REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PETRON CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF CUSTOMS,
Respondent.

CTA CASE NO. 10860

Members:

UY, *Chairperson*,
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
NOV 10 2022
1:40 p.m.

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RESOLUTION

This resolves respondent's *Manifestation and Motion (In Lieu of Answer)* filed through registered mail on July 27, 2022 and received by the Court on August 2, 2022, with petitioner's *Opposition with Motion for Judgment on the Pleadings* filed on August 28, 2022.

In his *Manifestation and Motion*, respondent avers that on May 31, 2022, he received the *Summons* issued by the Court requiring him to file his *Answer* to the Petition for Review within thirty (30) days from notice, or until June 31, 2022.

Anticipating that he would not be able to file his *Answer* on time, respondent filed a *Motion for Extension of Time to File Answer*, which the Court granted in the *Order* issued on June 29, 2022. As such, respondent was given a non-extendible period of thirty (30) days from June 30, 2022, or until July 30, 2022, to file his *Answer*.

In the meantime, on July 4, 2022, his counsel (the Office of the Solicitor General) attended a case conference with Atty. Melissa G. Aguinaldo of the Bureau of Customs' Appellate Division. During the said case conference, respondent's counsel was informed that the Office of the Commissioner of Customs (OCOM) had granted petitioner's protest and reversed the Assailed Resolution of the District Collector of the Port of Limay (District Collector).

Allegedly, in a Resolution dated June 15, 2022, the OCOM ruled that petitioner correctly applied Method 1 or the Transaction Value Method under Section 701 of the Customs Modernization and Tariffs Act (CMTA) in its valuation of several liftings of finished products from its Petron Bataan Refinery (PBR). In finding for petitioner, the OCOM explained that the importation of the subject petroleum products was duly supported by appropriate shipping documents such as invoices, bank transfers, sales contracts, and other relevant documents for the purpose of applying Method 1. Further, the authenticity, accuracy, and truthfulness of the aforesaid supporting documents were never raised as an issue in the proceedings.

For respondent, the foregoing development rendered the instant case *moot and academic* and should thus be *dismissed*, citing the Supreme Court's ruling in *Peñafrancia Sugar Mill, Inc. vs. Sugar Regulatory Administration.*[1]

Respondent pointed out that the crux of the instant case involves petitioner's protest against the District Collector's application of the Means of Platts Singapore (MOPS) as valuation on the subject petroleum products in accordance with Method 2 or Transactional Value of Identical Goods under Section 702 of the CMTA, which matter is deemed mooted by the OCOMs supervening issuance of its Resolution dated June 15, 2022.

Hence, there being no more justiciable controversy that needs to be resolved by the Court, respondent moves for the dismissal of the instant case.

By way of *Opposition with Motion for Judgment on the Pleadings*, petitioner counters that while it welcomes the fact that respondent has taken the side of petitioner with respect to the correct valuation of its finished petroleum products lifted from the PBR, it is constrained to oppose the dismissal of the instant *Petition* for reasons explained in paragraphs 3 to 9 of its Petition for Review filed before the Court.

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[1] G.R. No. 20860, March 5, 2014.

According to petitioner, its Petition for Review is an appeal from the inaction of the Commissioner on its protest filed pursuant to Section 1136 of Republic Act (RA) No. 10863, otherwise known as the CMTA and Section 7(a)(4) of RA No. 1125, as amended, in relation to Section 13 of Customs Administrative Order (CAO) No. 02-2020 and Rule 4, Section 3(a)(4) of the Revised Rules of the Court of Tax Appeals (RRCTA). Petitioner claims that it timely filed an appeal before the Court on May 16, 2022. Given its timely appeal in this case, its Petition for Review should not be dismissed for mootness. Instead, the Court should decide the case based on the pleadings and grant the *Petition* considering that respondent's *Manifestation* has failed to tender any issue that would need to be tried by the Court.

