject vehicle should not have been ordered forfeited.[57]

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[57] *Memorandum for the Petitioner* dated November 8, 2023, Docket – Vol. I, p. 467.

Respondent's counter-arguments

Respondent alleges that petitioner is not the real party in interest in the seizure of the subject vehicle; hence, she has no legal right to institute the instant Petition. Respondent points out that the CR and OR of the subject vehicle presented by petitioner were issued in the name of Jonathan Ong. As such, the real party in interest in the WSD is Jonathan Ong.[58]

Respondent cites Section 2, Rule 3 of the Rules of Court which defines a real party in interest. Respondent argues that interest within the meaning of the said Rules means material interest as distinguished from mere curiosity about the question involved. Since petitioner in this case is not the owner on record of the subject vehicle, then she will not benefit from the present action. Respondent thus submits that petitioner is not the real party in interest, and that this case must be dismissed on the ground of lack of cause of action.[59]

Respondent also alleges that the issuance of the WSD against the cigarettes and subject vehicle is valid. Respondent stated that Bumi Jaya is located within the SBFZ which is considered an Economic zone ("Ecozone") pursuant to Section 2 (f) of RA No. 7916, otherwise known as the Special Economic Zone Act of 1995. Citing Section 1 of RA No. 9400 or An Act Amending RA No. 7227, otherwise known as the Bases Conversion and Development Act of 1992, respondent emphasizes that exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes. Respondent stated that it is undisputed that Galang and Campaña who were on board the subject vehicle attempted to transport the cigarettes out of the SBFZ, a separate customs territory, into customs territory. Such act is deemed technical importation, thereby subjecting the same to the payment of customs duties. Since Galang and Campaña failed to show proof of payment of customs duties on the cigarettes, nor any import permit, such goods were validly seized under Section 1113 (f) and (l)(1) of the CMTA.[60]

In relation to the above, respondent alleges that the subject vehicle was also correctly seized. He ratiocinated that forfeiture proceedings are in the nature of proceedings *in rem* and are directed

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[58] *Memorandum* dated October 18, 2023, Docket – Vol. I, pp. 446 to 447.
[59] Id.
[60] *Memorandum* dated October 18, 2023, Docket – Vol. I, pp. 448 to 451.

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against the *res*. As such, the lack of actual knowledge that the subject vehicle was used to illegally remove the cigarettes from the freeport zone, is a defense personal to petitioner and does not render the subject vehicle immune from forfeiture.[61]

Moreover, respondent contends that petitioner's narration and denial of knowledge of and participation in the illegal act, are self-serving, out of the ordinary and inconsistent; hence, deemed red flags for fraud. Neither can the allegation that the subject vehicle is classified as a common carrier shield it from forfeiture pursuant to Section 4.2.3. of Customs Administrative Order (CAO) No. 10-2020, in relation to Section 1114 of the CMTA.[62]

RULING OF THE COURT

The Petition for Review is denied for lack of merit.

The Petition for Review was timely filed

Petitioner received a copy of the assailed Resolution, dated June 22, 2021, on June 29, 2021. Thus, petitioner had thirty (30) days from such receipt, or until July 29, 2021 within which to file the subject Petition for Review, pursuant to Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA).[63]

Considering that petitioner filed the instant Petition *via* registered mail on July 28, 2021, the same was timely filed.

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[61] *Memorandum* dated October 18, 2023, Docket – Vol. I, pp. 451 to 455.
[62] *Memorandum* dated October 18, 2023, Docket – Vol. I, p. 453.
[63] SECTION 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 the taxes. (n)

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Petitioner is the real party in interest and has a legal right to institute the present action

Respondent argues in his Memorandum that based on the OR/CR[64] of the subject vehicle, it is Jonathan Ong, not petitioner, who is the owner on record of the same. As such, petitioner will not benefit from the present action. Thus, she is not the real party in interest and the instant case must be dismissed on the ground of lack of cause of action.

On the other hand, petitioner in her Memorandum posits that she has duly established that she is the lawful owner and possessor of the subject vehicle through the OR/CR of the subject vehicle, and the Deed of Sale of Motor Vehicle[65] which proves that she bought the subject vehicle from Jonathan Ong on August 9, 2018.

Respondent's argument is bereft of merit.

Section 2, Rule 3 of the 1997 Rules of Civil Procedure, as amended, reads:

> **Section 2.** *Parties in interest.* - A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest. (2)

The term "interest" within the meaning of the said Rule has been defined by case law as material interest or an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest.[66] By real interest is meant a present substantial interest, as distinguished from a mere expectancy or a future, contingent, subordinate, or consequential interest.[67]

Applying the foregoing jurisprudential definition, petitioner in this case is clearly a real party in interest. She has sufficiently

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[64] Exhibits "P-3-b" and "P-3-c", Docket – Vol. I, p. 50.
[65] Exhibits "P-3-a", Docket – Vol. I, p. 49.
[66] *Ortigas & Co. Ltd. v. Court of Appeals*, G.R. No. 126102, December 4, 2000.
[67] *De Leon v. Court of Appeals*, G.R. No. 123290, August 15, 1997.

established by preponderance of evidence that she is the owner of the subject vehicle, by virtue of the notarized Deed of Sale of Motor Vehicle executed with Jonathan Ong, which indicated the same manufacturer, model, type, motor no. and plate no. as the subject vehicle, and which was presented before and admitted by the Court.

