REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

L.T.J.S. STORE, represented by its Owner/Proprietor MR. ANTONIO DE JESUS SILVA,
Petitioner,

- versus -

HON. DISTRICT COLLECTOR OF CUSTOMS, Port of MICP, North Harbor, Port Area, Manila; and HON. REY LEONARDO GUERERRO,[1] Commissioner of Customs, South Harbor, Port Area, Manila,
Respondents.

CTA CASE NO. 10582

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

3:21 pm

x - x

DECISION

FERRER-FLORES, J.:

The present **Petition for Duty and Tax Refund** prays for the Court to enjoin the Office of the District Collector of Customs, and the Office of the Bureau of Customs (BOC), headed by **respondent Commissioner of Customs (COC)**, to effect the speedy refund of the over-charged duty/tax that its respective offices have unduly collected from petitioner in the grand total amount of **₱879,513.61**.[2]

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1 *Sic.*
2 Statement of the Case, Pre-Trial Order dated March 28, 2023, Docket, p. 302.

THE PARTIES

Petitioner L.T.J.S. Store is a proprietorship store duly registered and existing under Philippine laws, situated at Lot 30 Block 11 Phase 2, Sto. Niño Village, Tunasan, Muntinlupa City, Metro Manila 1770.[3]

Respondent COC is authorized to review any action or decision of any customs officer and decide on disputed assessments and other matters related thereto, among other things.[4]

Respondent District Collector of Customs of the Manila International Container Port (MICP) exercises the function of collecting, examining and assessing duties, taxes, fees, charges, penalties and fines accruing to the government under Republic Act (R.A.) No. 10863, otherwise known as the "Customs Modernization and Tariff Act" (CMTA) and related laws, among others.[5]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On March 13, 2021, petitioner's shipment from Vietnam, consisting of 15,600 bags of Vietnam White Rice, arrived at the Manila International Container Terminal (MICT).[6]

It was then declared, on March 18, 2021, in a BOC Single Administrative Document (SAD) that it was importing 15,600 bags of Vietnam White Rice, with dutiable value amounting to ₱16,485,203.59;[7] hence, a Temporary Assessment Notice was also issued in the amount of ₱5,778,378.26.[8]

Thereafter, the shipment was assessed the amount of ₱6,657,891.87, which petitioner paid on March 19, 2021, as evidenced by the Statement of Settlement of Duties and Taxes (SSDT).[9] *4*

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3 Par. 1, *Petition for Duty and Tax Refund*, vis-à-vis par. 1, *Answer (Re: Petition for Duty and Tax Refund dated 25 June 2021)*, Docket, pp. 6 and 35, respectively; *cf*: Exhibit "P-1", Docket, p. 381.
4 Par. 2, Statement of Facts and Antecedent Proceedings, respondent's *Memorandum*, Docket, p. 494.
5 Par. 3, *Id.* at 495.
6 Q/A No. 9, *Judicial Affidavit (of witness Antonio De Jesus Silva)*, Docket, p. 222; Par. 3, petitioner's *Memorandum*, Docket, p. 483; Par. 4, respondent's *Memorandum*, Docket, p. 495.
7 Exhibit "P-5", Docket, p. 391.
8 Exhibit "P-14", *Id.* at 394.
9 Exhibit "P-15", *Id.* at 395.

On March 26, 2021, petitioner filed with respondent COC a Protest and Appeal for Duty and Tax Refund,[10] praying for respondent COC to grant the appropriate duty/tax relief and easement from bearing the duty/tax burdens arising out of the excessive charges of customs duty/tax upon its rice shipments by way of refund, and to issue an order enjoining all subordinate offices and persons acting under him to rectify the wrongful duty valuation and imposition and enforce a fair, equitable, and just processing of the duty/tax valuation as mandated and provided under the law.