In support of its *Motion for Judgment on the Pleadings*, petitioner argues that pursuant to Section 1, Rule 34 of the Rules of Court, when an answer (1) **fails to tender an issue**; or (2) otherwise **admits the material allegations** of the adverse party's pleading, the court may, on motion of the party, direct judgment on the pleading. The court may also *motu proprio* render a judgment on the pleadings if the circumstances mentioned above are present.

An answer fails to tender an issue when it does not deny the material allegations in the complaint or admits said material allegations of the adverse party's pleadings by confessing the truthfulness thereof and/or omitting to deal with them at all.[2]

According to petitioner, respondent's *Manifestation* was filed in lieu of a formal *Answer* and may therefore be considered as his *Answer*. Notably, an "answer" has been described as a "pleading in which a defending party sets forth his or her defenses". In his *Manifestation*, respondent may be said to have pleaded as his defense the supposed "mootness" of petitioner's *Petition*.

However, in the same *Manifestation*, respondent did not contest or dispute the merits of petitioner's *Petition*. In fact, the *Manifestation* and the OCOM's Resolution dated June 15, 2022, showed that respondent has no issue with petitioner's position as set forth in its *Petition*.

[2] Adolfo vs. Adolfo, G.R. No. 201427, March 18, 2015.

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For petitioner, respondent's *Manifestation* (which took the place of his *Answer*) failed to tender an issue. Respondent took no issue with the material allegations in petitioner's *Petition*, and respondent even adopted and supported the very position that petitioner took in its *Petition* on the proper method for determining the transaction value of the finished petroleum products lifted from PBR.

Thus, petitioner submits that the Court may render judgment on the pleadings, and thereby reverse and set aside the District Collector's 2 March 2022 Resolution and issue a new one ordering the valuation of the finished petroleum products lifted from Petron Bataan Refinery from 10 to 18 March 2022 in the manner provided under Section 701 of the CMTA.

THE COURT'S RULING

Respondent's *Manifestation and Motion (In Lieu of Answer)* is impressed with merit.

In the case of *Osmeña III vs. Social Security System*,[3] the Supreme Court had the occasion to define a moot and academic case, as follows:

> **A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition**. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness -- save when, among others, a compelling constitutional issue raised requires the formulation of controlling principles to guide the bench, the bar and the public; or when the case is capable of repetition yet evading judicial review. (*Boldfacing supplied*)

Applying the above definition to the instant case, the Court believes that indeed, petitioner's *Petition for Review* has become moot and academic.

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[3] G.R. No. 165272, 13 September 2007, 533 SCRA 313, citing *Province of Batangas v. Romulo*, G.R. No. 152774, 27 May 2004, 429 SCRA 736, 754; *Olanolan v. Comelec*, 494 Phil. 749,759 (2005); *Paloma v. CA*, 461 Phil. 269, 276-277 (2003).

We start off with petitioner's prayer in its *Petition for Review*, to wit:

> WHEREFORE, premises considered, it is respectfully prayed that this Honorable Court **REVERSE** and **SET ASIDE** the affirmed Assailed Resolution and **ISSUE** a new one ordering the valuation of the finished petroleum products lifted from the PBR from 10 to 18 February 2022 in the manner provided under Section 701 of the CMTA.

Apparently, in filing the *Petition for Review*, petitioner wants the Court to reverse and set aside the Assailed Resolution of the District Collector, dated March 2, 2022, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, this valuation dispute is resolved against the Consignee and in favor of the Government. The Consignee is hereby ordered to pay the tax discrepancy as found, in the amount of **One Hundred Ninety Million One Hundred Seventy-Four Thousand Nine Hundred Fifteen and 99/100 (Php190,174,915.99)** plus penalties and interest, if any.
>
> In case of failure of the Consignee to pay the tax discrepancy, the **Sterling Insurance Company, Inc**., shall pay the tax discrepancy in accordance with Bond No. 30037 dated February 9, 2022.