In contrast, respondent has failed to prove that petitioner is not the owner of the subject vehicle. While the CR is in the name of Jonathan Ong, this does not negate the transfer of ownership to petitioner pursuant to the said sale. It does not establish that at the time the subject vehicle was caught on February 4, 2021, petitioner was not the owner thereof. It merely shows that on the date the subject vehicle was first registered (*i.e.*, December 7, 2011[68]), the owner was Jonathan Ong; hence, registration was in his name.

Neither does the OR in the name of Jonathan Ong establish that the subject vehicle was owned by him at the time of the apprehension. It merely shows that on the date indicated in the Official Receipt (*i.e.*, August 19, 2020[69]), the registration of the subject vehicle was still in the name of Jonathan Ong and not yet transferred to petitioner. But again, this does not mean that ownership over the same was retained by him.

It being proven that petitioner is the owner of the subject vehicle, she definitely stands to be either directly benefited by the release, or directly injured by the forfeiture of the subject vehicle. This benefit or injury amounts to a personal, present and substantial interest in the Petition for Review. Therefore, petitioner has the legal right to institute the same.

The subject vehicle was correctly seized in accordance with Section 1113 (a) and (k) of the CMTA

There is no issue with respect to the seizure and forfeiture of the fifteen (15) Master Cases of DD Charcoal filter cigarettes as petitioner is not an interested party therein. The order of respondent to seize and forfeit the said cigarettes in favor of the government, for violation of Section 1113 (a) and (k) of the CMTA, was also never contested. The

[68] Exhibits "P-3-b", Docket – Vol. I, p. 50.
[69] Exhibits "P-3-c" and "P-3-c", Docket – Vol. I, p. 50.

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only issue before this Court is whether respondent's order to seize and forfeit the subject vehicle was correct.

Sections 1113 and 1114 of the CMTA identifies the properties subject to and exempt from seizure and forfeiture, to wit:

> **Section 1113.** *Property Subject to Seizure and Forfeiture.* – Property that shall be subject to seizure and forfeiture include:
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> **(a) Any vehicle, vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of goods or in conveying or transporting smuggled goods in commercial quantities into or from any Philippine port or place. The mere carrying or holding on board of smuggled goods in commercial quantities shall subject such vehicle, vessel, aircraft, or any other craft to forfeiture: *Provided,* That the vehicle, vessel, aircraft or any other craft is not used as a common carrier which has been chartered or leased for purposes of conveying or transporting persons or cargo;**
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> (b) Any vessel engaging in the coastwise trade which shall have on board goods of foreign growth, produce, or manufacture in excess of the amount necessary for sea stores, without such goods having been properly entered or legally imported;
>
> (c) Any vessel or aircraft into which shall be transferred cargo unloaded contrary to law prior to the arrival of the importing vessel or aircraft at the port of destination;
>
> (d) Any part of the cargo, stores, or supplies of a vessel or aircraft arriving from a foreign port which is unloaded before arrival at the vessel's or aircraft's port of destination and without authority from the customs officer; but such cargo, ship, or aircraft stores and supplies shall not be forfeited if such unloading was due to accident, stress of weather, or other necessity and is subsequently approved by the District Collector;
>
> (e) Goods which are fraudulently concealed in or removed contrary to law from any public or private warehouse, container yard, or container freight station under customs supervision;
>
> (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;
>
> (g) Unmanifested goods found on any vessel or aircraft if manifest therefor is required;

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(h) Sea stores or aircraft stores adjudged by the District Collector to be excessive, when the duties and taxes assessed by the District Collector thereon are not paid or secured forthwith upon assessment of the same;

(i) Any package of imported goods which is found upon examination to contain goods not specified in the invoice or goods declaration including all other packages purportedly containing imported goods similar to those declared in the invoice or goods declaration to be the contents of the misdeclared package;

(j) Boxes, cases, trunks, envelopes, and other containers of whatever character used as receptacle or as device to conceal goods which are subject to forfeiture under this Act or which are so designed as to conceal the character of such goods;

(k) Any conveyance actually used for the transport of goods subject to forfeiture under this Act, with its equipage or trappings, and any vehicle similarly used, together with its equipment and appurtenances. The mere conveyance of smuggled goods by such transport vehicle shall be sufficient cause for the outright seizure and confiscation of such transport vehicle but the forfeiture shall not be effected if it is established that the owner of the means of conveyance used as aforesaid, is engaged as common carrier and not chartered or leased, or that the agent in charge thereof at the time, has no knowledge of the unlawful act; and

(l) Goods sought to be imported or exported:

(1) Without going through a customs office, whether the act was consummated, frustrated, or attempted;
(2) Found in the baggage of a person arriving from abroad and undeclared by such person;
(3) Through a false declaration or affidavit executed by the owner, importer, exporter, or consignee concerning the importation of such, goods;
(4) On the strength of a false invoice or other document executed by the owner, importer, exporter, or consignee concerning the importation or exportation of such goods; or
(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.