PROCEEDINGS BEFORE THIS COURT

The present *Petition for Duty and Tax Refund* was filed with this Court on July 9, 2021.[11]

Subsequently, on October 27, 2021, respondents filed their *Answer (Re: Petition for Duty and Tax Refund dated 25 June 2021)*.[12]

Petitioner filed its *Reply* and the *Reply of Petitioner to Respondents' Answer (Re: Petition for Duty and Tax Refund dated 25 June 2021)* via registered mail on November 26, 2021 and December 28, 2021, respectively.[13]

The Pre-Trial Conference was initially set on March 14, 2022,[14] and was reset to April 27, 2022,[15] then to June 27, 2022,[16] and to October 6, 2022,[17] but was eventually held on January 17, 2023.[18] Prior thereto, respondents' *Pre-Trial Brief* was filed via registered mail on April 12, 2022,[19] while the *Pre-Trial Brief for the Petitioner* was filed on April 25, 2022.[20]

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[10] Exhibit "P-16", Docket pp. 396 to 398.
[11] Docket, pp. 6 to 9.
[12] *Id.* at 35 to 41.
[13] *Id.* at 25 to 30, and 59 to 62, respectively.
[14] Notice of Pre-Trial Conference dated December 7, 2021, Docket, pp. 58-A to 58-B.
[15] Order dated February 24, 2022, Docket, p. 69.
[16] Minutes of the hearing held on, and Order dated, April 27, 2022, Docket, pp. 214 to 215.
[17] Resolution dated August 1, 2022, Docket, p. 235.
[18] Minutes of the hearing held on, and Order dated, October 6, 2022, Docket, pp. 236 and 240, respectively; Minutes of the hearing held on, and Order dated, January 17, 2023, Docket, pp. 257 and 260 to 262, respectively.
[19] Docket, pp. 121 to 129.
[20] *Id.* at 170 to 177.

The parties failed to file their *Joint Stipulation of Facts and Issues*.[21] Thus, the Pre-Trial Order dated March 28, 2023 was issued based on the Pre-Trial Conference.[22]

Trial then ensued, with the parties presenting and offering their respective documentary and testimonial evidence.

Petitioner offered the testimonies of the following individuals: (1) Mr. Antonio De Jesus Silva,[23] petitioner's Sole Proprietor and General Manager; and, (2) Mr. Michael C. Mertalla,[24] petitioner's customs broker.

On October 6, 2023, petitioner filed its *Formal Offer of Evidence*,[25] to which respondents filed their *Comment (Re: Petitioner's Formal Offer of Evidence dated 05 October 2023)* on October 16, 2023.[26]

In the Resolution dated December 20, 2023,[27] the Court gave petitioner a period of five days from receipt thereof within which to submit its documentary exhibits properly marked in accordance with the Rules; or, if the exhibits are in the records and are original copy/certified true copy/faithful reproduction of the originals, to mark the same. Petitioner then filed a *Motion for Extension of Time to Comply (Re: Resolution dated 20 December 2023)* on December 27, 2023,[28] which the Court granted in the Minute Resolution dated January 3, 2024,[29] and a *Second Motion for Extension of Time to Comply (Re: Resolution dated 20 December 2023)* on January 4, 2024,[30] which the Court also granted in the Minute Resolution dated January 8, 2024,[31] allowing petitioner until January 12, 2024 within which to comply with the Resolution dated December 20, 2023. On January 15, 2024, petitioner filed its *Compliance (Re: Resolution dated 20 December 2023)*,[32] praying for the Court to consider the marked exhibits attached thereto as sufficient compliance with the Resolution dated December 20, 2023.

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21 Records Verification Report dated March 1, 2023 issued by the Judicial Records Division of this Court, Docket, p. 281.
22 Docket, pp. 302 to 307; Resolution dated March 14, 2023, Docket, pp. 293 to 295.
23 *Judicial Affidavit (of witness Antonio De Jesus Silva)*, Docket, pp. 217 to 227; Minutes of the hearing held on, and Order dated, September 26, 2023, Docket, pp. 333 to 335.
24 *Judicial Affidavit (of witness/Broker Michael Chidrome Mertalla)*, Docket, pp. 264 to 275; Minutes of the hearing held on, and Order dated, September 26, 2023, Docket, pp. 333 to 335.
25 Docket, pp. 336 to 339.
26 *Id.* at 340 to 343.
27 *Id.* at 346 to 348.
28 *Id.* at 366 to 368.
29 *Id.* at 373.
30 *Id.* at 369 to 372.
31 *Id.* at 374.
32 *Id.* at 375 to 378.

In the Resolution dated April 2, 2024,[33] the Court admitted all of petitioner's offered exhibits, *except* for the following: (1) Exhibits "P-4", "P-6", "P-7", for failure to present the originals for comparison; and, (2) Exhibit "P-17", for failure to correspond with the document actually marked.

