REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF CUSTOMS, BUREAU OF CUSTOMS, *Petitioner,*	**CTA *EB* No. 2517** (CTA Case No. 9151)
	Members:
-versus-	**DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
UNIVERSAL PACIFIC FOOD CORPORATION, *Respondent.*	Promulgated: OCT 09 2023 9:35a.m.

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R E S O L U T I O N

MANAHAN, *J.:*

For this Court's resolution is petitioner's *Motion for Reconsideration* posted on May 10, 2023 and received by the Court on May 16, 2023 with respondent's *Comment* filed on June 30, 2023.

Petitioner seeks reconsideration of the Court's Decision promulgated on April 20, 2023 (Assailed Decision), the dispositive portion of which, reads as follows:

> "**WHEREFORE**, premises considered the Petition for Review filed by petitioner COC is **DENIED**.
>
> Accordingly, the Amended Decision dated November 11, 2020 of the Third Division of this Court is **AFFIRMED**.
>
> **SO ORDERED**."

Petitioner's arguments

Petitioner submits the following arguments in support of his Motion for Reconsideration, to wit:

I. The assertion of inadvertence is insufficient to contradict respondent's judicial admission; and
II. Respondent's excess rice is subject to forfeiture.

Petitioner insists that respondent's allegation that it received a copy of the Decision dated August 12, 2015 on August 19, 2015 partakes the nature of a judicial admission, thus, conclusive and binding as regards the fact of receipt in accordance with the Revised Rules of Court and established jurisprudence. This admission, according to petitioner, is not a mere technicality nor a rule of procedure but a matter of evidence and respondent should not be allowed to contradict such established fact and to later claim that it actually received a copy of the Decision of the Bureau of Customs (BOC) on August 25, 2015. Petitioner reiterates that having received a copy of the Decision on August 19, 2015, the Petition for Review filed with this Court on September 24, 2015 was belatedly filed and should not have been entertained due to lack of jurisdiction.

Petitioner alternatively argues that the excess rice importation of respondent was not properly declared in the import entry filed and thus, is considered undeclared items subject to forfeiture in accordance with Sections 2503 and 2530 of the Tariff and Customs Code of the Philippines (TCCP).

Respondent's counter-arguments

Respondent finds petitioner's reliance on the rule on judicial admissions misplaced as the Revised Rules of Court provides two exceptions, namely: 1) when it is shown that the admission was made through palpable mistake, and 2) when it is shown that no such admission was made. Respondent alleges that due to inadvertence, it mistakenly interchanged the dates August 19, 2015 and August 25, 2015 as the date of receipt of the BOC Decision and clarified this alleged mistake by presenting supplemental evidence.

Respondent further maintains that the rice importation is not subject to forfeiture as it complied with existing laws and regulations and asserts that at the time of importation, there was no longer any need to secure an import permit from the National Food Authority (NFA).

RULING OF THE COURT *EN BANC*

We deny the Motion for Reconsideration filed by petitioner for lack of merit.

The arguments raised in petitioner's Motion for Reconsideration are mere reiteration of its disquisition on the issues already passed upon and resolved by the Court *En Banc* in the assailed Decision.

To re-emphasize, the controversy on the date of receipt by petitioner of the BOC Decision was already empirically settled when the records reveal that respondent inadvertently interchanged the dates August 19, 2015 and August 25, 2019 and was eventually clarified by the presentation of the original envelope containing the BOC Decision showing the date of dispatch and service to respondent on August 25, 2015.[1] Rule 129, Section 4 of the Revised Rules of Court provides for an exception to the rule on judicial admission, and we quote:

> **"Rule 129**
> **What Need Not Be Proved**
>
> Section 4. *Judicial admissions.* – An admission verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made."

It is apparent that the interchange of dates was due to respondent's oversight and that the Court in Division correctly acquired jurisdiction over the Petition for Review filed by respondent (then petitioner).

As regards the issue on whether the subject rice importation is subject to forfeiture, we find for respondent and reiterate our ruling that at the time of its importation in November 26, 2013, there was no need to secure import permits

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[1] Exhibits "C" and "C-1".

from the NFA. We quote the relevant portions of the assailed *En Banc* Decision for clarity, to wit:

> "Applying the foregoing conclusion reached by the Court in the aforecited case, the assailed Amended Decision ruled that the rice importations made by respondent (then petitioner) on November 26, 2013 fall within the window period when no import permits for rice importation were required."

We therefore find that petitioner offered no persuasive reason or argument that would convince this Court to modify much less reverse its conclusion laid down in the assailed Decision.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

(on leave)
HENRY S. ANGELES
Associate Justice