Section 1114. *Properties not Subject to Forfeiture in, the Absence of Prima Facie Evidence.* – **The forfeiture of the vehicle, vessel, or aircraft shall not be effected if it is established that the owner thereof or the agent in charge of the means of conveyance used as aforesaid has no knowledge of or participation in the unlawful act: *Provided,* That a prima**

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> **facie presumption shall exist against the vehicle, vessel, or aircraft under any of the following circumstances:**
>
> **(a) If the conveyance has been used for smuggling before;**
> **(b) If the owner is not in the business for which the conveyance is generally used; and**
> **(c) If the owner is not financially in a position to own such conveyance.** (Emphasis supplied)

It can be gleaned from Section 1113 (a) of the CMTA that a vehicle, vessel, aircraft or any other craft, including cargo, shall be subject to **seizure and forfeiture** when all of the following elements are present:

a. There is an importation or exportation of goods, or the conveying or transporting of smuggled goods, or the mere carrying or holding of smuggled goods;
b. Such vehicle, vessel, aircraft or any other craft is unlawfully used in any of the above-mentioned acts;
c. The goods or smuggled goods are in commercial quantities;
d. The goods or smuggled goods are carried either to or from any Philippine port or place; and
e. The vehicle, vessel, aircraft or any other craft is not used as a common carrier that has been chartered or leased for purposes of conveying or transporting persons or cargo.

Similarly, Section 1113 (k) of the same Act provides for the outright **seizure and forfeiture** of any conveyance, with its equipage or trappings, or any vehicle, with its equipment and appurtenances, actually used for the transport of goods subject to forfeiture under the CMTA. By way of exception, **forfeiture** shall not be effected if it is established that the owner of the conveyance or vehicle is engaged as common carrier and not chartered or leased, or that the agent in charge thereof at the time, has no knowledge of the unlawful act.[70]

A perusal of Section 1113 of the CMTA shows that subparagraph (a) is limited to <u>**any vehicle, vessel or aircraft**</u> unlawfully used in the importation or exportation of goods or in conveying or transporting smuggled goods, while subparagraph (k) involves <u>**any conveyance**</u> actually used for the transport of goods subject to forfeiture under the CMTA, and any vehicle similarly used. Considering this, any vehicle, vessel or aircraft that falls under subparagraph (a) similarly falls under

[70] Section 1113 (k) of the CMTA.

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subparagraph (k) of the CMTA, as the latter pertains to any conveyance or vehicle used for the transport of goods subject to forfeiture under the CMTA.[71]

Moreover, scrutiny of Section 1113 (a), read together with subparagraph (k), reveals two (2) exceptions from **forfeiture**, as summarized below:

1. When the owner of the conveyance or vehicle is engaged as a common carrier that has not been chartered or leased for purposes of conveying or transporting persons or cargo; or
2. When the owner or agent in charge thereof at the time has no knowledge of or participation in the unlawful act.[72]

Section 1114 of the CMTA reiterates the second exception by exempting from forfeiture any vehicle, vessel, or aircraft where it is established that owner or agent in charge thereof has no knowledge of or participation in the unlawful act.

As an exception to the above exception, the following circumstances shall serve as *prima facie* evidence in favor of forfeiture:

1. if the conveyance has been used for smuggling before;
2. if the owner is not in the business for which the conveyance is generally used; and
3. if the owner is not financially in a position to own such conveyance.[73]

Applying the foregoing discussion to the case at bar, the subject vehicle was correctly seized by the BOC due to the presence of all the elements in Section 1113 (a) and (k) of the CMTA.

First, there was an importation of goods or transport of goods subject to forfeiture based on the undisputed findings of respondent in the assailed Resolution.[74] The findings are as follows:

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[71] *Herma Shipping and Transport Corporation v. Hon. Nicanor Faeldon, in his capacity as Commissioner of the Bureau of Customs*, CTA Case No. 9561, July 17, 2020, as affirmed in *Commissioner of Customs v. Herma Shipping and Transport Corporation*, CTA EB Case No. 2556, September 21, 2023.
[72] Id.
[73] Section 1114 of the CMTA.
[74] Exhibit "P-2", Docket – Vol. I, pp. 35 to 42.

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It is important to note herein Claimant Bumi Jaya is located within SBFZ, an ECOZONE. An ECOZONE or a Special Economic Zone (SEZ) has been described as –

"Selected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers whose metes and bounds are fixed or delimited by Presidential Proclamations. An ECOZONE may contain any or all of the following: industrial estates (IEs), export processing zones (EPZ), free trade zones and tourist/recreational centers."