The District Collector ruled that since petitioner and Petron Singapore Trading Pte., Ltd. are related parties, the Transaction Value (Method 1) cannot be applied; rather, Method 2 or Transaction Value of Identical Goods (Sec. 702, CMTA) should be used. Thus, applying Method 2, the District Collector referred to the MOPS as basis for the transaction value of the lifted refined petroleum products from the PBR, resulting in the tax discrepancy as found.

Aggrieved, petitioner filed a Protest before the OCOM on March 17, 2022, where it sought to reverse the Assailed Resolution.

Allegedly, respondent failed to act on petitioner's protest within the 30-day reglementary period provided under Section 10.3 of CAO No. 02-2020.

Hence, on May 16, 2022, petitioner elevated its case before the Court *via* a Petition for Review, raising the following issues for the resolution of the Court:

A. WHETHER DISTRICT COLLECTOR VIOLATED PETRON'S RIGHT TO ADMINISTRATIVE DUE PROCESS, THUS RENDERING THE ASSAILED RESOLUTION NULL AND VOID.

B. WHETHER THE DUTIABLE VALUE OF PETRON'S FINISHED PETROLEUM PRODUCTS SHOULD BE COMPUTED BASED ON METHOD 1, AS PROVIDED IN SECTION 701 OF THE CMTA AND RELIED UPON BY PETRON, OR METHOD 2, AS PROVIDED IN SECTION 702 OF THE CMTA AND RELIED UPON BY THE DISTRICT COLLECTOR.

As petitioner pointed out, the main issue in this case is whether the dutiable value of petitioner's finished petroleum products lifted from the PBR from February 10, 2022 to February 18, 2022, should be computed pursuant to Section 701 of the CMTA (Method 1), or pursuant to Section 702 of the CMTA (Method 2).

On June 15, 2022, however, respondent issued a Resolution ordering the reversal of the Assailed Resolution, the decretal portion of which reads:

> **WHEREFORE**, the Resolution of the District Collector, Port of Limay, is hereby **REVERSED**. The port *a quo* is hereby ordered to apply Transaction Value in accordance with Section 701 of the CMTA in computing the duties and taxes due from the finished petroleum products of **PETRON CORPORATION**.
>
> **SO ORDERED.**

In reversing the Assailed Resolution, respondent ruled that there exists no valid reason to reject Method 1, the Transaction Value Method, because the subject petroleum products were likewise duly supported by appropriate shipping documents such as Invoices, Bank Transfers, Sales Contracts and other relevant documents, the authenticity, accuracy, and truthfulness of which were never put in issue.

Considering the foregoing Resolution of respondent, it must be pointed out that the District Collector cannot, under any circumstances, cause the implementation of the Assailed Resolution, that is, ordering petitioner to pay the tax discrepancy as found, in the amount of Php190,174,915.99.

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A case becomes moot and academic when the conflicting issue that may be resolved by the court ceases to exist as a result of supervening events.[4] As a rule, courts decline jurisdiction over such a case, or dismiss it on ground of moot*ness*;[5] otherwise, the court would engage in rendering an advisory opinion on what the law would be upon a hypothetical state of facts.

In the instant case, the conflict or the actual controversy between the parties already ceased to exist with the issuance of respondent's Resolution dated June 15, 2022.

WHEREFORE, premises considered, respondent's *Manifestation and Motion (In Lieu of Answer)* is **NOTED** and **GRANTED**. Accordingly, the *Petition for Review* filed by petitioner Petron Corporation on May 16, 2022, is **DISMISSED**, for being moot and academic.

SO ORDERED.

ERLINDA P. UY
Associate Justice

(On Leave)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

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[4] *David v. Macapagal-Arroyo*, 522 Phil. 705, 753 (2006).
[5] *Gunsi, Sr v. Commissioners, Commission on Elections*, 599 Phil. 223, 229 (2009).