Within the extended period granted by the Court, respondents submitted the *BOC Records* for the present case on April 30, 2024.[34]

For their part, respondents offered the testimony of the following individuals: (1) Atty. Allen S. Dela Cruz,[35] Chief of the MICP's Law Division; and, (2) Mr. Basset G. Lucman,[36] Customs Operations Officer V at MICP.

On June 3, 2024, respondents filed their *Formal Offer of Exhibits*,[37] to which petitioner submitted its *Comment/Opposition (To Respondent's Formal Offer of Exhibits)* on June 10, 2024.[38] In the Resolution dated August 20, 2024,[39] the Court admitted respondent's offered exhibits.

Thereafter, on October 7, 2024, petitioner and respondents filed their respective *Memorandum*.[40]

The case was considered submitted for decision on October 21, 2024.[41]

THE STIPULATED ISSUES

The parties agreed that the issues to be resolved in this case are as follows:[42]

1. Whether or not the Court has jurisdiction over this case.

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[33] Docket, pp. 421 to 424.
[34] *Explanation and Compliance (Re: 02 April 2024 Resolution),* Docket, pp. 436 to 438.
[35] Exhibit "R-5", Docket, pp. 151 to 158, respectively; Minutes of the hearing held on, and Order dated, May 23, 2024, Docket, pp. 440 and 443, respectively.
[36] Exhibit "R-6", Docket, pp. 159 to 165; Minutes of the hearing held on, and Order dated, May 23, 2024, Docket, pp. 440 and 443, respectively.
[37] Docket, pp. 444 to 449.
[38] *Id.* at 472 to 476.
[39] *Id.* at 479 to 480.
[40] *Id.* at 482 to 491 and 494 to 526, respectively.
[41] Minute Resolution dated October 21, 2024, Docket, p. 530.
[42] Stipulated Issues, Pre-Trial Order dated March 28, 2023, Docket, p. 303.

a. Whether or not petitioner has exhausted the administrative remedies available to him in regard to the filing of this petition.

b. Whether or not the duties and taxes assessed by the District Collector based on Office of the Commissioner (OCOM) Circular No. 43-2021 is deemed affirmed and final in view of the inaction by the COC.

2. Whether or not petitioner is entitled to refund in the amount of ₱879,513.61, representing the alleged overcharged amount of duties and taxes imposed by respondent on petitioner's shipment.

a. Whether or not the period provided for in Customs Administrative Order (CAO) No. 02-2020 and the CMTA were substantially complied with by petitioner.

b. Whether or not the Transaction Value as basis for the assessed amount in the declaration based on the CMTA should prevail over OCOM Circular 43-2021.

Petitioner's arguments:

Petitioner argues that it properly exhausted administrative remedies and maintains that this Court has jurisdiction over this case. Finally, petitioner contends that it is entitled to refund as respondents should have used Method One under the General Agreement on Tariffs and Trade (GATT), which is the transaction value or the price actually paid or payable for the goods sold for export to the Philippines, and there is no basis to use Method Three, which is the transaction value of similar goods sold for export to the Philippines and exported at or about the same time as the goods being valued, considering that the dutiable value can be determined under Method One.

Respondents' counter-arguments:

Respondents counter that the instant *Petition* should be dismissed on procedural and jurisdictional grounds as: (a) the alleged inaction of respondent COC is beyond this Court's jurisdiction as provided under Section 7(a)(4) of R.A. No. 1125, as amended, and Section 13, Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), (b) the instant

Petition failed to conform to the proper form and substance required under Sections 3(a) and 4(a), Rule 8 and Section 2, Rule 6 of the RRCTA, in relation to Sections 2 and 3, Rule 42 and Section 4, Rule 7 of the Revised Rules of Court, and, (c) petitioner failed to exhaust, much less, avail any of the administrative remedies under R.A. No. 10863, otherwise known as the CMTA, and CAO No. 02-2020 before filing this *Petition.* Respondent posits that petitioner is not entitled to the refund of ₱879,513.61, the alleged overcharged duties and taxes assessed by respondents on petitioner's rice shipment as: (a) it failed to observe and comply with the period of appeal provided for in the CMTA and CAO No. 02-2020, and, (b) respondents correctly assessed petitioner's rice shipment as provided under OCOM Memorandum No. 43-2021.

THE COURT'S RULING

The present *Petition for Duty and Tax Refund* must be dismissed.