To be more specific, **Section 1** of **RA No. 9400**, otherwise known as "An Act Amending Republic Act No. 7227, as amended, otherwise known as the Bases Conversion and Development Act of 1992, and for other Purposes," reads:

"**SECTION 1.** Section 12 of Republic Act No. 7227, as amended, otherwise known as the Bases Conversion and Development Act of 1992, is hereby amended to read as follows:

"SEC. 12. Subic Special Economic Zone. - x x x

"(a) x x x

"(b) The **<u>Subic Special Economic Zone</u>** shall be operated and managed as a **separate customs territory** ensuring free flow or movement of goods and capital within, into and exported out of the Subic Special Economic Zone, as well as provide incentives such as tax and duty-free importations of raw materials, capital and equipment. However, **exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes** under the Tariff and Customs Code Of the Philippines as amended, the National Internal Revenue Code of 1997, as amended, and other relevant tax laws of the Philippines; x x x." (Emphasis and underscoring supplied)

"**Separate customs territory**" refers to areas in the Philippine territory referred to in CMTA as "free zones," while "**Customs territory**" under Section 3 (n) of the Implementing Rules and Regulations of RA No. 7227 is defined as:

"**Sec. 3. Definitions**. For purposes of these Rules, these terms shall be understood to have the following meanings:

x x x

n. Customs Territory refers to the **portion of the Philippines outside the SBE** where the Tariff and Customs Code of the

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> Philippines and other national tariff and customs laws are in force and the effect. (Emphasis and other and underscoring supplied)
>
> x x x"
>
> There is no question that based on the facts of this case, Galang and Campaña on board the Subject Vehicle, attempted to transport the Subject Cigarettes out of the SBFZ on 04 February 2021. Clearly, based on the foregoing provisions, the act of bringing the Subject Cigarettes outside of SBFZ a separate customs territory, and into customs territory is deemed ***"technical importation"***, thereby subjecting the same to the payment of customs duties and taxes pursuant to CMTA, NIRC and other relevant tax laws.
>
> It is likewise certain that Galang and Campaña failed to show proof of payment of customs duties and taxes on subject cigarettes nor import permit when they were apprehended by the security officer at the SBFZ Rizal Gate.
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> xxx
>
> Given the preceding discussion, under **Section 1123** of the CMTA, it is incumbent upon Claimant Bumi Jaya to present and prove by substantial evidence that bringing the subject cigarettes outside of SBFZ is legal, and therefore should not be forfeited in favor of the government. However, since Bumi Jaya expressly conveyed their disinterest in claiming the subject cigarettes, the former opted not to offer evidence to overcome the presumption of its illegality.

Well-settled is the rule that factual findings of administrative bodies charged with their specific field of expertise, are afforded great weight by the courts, and in the absence of substantial showing that such findings were made from an erroneous estimation of the evidence presented, they are conclusive, and in the interest of stability of the governmental structure, should not be disturbed.[75]

In *Department of Justice v. Nuqui*[76], the Court elaborates on the above rule as such:

> Under the doctrine of conclusiveness of administrative findings of fact, factual findings of quasi-judicial and administrative bodies, when supported by substantial evidence, are accorded great respect and even finality by the courts. The rationale behind this doctrine is that administrative bodies are considered as specialists in their respective fields and can thus resolve the cases before them with dispatch. Absent any clear showing of abuse, arbitrariness, or

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[75] *Lumayna v. Commission on Audit*, G.R. No. 185001, September 25, 2009; *Ocampo v. Commission on Elections*, G.R. Nos. 136282 & 137470, February 15, 2000.
[76] *Department of Justice v. Nuqui*, G.R. No. 237521, November 10, 2021.

capriciousness committed on the part of the lower tribunal, its findings of facts are binding and conclusive upon the courts.

The BOC is a specialized administrative agency charged with the administration and enforcement of customs rules, regulations, policies and procedures. Absent any showing that it disregarded or misinterpreted significant details or circumstances, we will not disturb its assessment of facts.[77]

In the instance case, petitioner did not present any evidence to refute the findings of respondent for the seizure and forfeiture of the subject cigarettes due to its technical importation into customs territory, without payment of customs duties and taxes, in violation of the CMTA. Accordingly, said findings shall stand.

Second, it was likewise not disputed and even admitted by petitioner as early as in her Petition for Review[78] that it was the subject vehicle, *i.e.*, her 1996 Toyota Granvia van with plate no. BEM 904, that was used and driven by Galang in the pick-up and transport of the subject cigarettes.

Third, under Section 3.3 of the CAO No. 10-2020, which implements Sections 1113 and 1114 of the CMTA, "commercial quantity" refers to a quantity for a given class or kind of articles which are in excess of what is compatible with and commensurate to the person's normal requirements for personal use.[79] Following the foregoing definition, it can be established from the SBMA Blotter Report[80] and Incident Report[81] dated February 4, 2021, and more importantly from the Examination Report[82] dated February 17, 2021, that the subject cigarettes were in commercial quantities, having been found in fifteen (15) Master Cases, with each Master Case containing fifty (50) rims; with each rim containing ten (10) packs; and finally, with each pack containing twenty (20) sticks.

Fourth, it can be readily said that the subject cigarettes were carried to or from a Philippine port or place, considering that petitioner herself admitted in her testimony that Campaña informed

[77] *Diclas v. Bugnay, Sr.,* G.R. No. 209691, January 16, 2023.
[78] Par. 8 to 16, *Petition for Review,* Docket – Vol. I, p. 13.
[79] CAO No. 10-2020 dated May 11, 2020.
[80] Exhibit "R-3", BOC Records – Folder I, p. 145.
[81] Exhibit "R-2", BOC Records – Folder I, p. 144.
[82] Exhibit "R-7", BOC Records – Folder I, pp. 166 to 167.

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her through phone call that she and Galang were both apprehended while exiting the Rizal Avenue Gate of the SBFZ.[83]

Anent the fifth element, in order for seizure and forfeiture to be appropriate, the subject vehicle must not have been used as a common carrier or that it was one that was chartered or leased for purposes of conveying or transporting persons or cargo.

It is worthy to note that in the latter part of Section 1113 (k) of the CMTA, the burden of proof is shifted to the owner of the vehicle who must then establish that he or she is a common carrier and not chartered or leased, or that he or she, at the time, has no knowledge of the unlawful act, to be exempted from forfeiture.

Article 1732 of the Civil Code defines a common carrier as a person, corporation, firm or association engaged in the business of carrying or transporting passengers or goods or both, by land, water or air, for compensation, offering their services to the public.[84] The test to determine a common carrier is "whether the given undertaking is a part of the business engaged in by the carrier which he has held out to the general public as his occupation rather than the quantity or extent of the business transacted."[85]

In the instant case, petitioner claims that the subject vehicle was utilized as a delivery van for "Shopee Xpress."[86] To prove her claim, petitioner attached to her Position Paper[87] submitted before the BOC - Port of Subic, a "Printed Shopee Express Endorsement Letter to Dispatcher Christian Galang (Annex "E")"[88] and a "Photocopy of Relkin Enterprises Identification Card of Christian Galang (Annex "F")."[89] After careful evaluation of the said documents, the Court is constrained to give them no probative value as there is nothing therein that can relate the subject vehicle to "Shopee Xpress," nor do they show in any way that petitioner is connected to "Shopee Xpress," or that the subject vehicle was used as a delivery van for "Shopee Xpress" at the time of the incident. Petitioner did not even bother to present any witness who could testify on the truth of the contents of the said documents based on personal knowledge.

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[83] *Judicial Affidavit* dated February 7, 2022, Exhibit "P-6", Docket – Vol. I, pp. 91 to 97.
[84] Article 1732 of the Civil Code of the Philippines.
[85] *Bascos v. Court of Appeals*, G.R. No. 101089, April 7, 1993.
[86] *Memorandum for the Petitioner* dated November 8, 2023, Docket – Vol. I, p. 465.
[87] Exhibit "P-3", Docket – Vol. I, p. 43.
[88] Docket – Vol. I, p. 55.
[89] Docket – Vol. I, p. 56.

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Considering this, and considering further that a mere allegation is not evidence[90], petitioner has desperately failed to prove that the subject vehicle was used as a common carrier.

With the concurrence of all the elements of a valid seizure under Section 1113 (a) and (k) of the CMTA, respondent's act in seizing the subject vehicle was proper.

The subject vehicle was correctly forfeited due to petitioner's failure to prove that she had no knowledge of or participation in the unlawful act

As the subject vehicle is not a common carrier, petitioner cannot claim the first exception from forfeiture, *i.e.*, that the owner of the vehicle is engaged as a common carrier that has not been chartered or leased.

The question that remains is whether petitioner was able to prove that she qualifies under the second exception from forfeiture, *i.e.*, that the owner or agent in charge thereof at the time has no knowledge of or participation in the unlawful act.

Petitioner insists that she had nothing to do with the loading of the fifteen (15) Master Cases of DD Charcoal filter cigarettes onto her vehicle, and that at the time it was caught exiting the SBMA, it was being used by her sister, Campaña, who borrowed the vehicle in the morning of that day. Petitioner alleges that she neither directly nor indirectly participated in the said loading of cigarettes onto her vehicle.[91] To support her position, petitioner presented (1) her Position Paper[92] dated March 5, 2021 submitted before the BOC - Port of Subic, with attachments, including her Sinumpaang Salaysay [93] dated February 11, 2021 and Affidavit of Undertaking[94] dated February 5, 2021; (2) Counter-Affidavits of Galang[95] and Campaña[96], both dated

[90] *Luxuria Homes, Inc. v. Court of Appeals*, G.R. No. 125986, January 28, 1999.
[91] *Memorandum for the Petitioner* dated November 8, 2023, Docket – Vol. I, p. 462.
[92] Exhibit "P-3", Docket – Vol. I, pp. 43 to 46.
[93] Docket – Vol. I, pp. 52 to 53.
[94] Docket – Vol. I, pp. 54.
[95] Exhibit "P-4", Docket – Vol. I, pp. 57 to 58.
[96] Exhibit "P-5", Docket – Vol. 1, pp. 59 to 60.

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July 16, 2021, submitted before the Olongapo City Prosecutor's Office in relation to I.S. No. III-10-INV-21E-00410 for Theft, where both are respondents; and (3) her Judicial Affidavit dated February 7, 2021.[97] She also offered the Decision[98] dated May 6, 2021 issued by the District Collector of the Port of Subic, which initially released the subject vehicle from seizure.