Respondents contend that pending, or in the absence of the respondent COC's decision on the Protest and Appeal for Duty and Tax Refund filed by petitioner on March 26, 2021, the present *Petition* must be dismissed for lack of jurisdiction.

This Court agrees with respondents.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[43]

Sections 7(a) and 11 of R.A. No. 1125,[44] as amended by R.A. No. 9282,[45] provides for the jurisdiction of this Court in civil cases, to wit:

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[43] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.
[44] AN ACT CREATING THE COURT OF TAX APPEALS.
[45] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

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

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

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

xxx xxx xxx

SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any party adversely affected by a decision, ruling** or **inaction of the** xxx xxx xxx **Commissioner of Customs** xxx xxx xxx **may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein**.

xxx xxx xxx. *(Emphases added)*

Moreover, Section 4, Rule 8 of the RRCTA, as amended, states:

SEC. 4. *Where to appeal; mode of appeal.* –

(a) **An appeal from** a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes erroneously or illegally collected, **the decision or ruling of the Commissioner of Customs,** the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture,

> and the Regional Trial Court in the exercise of their original jurisdiction, **shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.** *(Emphases added)*

On the other hand, Section 1110 of R.A. No. 10863 provides:

> SEC. 1110. *Decision in Protest.* — **When a protest is filed in proper form, the Commissioner shall render a decision within thirty (30) days from receipt of the protest**. In case the protest is sustained, in whole or in part, the appropriate order shall be made, and the entry reassessed, if necessary. *(Emphasis added)*

As can be gleaned from the foregoing provisions and consistent with the above-quoted provisions of R.A. No. 1125, as amended, any inaction that was referred to only pertains to the CIR. **None has been provided for regarding the supposed inaction of respondent COC.** If at all, it is only the *"decisions of the Commissioner of Customs"*, which are appealable to this Court.

It must be emphasized that, while under the aforequoted Section 1110 of R.A. No. 10863, it is mandated that respondent COC *"render a decision within thirty (30) days from receipt of the protest"*, the same does not automatically vest this Court with jurisdiction to entertain any inaction of respondent COC. This is simply because it was not conferred by any law.

Apropos, jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy, and **is conferred only by law** and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties. If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits.[46]

Moreover, *expressio unius est exclusio alterius*, the express inclusion of one implies the exclusion of all others.[47] The rule of *expressio unius est exclusio alterius* is formulated in a number of ways. One variation of the rule is the principle that what is expressed puts an end to that which is

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[46] *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015.
[47] *Commissioner of Internal Revenue vs. Michel J. Lhuiller Pawnshop, Inc.*, G.R. No. 150947, July 15, 2003.

implied. *Expressium facit cessare tacitum.* Thus, where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to other matters.[48] The rule of *expressio unius est exclusio alterius* and its variations are canons of restrictive interpretation. They are based on the rules of logic and the natural workings of the human mind. They are predicated upon one's own voluntary act and not upon that of others. **They proceed from the premise that the legislature would not have made specified enumeration in statute had the intention been not to restrict its meaning and confine its terms to those expressly mentioned.**[49]

Applying the foregoing rule of statutory construction, had the legislature intended to include inactions of respondent COC as falling under this Court's exclusive appellate jurisdiction, it could have easily done so. The fact that the legislature only and expressly limited inactions of the CIR under the aforequoted Section 7 of R.A. No. 1125, as amended, thereby shows its intent not to include inactions of respondent COC under this Court's exclusive appellate jurisdiction.

In fine, this Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction. [50] Considering that the present case is not within this Court's jurisdiction, it must be dismissed.

Furthermore, CAO No. 02-2020[51] provides:

Section 6. Dispute Settlement Arising from Customs Valuation.

6.1. Upon lodgement of goods declaration and before Assessment becomes final, the Customs Officer may challenge the declaration made by the importer as to the dutiable value of the goods pursuant to Section 707 of the CMTA. **If the importer does not agree with the valuation, he may elevate the matter to the principal appraiser and thereafter to the Chief, Formal Entry Division or equivalent unit, then to the Deputy Collector for Assessment and finally to the District Collector.**

6.2. If the District Collector finds that the Valuation Issue involves difficult or highly technical questions relating to the application of customs valuation rules, the following procedures shall be undertaken:

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[48] *Malinias vs. Commission on Elections*, G.R. No. 146943, October 4, 2002.
[49] *Ibid.*
[50] *Applied Food Ingredients Company, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 184266, November 11, 2013.
[51] SUBJECT: DISPUTE SETTLEMENT AND PROTEST.