On the other hand, respondent argues that in all proceedings for the forfeiture of any vehicle under the CMTA, the burden of proof shall be borne by the claimant.[99] Respondent claims that petitioner failed to prove by substantial evidence that she had no knowledge of or participation in the unlawful act complained of. Respondent asserts that petitioner's denial of knowledge or participation in the illegal act of loading and attempting to transport the subject cigarettes outside of the SBFZ into customs territory, is self-serving. Respondent avers that petitioner's narration of supposed facts is out of the ordinary or inconsistent with what is considered normal; hence, deemed red flags for fraud. Respondent points out that the surprise visit of and borrowing of the subject vehicle by Campaña "*were not only intrusions of petitioner's privacy in the comfort of her home very early in the morning, but also tantamount to disruption of her business activity, which she claims is her means of livelihood. All the same, she seemed unperturbed and unannoyed, gladly allowed her sister to take the subject vehicle, on orders of her sister's husband.*" Respondent further avers that apart from petitioner's Sinumpaang Salaysay dated February 11, 2021, no other evidence was offered to corroborate her allegations.[100]

After a careful and judicious study of the respective allegations and evidence of the parties in this case, we rule for respondent.

As stated, Section 1113 (k) of the CMTA shifts the burden of proof to the owner of the vehicle who must establish that he or she has no knowledge of the unlawful act, to be exempted from forfeiture. Similarly, under Section 1114 of the said Act, it is the owner of the vehicle used who must prove that he or she has no knowledge of or participation in the unlawful act.

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[97] Exhibit "P-6", Docket – Vol. I, pp. 91 to 97.
[98] Exhibit "P-1", Docket – Vol. I, pp. 27 to 34.
[99] *Memorandum* dated October 18, 2023, Docket – Vol. I, pp. 454.
[100] *Memorandum* dated October 18, 2023, Docket – Vol. I, pp. 452 to 453.

The shift of the burden of proof from respondent to petitioner is consistent with Section 1123 of the CMTA, which states:

> **Section 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.** (Emphasis supplied)

It is also consistent with the presumption under Section 3, Rule 131 of the Rules of Court, that official duty has been regularly performed, and the rule in civil cases that the burden of proof rests upon the plaintiff who must establish his case by preponderance of evidence.[101]

Section 1, Rule 133 of the Rules of Court sets the quantum of evidence for civil actions, and provides how preponderance of evidence is determined, to wit:

> **Section 1.** Preponderance of evidence, how determined. - In civil cases, the party having the burden of proof must establish his or her case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number. (1a)

Jurisprudence has defined preponderant evidence as evidence that is of greater weight, or more convincing, than the evidence offered in opposition to it. It is proof that leads the trier of facts to find that the existence of the contested fact is more probable than its nonexistence.[102]

In the instant case, we find the evidence of petitioner insufficient to establish that she did not have any knowledge of the unlawful importation of the "DD Charcoal" filter cigarettes.

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[101] *Spouses Ponce v. Aldanese*, G.R. No. 216587, August 4, 2021.
[102] *Far East Bank & Trust Co. v. Chante*, G.R. No. 170598, October 9, 2013.

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To prove lack of knowledge, petitioner presented her own narration of events which allegedly took place in the morning of February 4, 2021. Such narration was first made in her Sinumpaang Salaysay[103] dated February 11, 2021 and reiterated in her Position Paper[104] dated March 5, 2021 submitted before the BOC - Port of Subic. It was also included in her testimony by way of Judicial Affidavit dated February 7, 2022.[105]

In her Judicial Affidavit, petitioner made the following statements:

> 5. What was that event all about?
>
> Answer: Sometime on February 4, 2021, at around 6 o'clock in the morning, my sister, standing by the full name Crisanta Zita Campaña, suddenly arrived at my house located at No. 59 Fontaine Street, East: Bajac-Bajac, Olongapo City for purposes of borrowing from me the aforesaid Toyota Granvia van with plate number BEM-904.
>
> 6. What happened next, if any?
>
> Answer: According to my sister, Crizanta Zita Campaña, she was only directed to do so by her husband, Dennis Campaña, who then allegedly had to obtain and pick-up some good from Bumijaya warehouse inside the Subic Bay Freeport Zone.
>
> 7. What happened next, if any?
>
> Answer: Crizanta Zita Calmpaña then woke up my niece, Christian Galang, for purposes requesting him to drive said motor vehicle. Christian Galang immediately woke up and readily acceded to the request of Crizanta Zita Campaña, as he had to deliver some goods at 7:30 o'clock in the morning of the same day for Shopee Xpress.
>
> 8. What happened next, if any?
>
> Answer: Christian Galang then went out using my aforesaid motor vehicle, together with Ernest Campaña, Crizanta Zita Campaña's son, as I reminded my sister that she never allowed Christian Galang to drive inside the Subic Bay Freeport Zone.
>
> 9. What happened next, if any?

[103] Docket – Vol. I, pp. 52 to 53.
[104] Exhibit "P-3", Docket – Vol. I, pp. 43 to 46.
[105] Exhibit "P-6", Docket – Vol. I, pp. 91 to 97.

> Answer: After several minutes, Crizanta Zita Campaña then called me up to inform me that Christian Galang and Ernest Campaña were both apprehended at the Rizal Avenue Gate of Subic Bay Freeport_Zone. Crizanta Zita Campaña immediately went to the Rizal Avenue Gate of Subic Bay Freeport Zone and she found thereat Christian Galang and Ernest Campaña, and they were brought to the Subic Bay Metropolitan Authority (SBMA) Intelligence and Investigation (IIO).

It appears from the above narration that petitioner was surprised at the sudden arrival of Campaña at her house, at around 6:00 a.m. on February 4, 2021, to borrow her vehicle. Petitioner stated that, according to Campaña, as if in a conversation with her, she was only borrowing the said vehicle on orders from her husband who had to pick-up a certain item from Bumi Jaya's warehouse at the SBFZ. When asked what happened next, petitioner stated that Campaña then woke up Galang to request him to drive the said vehicle. Thereafter, Galang went out using the said vehicle, accompanied by Campaña's son, allegedly because *"[she] reminded [her] sister that she never allowed Christian Galang to drive inside the Subic Bay Freeport Zone.*"

However, during trial, petitioner testified that she was actually asleep when Campaña borrowed her vehicle, and the keys thereof were taken without her knowledge.[106] She also testified that she only knew Galang's involvement in the incident when Campaña informed her through phone call that he was held up at the SBFZ, *viz.*:

> JUSTICE DEL ROSARIO:
> Now, sometime or on February 4, 2021, you said that it was your sister who came to your place and actually borrowed the vehicle.
>
> A: Yes Sir.
>
> JUSTICE DEL ROSARIO:
> Are you aware of the activities or the business concerns of your sister?
>
> A: No Sir.
>
> JUSTICE DEL ROSARIO:
> So, in other words you do not have any idea what kind of business she is engaged in?
>
> A: Yes Sir, wala po.

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[106] *Transcript of Stenographic Notes* (TSN), Charilyn M. Zita, February 21, 2023, pp. 23 to 25.

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JUSTICE DEL ROSARIO:
Despite the fact that she is your sister?
A: Yes Sir.

JUSTICE DEL ROSARIO:
So, you were weakly blind simply to lend out the vehicle not realizing whether your sister is engaged in any criminal activity?

A: Sir, wala po talaga.

JUSTICE DEL ROSARIO:
I see. In other words, you did not take any precaution or measure to see to it that your vehicle is only utilized for a legal purpose?

A: Yes Sir.

JUSTICE DEL ROSARIO:
No additional measure, you did not even ask her if it is going to be used by anyone?

A: Hindi po Sir, kasi po natutulog po ako nung hiniram.

JUSTICE DEL ROSARIO:
But ultimately, you gave the permission because your, is it a niece or nephew, Christian, Christian is your supposed niece or nephew, is he a male or female?

A: Male po.

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JUSTICE DEL ROSARIO :
So, Christian would definitely not drive the vehicle without your permission, right?

A: Kasi po natutulog po ako noon, eh yung pamangkin ko po natutulog po sa salas, yung susi po dun din po nakasabit sa may poste po ng sa gilid nung bahay po namin kaya po hindi ko po alam nung hiniram.

JUSTICE DEL ROSARIO:
You sign the Petition for Review yourself, of course you have to read what was alleged in the Petition for Review, right?

A: Opo

JUSTICE DEL ROSARIO:
It is improper for you to sign it without realizing what is there. It would seem that in your Petition for Review, you even reminded our sister that you never allowed Christian Galang to drive inside the Subic Bay Freeport Zone.

A: Opo, yun po.

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> JUSTICE DEL ROSARIO:
> Yes. But according to your Petition for Review, you actually reminded your sister before the vehicle was used by Christian Galang.
>
> A: Opo.
>
> JUSTICE DEL ROSARIO:
> So apparently, there is some inconsistency the way you are responding to the question of the Court. You said that Christian Galang apparently simply drove off the vehicle without your knowledge, but according to your Petition for Review, you have knowledge because you even reminded your sister.
>
> A: Bale po kasi kapag po nagkukwentuhan po kami, alam po ni Ate na hindi ko pa po basta-basta pinapagdrive yung pamangkin ko sa SBMA kasi po maselan po yung traffic po dun.
>
> xxx xxx xxx
>
> JUSTICE DEL ROSARIO:
> But there is a statement in Paragraph 10 of the Petition and it reads, Christian Galang then went out using the petitioner's motor vehicle together with Ernest Campaña, Crisanta Zita Campaña's son, as the petitioner, you, reminded her sister that she never allowed Christian Galang to drive inside the Subic Bay Freeport Zone. Anyway, the Court takes note of the way you have been responding to the Court and that will be taken in appreciating the credibility of your testimony.
>
> xxx xxx xxx
>
> JUSTICE FAJARDO:
> You testified earlier that's the reason why you had to ask the son of your sister to go with Galang because you don't usually allow Galang.
>
> A: Noon pong nalaman ko na lang po na, noong naharang na po nila, doon ko na lang po nalaman na kasama po yung pamangkin ko po eh.[107]

The Court finds it noteworthy that in petitioner's earlier statements, petitioner testified that she was told by Campaña the reason why the latter was borrowing her car, *i.e.*, that Campaña was only directed to do so by her husband for purposes of picking-up a certain item at Bumi Jaya's warehouse inside the SBFZ. But during trial, when asked by the Court whether she took any measure to see to it that her vehicle was only used for a legal purpose, and whether she asked if it was going to be used by anyone, petitioner answered in the

[107] *TSN*, Charilyn M. Zita, February 21, 2023, pp. 23 to 31.

negative and reasoned that it was because she was sleeping when the vehicle was borrowed.