6.2.1. The District Collector shall accordingly inform the importer within two (2) days that the Valuation Issue involves difficult or highly technical questions;

6.2.2. In such case, the District Collector shall require the importer and the Customs Officer to submit position papers to support their declaration or findings, respectively within five (5) days from the receipt of the notice;

6.2.3. If the nature of the goods permit, the District Collector shall require the taking of samples subject to verification of the Customs Officer concerned to be returned to the importer upon termination of the dispute settlement;

6.2.4. The importer may request release of the goods under Tentative Assessment upon payment of duties and taxes as declared in the goods declaration and posting of sufficient Security to cover the disputed amount of duties, taxes and other charges as determined by the examiner and appraiser and compliance with other pertinent applicable rules and regulations; and

6.2.5. The District Collector shall resolve in writing the Valuation Issue within fifteen (15) days from submission of the position papers.

6.3 If the dispute does not involve difficult or highly technical questions on proper application of methods of valuation and the District Collector adopts the findings of the Customs Officer, the District Collector shall notify within forty-eight (48) hours the aggrieved importer of his ruling in writing stating his reasons and with a directive to pay the duties and taxes in full based on the valuation made by the Customs Officer.

6.4. In case of a ruling adverse to the importer, the importer shall be liable to pay the additional duties and taxes as adjudged or if the goods are released under Tentative Assessment, any posted security shall be made to answer for the deficiency in duties and taxes resulting from the ruling.

6.5 **The aggrieved importer adversely affected may appeal by way of protest against such ruling in accordance with this CAO.**

6.6 **In case the ruling of the Commissioner is adverse to the importer, he may seek reconsideration or appeal the ruling in accordance with this CAO.**

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Section 10. <u>Protest</u>.

10.1 **The aggrieved importer or exporter or any stakeholder directly affected by the adverse ruling of the District Collector in all Protestable Cases** arising from tariff classification, valuation, rules of origin or other customs issues, **may appeal by way of protest in writing to the Commissioner within fifteen (15) days** from receipt of the adverse ruling of the District Collector or, **when payment is made as a result of the adverse ruling, within fifteen (15) days from such payment**. Otherwise, the action of the District Collector shall be final and conclusive.

10.2 **A protest filed shall specify the particular ruling of the District Collector for which protest is being made, and shall indicate the particular ground or grounds upon which the protesting party bases the claim for relief.** The scope of a protest shall be limited to the particular goods subject of a goods declaration, but any number of issues may be raised in a protest with reference to the goods declaration constituting the subject matter of the protest.

10.3 **When a protest is filed in proper form, the Commissioner shall render a ruling within thirty (30) days from receipt of the protest. Otherwise, the ruling of the Collector shall be deemed affirmed if the Commissioner fails to act on the same.**

Section 11. <u>Motion for Reconsideration</u>. The importer aggrieved by the ruling of the Commissioner, other than a ruling on tariff classification, **may, within fifteen (15) calendar days, from receipt of the ruling, file a Motion for Reconsideration with the Commissioner**.

Section 12. <u>Finality of the Decision</u>. Unless an appeal is made to the CTA in the manner and within the period herein prescribed, the ruling of the Commissioner shall be final and executory.

Section 13. <u>Appeal</u>. An importer aggrieved by the decision of the Commissioner may **appeal the said decision to the CTA within thirty (30) days from receipt of the adverse decision or final order of the Commissioner**. (*Emphases added)*

OCOM Memorandum No. 110-2020[52] likewise states:

6. In case the decision of the District Collector is adverse to the importer, the importer shall be liable to pay the additional duties and taxes as adjudged or if the goods are released under tentative assessment, any posted security shall be made to answer for the deficiency in duties and taxes resulting from the decision.

7. The aggrieved importer may file a written appeal by way of protest to the Commissioner, within fifteen (15) days from receipt of the adverse ruling of the District Collector or, when payment is made as a result of the adverse decision, within fifteen (15) days from such

[52] SUBJECT: DISPUTE SETTLEMENT ARISING FROM VALUATION.

payment. Otherwise, the action of the District Collector shall be final and conclusive.