Aside from the above contradictory statements of petitioner, there is another inconsistency between petitioner's testimony and the official records of the BOC. In petitioner's narration of events and as testified by her, it was **Galang and Ernest, Campaña's son**, who went to Bumi Jaya using her vehicle and who were caught exiting the SBFZ. However, in the SBMA Blotter Report[108] and Incident Report[109], it was actually **Galang and Campaña** who were found riding the subject vehicle at the SBFZ.

The Court also finds striking that petitioner and Campaña, who are sisters, had lived in Olongapo City since birth; yet, petitioner denies having any knowledge of Campaña's work or business:

> JUSTICE DEL ROSARIO:
> And where does she live?
>
> A: Sa Bacon po, East Tapinac, bale hindi po namin sya kasama sa compound po namin.
>
> xxx xxx xxx
>
> JUSTICE DEL ROSARIO:
> How long has she been staying in that vicinity that is still in Olongapo City, right? And you're staying in Olongapo City?
>
> A: Yes Sir.
>
> JUSTICE DEL ROSARIO:
> And you often see each other?
>
> A: Hindi po madalas, pasilip-silip lang po sya minsan sa amin.
>
> JUSTICE DEL ROSARIO:
> Yes, for how many years have you been staying in Olongapo City?
>
> A: Since birth po.
>
> xxx xxx xxx
>
> JUSTICE DEL ROSARIO:
> How about your sister?

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108 Exhibit "R-3", BOC Records – Folder I, p. 145.
109 Exhibit "R-2", BOC Records – Folder I, p. 144.

A: Since birth din po, pero po *(interrupted)*

JUSTICE DEL ROSARIO:
And yet despite being in the same community, living in the same community since birth, you have no idea what business your sister was engaged in?

A: No Sir.[110]

Petitioner's claim that she did not know her sister's work or business is hard to believe as it is contrary to common human experience to be so ignorant of a sibling's business, but at the same time, be so close as to lend him or her one's vehicle—one's alleged source of income—without even asking why. To add to the confusion, petitioner later revealed during trial that she actually knew that Campaña's husband was a driver for Bumi Jaya and that his brother-in-law was one of the owners of Bumi Jaya.[111]

All these inconsistencies in petitioner's statements materially and severely detract from her credibility.

As for the Counter-Affidavits of Galang[112] and Campaña[113], which were submitted before the Olongapo City Prosecutor's Office in relation to a criminal case against them for theft, the Court finds the same self-serving and unreliable.

In *People v. Villarama*, the Court held that a self-serving statement is one that is made by a party, out of court, and in his favor. Self-serving statements are disallowed by the rules on evidence because the adverse party is denied a fair opportunity to cross-examine the declarant on such statements, and admission of the same would encourage fabrication of testimony.[114]

Applying the foregoing rule, the statements made by Galang and Campaña in their respective Counter-Affidavits are clearly self-serving for failure of petitioner to present them in Court for cross-examination. The Court is actually at a loss as to why petitioner did not present Galang and Campaña who are in the best position to corroborate petitioner's statements, considering that in petitioner's narration, they

[110] *TSN*, Charilyn M. Zita, February 21, 2023, pp. 25 to 27.
[111] *TSN*, Charilyn M. Zita, February 21, 2023, p. 28.
[112] Exhibit "P-4", Docket – Vol. I, pp. 57 to 58.
[113] Exhibit "P-5", Docket – Vol. I, pp. 59 to 60.
[114] *People v. Villarama*, G.R. No. 139211, February 12, 2003.

were the only ones present during the events which transpired in the morning of February 4, 2021, before the incident at the SBFZ. It is crucial for the Court to determine the actions, inactions and interactions of petitioner during this period as they may prove or disprove her lack of knowledge of the unlawful activity for which purpose her vehicle was being borrowed. Unfortunately, petitioner presented Galang and Campaña's statements only by way of Counter-Affidavits submitted to another office in another proceeding. For the foregoing reasons, their statements therein deserve little to no consideration.

Evidence, to be believed, must proceed not only from the mouth of a credible witness but must be credible in itself as when it conforms to the common experience and observation of mankind.[115]

In the case at bar, petitioner is neither a credible witness nor is her evidence credible in itself for the reasons stated above. As such, petitioner failed to prove, to the satisfaction of this Court, pursuant to the quantum of evidence required for this case, that she had no knowledge of the unlawful importation and transportation of the fifteen (15) Master Cases of DD Brand Charcoal Filter cigarettes.

WHEREFORE, in view of the foregoing considerations, the present Petition for Review is **DENIED** for lack of merit. Accordingly, the assailed Resolution issued by respondent in Seizure Identification No. 2021-003, ordering the forfeiture of petitioner's motor vehicle specified as a 1996 Toyota Granvia van with plate no. BEM 904, for violation of Section 1113 (a) and (k) of the CMTA, is **AFFIRMED.**

SO ORDERED.

HENRY S. ANGELES
Associate Justice

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[115] *Rodriguez v. Court of Appeals*, G.R. No. 115218, September 18, 1995.

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
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.

CATHERINE T. MANAHAN
Associate Justice
Third Division Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division 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.

ROMAN G. DEL ROSARIO
Presiding Justice