8. **There must be a prior payment of the disputed assessment as well as payment of protest fees, before any appeal by way of protest may prosper.** *(Emphasis added)*

Based on the foregoing provisions, if an importer does not agree with the valuation of a Customs Officer, it may elevate the matter to the principal appraiser and thereafter to the Chief, Formal Entry Division or equivalent unit, then to the Deputy Collector for Assessment, and finally to the District Collector. Thereafter, an importer aggrieved by a ruling of respondent District Collector may appeal by way of protest in writing to respondent COC within 15 days from receipt of the adverse ruling of respondent District Collector or, when payment is made as a result of the adverse ruling, within 15 days from such payment. Said protest must specify the particular ruling of respondent District Collector for which protest is being made, and shall indicate the particular ground or grounds upon which the protesting party bases the claim for relief. The disputed assessment and protest fees must also be paid before any appeal, by way of protest may prosper. Further, when a protest is filed in proper form, respondent COC shall render a ruling within 30 days from receipt of the protest. Otherwise, the ruling of respondent District Collector shall be deemed affirmed if respondent COC fails to act on the same. The importer aggrieved by the ruling of respondent COC, other than a ruling on tariff classification, may then file a Motion for Reconsideration with respondent COC within 15 calendar days from receipt of the said ruling.

In this case, petitioner's Protest and Appeal for Duty and Tax Refund dated March 26, 2021[53] filed with the Office of respondent Commissioner did not comply with the above-quoted Section 10 of CAO No. 02-2020. Notably, while the said letter stated the particular ground upon which petitioner bases the claim for relief, it did not specify the particular ruling of respondent District Collector for which protest is being made. Further, petitioner has not shown that it paid the protest fees under OCOM Memorandum No. 110-2020. In other words, it was not established that the protest was filed in proper form and that protest fees were paid for the said appeal by way of protest to prosper.

Moreover, an examination of the allegations in the *Petition for Duty and Tax Refund* filed with this Court shows that respondent COC has yet to render a decision on petitioner's Protest and Appeal for Duty and Tax

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[53] Exhibit "P-16", Docket, pp. 396 to 398.

Refund filed on March 26, 2021, and that the filing of the *Petition for Duty and Tax Refund* is premised on the alleged inaction of respondent COC.[54] Pursuant to Section 10.3 of CAO No. 02-2020, respondent COC has 30 days from March 26, 2021, or until April 25, 2021, to render a ruling; otherwise, the ruling of respondent District Collector shall be deemed affirmed. Thus, respondent COC having failed to act on the protest within the 30-day period, the ruling of respondent District Collector, if any, is deemed affirmed. Petitioner should have then filed a Motion for Reconsideration of the said ruling within 15 calendar days from April 26, 2021[55] or until May 11, 2021 with respondent COC. There is also nothing in the records, however, that establishes the foregoing. There is likewise no proof that respondent COC issued an adverse decision or final order that is appealable to this Court under Section 13 of CAO No. 02-2020.

Section 1, Rule 9 of the Rules of Court states:

> Section 1. *Defenses and objections not pleaded.* – Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, **when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter**, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, **the court shall dismiss the claim**. *(Emphases added)*

Courts are bound to take notice of the limits of their authority and they may, by their own motion, even though the question is not raised by the pleadings, or not even suggested by counsel, recognize the want of jurisdiction and act accordingly by staying pleadings, dismissing the action, or otherwise noticing the defect, at any stage of the proceedings.[56] To inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the ability of its entire proceedings.[57] It bears emphasis that this Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[58] Relative thereto, when it appears from the pleadings or the evidence on record that the Court has no jurisdiction over the subject matter,

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[54] Docket, pp. 6 to 9.

[55] April 25, 2021 fell on a Sunday.

[56] *Bureau of Customs vs. Devanadera, et al.*, G.R. No. 193253, September 8, 2015 citing *Ace Publication, Inc. vs. The Commissioner of Customs, et al.*, G.R. No. L-18808, May 29, 1964.

[57] *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 185969, November 19, 2014 citing *Commissioner of Internal Revenue vs. Villa, et al.*, G.R. No. L-23988, January 2, 1968.

[58] *Commissioner of Internal Revenue vs. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019.

the Court shall dismiss the claim. The Court could not decide the case on the merits.[59]

WHEREFORE, in light of the foregoing considerations, the present *Petition for Duty and Tax Refund* is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

We Concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[59] *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015.

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.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Second 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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice