REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ARLYN SOLITA A. BRIONES, owner and proprietor of ELJ1 Medical Shop,
Petitioner,

-versus-

COMMISSIONER OF CUSTOMS,
Respondent.

CTA EB No. 2946
(CTA Case No. 10355)

Present:

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, *JJ.*

Promulgated:

FEB 02 2026 2:21 p.m.

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DECISION

REYES-FAJARDO, J.:

THE CASE

This is a Petition for Review appealing the Decision dated January 3, 2024[1] (the "assailed Decision") and the Resolution dated June 20, 2024[2] (the "assailed Resolution"), both rendered by the Special Second Division of this Court (the "Court in Division") in the case entitled *Arlyn Solita A. Briones, owner and proprietor of ELJ1 Medical Shop, v. Commissioner of Customs*, docketed as CTA Case No. 10355.[3]

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1 Decision, Docket — pp. 34 to 67.
2 Resolution, Docket — pp. 69 to 78.
3 Petition for Review, Docket — pp. 8 to 27.

The assailed Decision and Resolution affirmed respondent's Order[4] essentially causing the forfeiture of petitioner's imported medical supplies in favor of the government.

THE PARTIES

Petitioner Arlyn Solita A. Briones is a Filipino citizen, of legal age and a resident of 8-M RD 4, 1st West Barangay, West Crame, 1500 San Juan City, National Capital Region. She is the owner of a sole proprietorship doing business under the name "ELJ1 Medical Shop." She is also the owner of the medical supplies subject of the seizure and forfeiture ("subject goods") proceedings in this case.[5]

Respondent Commissioner of Customs (COC) is being sued in his official capacity as the head of the Bureau of Customs (BOC), a government instrumentality which, among others, exercises original jurisdiction over seizure and forfeiture cases under Republic Act (RA) No. 10863 or the Customs Modernization and Tariff Act of 2016 (CMTA).[6]

THE FACTS

The facts, as found by the Court in Division, are as follows:[7]

On March 31, 2020, a composite team of BOC and Philippine Coast Guard (PCG) personnel, led by Intelligence Officer III Alvin Y. Enciso (IO Enciso), implemented Letter of Authority (LOA) No. 03-31-16-2020 and Mission Order (MO) No. 03-31-2020-031. In said implementation, the subject goods were seized, and were later covered by a Warrant of Seizure and Detention (WSD) dated April 17, 2020 issued by Manila International Container Port (MICP), Acting District Collector Guillermo Pedro A. Francia (DC Francia).

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4 Order dated August 3, 2020 was issued by Commissioner of Customs affirming then Manila International Container Port, Acting District Collector Francia's Decision dated May 21, 2020, which order caused the forfeiture of petitioner's imported medical supplies in favor of the government to be disposed in accordance with the law.

5 Petition for Review, Docket – p. 9.

6 *Id.*

7 Decision, Docket – pp. 36 to 51.

On May 22, 2020, petitioner, through counsel, received via email a copy of DC Francia's Decision dated May 21, 2020 in Seizure Identification (SI) No. 074-2020, which ordered the forfeiture of the seized goods for having been imported in violation of Section 113(f) and (l)(5) of the CMTA.[8]

On June 5, 2020, petitioner filed her Notice of Appeal with Memorandum of Appeal, wherein she prayed that respondent reverse and set aside DC Francia's Decision, and recall the subject WSD dated April 17 2020 (re: SI No. 074-2020).

On August 18, 2020, petitioner received a copy of respondent's assailed Order in SI No. 074-2020, wherein the latter affirmed DC Francia's Decision and denied petitioner's Memorandum on Appeal. According to respondent, petitioner's documents do not prove her payment of duties and taxes; therefore, the seized goods in question should be forfeited in favor of the government and disposed of in a manner provided by law.

On September 17, 2020, petitioner filed her Petition for Review with the Court of Tax Appeals (CTA) within thirty (30) days from receipt of respondent's assailed Order. The same was raffled to the Court's Third Division and was docketed as CTA Case No. 10355.

On January 13, 2021, after an extension of time, respondent filed his Verified Answer, citing the following special and affirmative defenses: (1) there was probable cause to justify the forfeiture of petitioner's goods in favor of the government; and (2) petitioner failed to discharge her burden of proving that the subject goods were locally purchased and that the duties and taxes thereon were paid.

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8 SEC. 1113. Property Subject to Seizure and Forfeiture. — Property that shall be subject to seizure and forfeiture include:

. . .

(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;

. . .

(l) Goods sought to be imported or exported:

. . .

(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. . .

Subsequently, on March 17, 2021, the Court's Third Division denied petitioner's *Motion to Suspend the Sale/Disposition of the Goods Subject of this Petition* for lack of merit. The Court's Third Division also found that petitioner failed to raise any compelling reason to justify the suspension of the sale or disposition of the subject goods.

On May 25, 2021, the Pre-Trial Conference proceeded. On July 14, 2021, the Court's Third Division issued the Pre-Trial Order.

On June 9, 2021, petitioner filed a Motion for Reconsideration (MR) of the Resolution dated March 17, 2021, arguing that the seizure of the subject goods was arbitrary and without valid justification.

On July 5, 2021, respondent filed his *Comment* on petitioner's MR on the assailed Resolution.

On November 23, 2021, the Court's Third Division denied petitioner's MR for lack of merit and noted that petitioner's bare allegations — that the seizure of the subject goods has already wreaked havoc on her operations, effectively impairing her ability to conduct her business normally — have no leg to stand on.

On 05 July 2021, respondent transmitted to the Court's Third Division the complete BOC Records of the case.

Trial ensued.

On November 24, 2021, petitioner presented her testimonial and documentary evidence. She offered her lone testimony, as the owner and proprietor of ELJ1 Medical Shop.

On April 18, 2022, petitioner filed her Formal Offer of Evidence (FOE) consisting of Exhibits "P-1" to "P-13-A," inclusive of sub-markings. On May 5, 2022, respondent filed his *Comment* thereto.

In a Resolution dated June 20, 2022, the Court's Third Division admitted petitioner's documentary exhibits except for: (1) Exhibits "P-10-6-1" to "P-10-6-25," and "P-10-6-62" to "P-10-6-66," for failure to present the originals for comparison; and (2) Exhibits "P-10-6-100" and "P-10-6-153," for not being found in the case records.

Subsequently, in view of the reorganization of the Court's Second and Third Divisions, the present case was transferred to the Court's Second Division.

On August 3, 2022, respondent presented his lone witness, Special Agent I Manfred Rosete (SA Rosete).

On 15 August 2022, respondent filed his or her FOE. On August 25, 2022, petitioner filed her *Comment/Opposition* thereto.

On September 5, 2022, the Court's Second Division admitted all of respondent's exhibits.

Thereafter, on October 24, 2022 and November 8, 2022, petitioner and respondent, respectively filed their Memorandum. Accordingly, on January 4, 2023, the case was submitted for decision.

On January 3, 2024, the Court in Division promulgated the assailed Decision[9] affirming respondent's Order[10] of forfeiture of petitioner's imported medical supplies in favor of the government. In ruling so, the Court in Division held that respondent's seizure of the subject goods was a valid exercise of his "visitorial power" under Section 224 of the CMTA.

On January 25, 2024, petitioner filed her MR.[11] On February 13, 2024, respondent then filed his *Comment*.[12]

On June 20, 2024, the Court in Division promulgated the assailed Resolution, denying the petitioner's MR for lack of merit.[13]

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9 Decision, Docket — pp. 34 to 67.

10 Order dated August 3, 2020 was issued by Commissioner of Customs affirming then Manila International Container Port, Acting District Collector Francia's Decision dated May 21, 2020, which order caused the forfeiture of petitioner's imported medical supplies in favor of the government to be disposed in accordance with the law.

11 CTA Case No. 10355, Docket — Volume IV, pp. 1475 to 1488.

12 CTA Case No. 10355, Docket — Volume II, pp. 1492 to 1499.

13 Resolution, Docket — pp. 69 to 78.

On July 12, 2024, petitioner filed a Motion for Extension of Time to File Petition for Review before the Court *En Banc*.[14] On July 15, 2024, the Court, through a Minute Resolution, granted the Motion giving petitioner an additional period of fifteen (15) days from July 16, 2024, or until July 31, 2024, within which to file its Petition for Review.[15]

On July 31, 2024, petitioner filed the present Petition for Review.[16] Then on November 22, 2024, respondent filed his Comment.[17]

On January 31, 2025, the Court issued a Minute Resolution submitting this case for decision.

THE ISSUE

Did the Court in Division err in affirming the seizure and forfeiture of the subject goods initially ordered by respondent?

Petitioner's arguments:

Petitioner argues that: 1) the seizure was made arbitrarily and without any probable cause that the subject goods were smuggled, prohibited, restricted, or regulated; and 2) she is a purchaser in good faith and that the seized goods were locally purchased from domestic suppliers.[18]

Respondent's counter-arguments:

Respondent counters that: 1) the seizure of the subject goods was not arbitrary as the same was made pursuant to respondent's "visitorial powers" under Section 224 of the CMTA; and 2) petitioner's claim that she is a buyer in good faith is immaterial as the same is not a valid defense in a forfeiture proceeding.[19]

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14 Docket – pp. 1 to 4.
15 Docket – p. 7.
16 Petition for Review, Docket – pp. 8 to 27.
17 Comment, Docket – pp. 168 to 187. Filed by the respondent via registered mail on November 22, 2024 and received by the Court on November 28, 2024.
18 Petition for Review, Docket – p. 15.
19 Comment, Docket – p. 174.

RULING

The Petition for Review lacks merit.

The seizure was not arbitrary.

Section 224 of the CMTA speaks of the visitorial and inspection power of respondent, or his duly authorized customs personnel. It reads:

> SECTION 224. Power to Inspect and Visit. — The Commissioner or any customs officer who is authorized in writing by the Commissioner, may demand evidence of payment of duties and taxes on imported goods openly for sale or kept in storage. In the event that the interested party fails to produce such evidence within fifteen (15) days, the goods may be seized and subjected to forfeiture proceedings: Provided, That during the proceedings, the interested party shall be given the opportunity to prove or show the source of the goods and the payment of duties and taxes thereon: Provided, further, That when the warrant of seizure has been issued but subsequent documents presented evidencing proper payment are found to be authentic and in order, the District Collector shall, within fifteen (15) days from the receipt of the motion to quash or recall the warrant, cause the immediate release of the goods seized, subject to clearance by the Commissioner: Provided, finally, That the release thereof shall not be contrary to law.

To effect a valid seizure under Section 224 of the CMTA, the following conditions must be met: (1) presence of imported goods; (2) the imported goods are open for sale or kept in storage; (3) seizure by the COC or customs officer under written authority; (4) failure to provide proof of payment within fifteen (15) days from demand of evidence of payment of duties and taxes on imported goods;[20] and (5) an opportunity for the interested party to present evidence during forfeiture proceedings.

Here, as found by the Court in Division, the seizure of the subject goods met the aforementioned conditions.

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[20] Section 5, Customs Administrative Order No. 10-2020, May 11, 2020.

First. There is preponderant evidence showing that the subject goods were imported. Petitioner herself admitted this and testified:[21]

Sol. Manabat:	Madam Witness, kindly refer to that document and can you read to us the nature of the product in this exhibit that you are holding?
Witness:	Certificate of Product Registration.
Sol. Manabat:	Yung product po
Witness:	Silkam Braided Natural Silk non-absorbable suture.
Sol. Manabat:	Madam Witness, can you also read to the Honorable Court the manufacturer?
	. . .
Witness:	**Barcelona Spain**
Sol. Manabat:	And sasang-ayon po ba kayo sa akin, Madam Witness, na ibig sabihin itong mga produktong ito ay na-manufacture sa Spain? tama po ba?
Witness:	**Opo.**
	. . .
Justice Liban:	Attorney, can you just stipulate that some of products or listed in that product registration are not manufactured in the Philippines? I think that is what you want to – Atty. Manabat that is your questions [sic], isn't it?
Sol. Manabat:	Yes, your honor.
Justice Liban:	**So, can you just stipulate? That some of the products listed are not manufactured in the Philippines but manufactured in other countries?**
Atty. Li:	**Yes, your honor.**
	. . .
Justice San Pedro:	**That is the stipulation that numerous items were manufactured outside the Philippines.**

[21] CTA Case No. 10355, TSN dated 24 November 2021, pp. 12 to 14.

qfr

Atty. Li:	**Yes, Your Honors**, we would like to clarify on [sic] that.
Sol. Manabat:	Madam Witness, would you agree therefore-sang-ayon ho ba kayo na dahil ang iilang produkto ay na-manufactured sa ibang bansa, **may import po sila dito sa Pilipinas, tama po**?
Witness:	**Opo.**[22]

Section 4, Rule 129 of the Rules of Court, as amended, states that a written or oral admission made by the party in the course of the proceedings does not require proof, save when such admission: *one*, was made through palpable mistake; or *two*, the imputed admission was not, in fact, made. Here, petitioner does not claim any mistake nor does she deny making such admissions.

Further, case law teaches that a judicial admission must be a deliberate, clear, and unequivocal statement of a party — It must be a statement of fact and not of opinion.[23]

Applying the foregoing, it is clear that petitioner's affirmative response to the question regarding the presence of imported goods among the subject goods constitute a judicial admission.

Second. The subject goods were discovered at petitioner's business premises during the implementation of the LOA and MO.[24] Said goods were openly for sale and kept in storage.

Third. There was prior written authorization from the COC to carry out such visitorial power, as evidenced by the LOA No. 03-31-16-2020[25] and MO No. 03-31-2020-031[26] issued and signed by respondent, then Customs Commissioner Rey Leonardo B. Guerrero, on March 30, 2020. Accordingly, duly authorized BOC and PCG officials named therein conducted the inspection at the business premises of petitioner's "ELJ1 Medical Shop" located at 1600 E. Remegio St., Brgy. 316 Zone 32, Sta. Cruz, Manila.

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22 Emphasis supplied.
23 *Candano-Lim v. Lim*, G.R. Nos. 262727-28, January 27, 2025.
24 Joint Stipulation of Facts and Issues, CTA Case No. 10355, Docket — Volume III, pp. 1079 to 1088.
25 Exhibit "P-6"/"R-1," CTA Case No. 10355, Docket — Volume II, pp. 938 to 939.
26 Exhibit "R-2," CTA Case No. 10355, Docket — Volume II, pp. 940 to 941.

Fourth. During the inspection, respondent's authorized customs officers demanded from petitioner to submit evidence of payment of the duties and taxes on the suspected imported goods within fifteen (15) days from March 31, 2020, or until April 15, 2020. However, petitioner failed to demonstrate the origin or source of the subject goods and provide the necessary proof of payment of duties and taxes on them.[27] Hence, the seizure and initiation of forfeiture proceedings for the subject goods.

Fifth. During the forfeiture proceedings, petitioner was afforded the opportunity to present evidence in her defense as shown by her active participation in said proceedings.

Since the conditions under Section 224 of the CMTA were observed, the seizure and forfeiture of the subject goods was not arbitrary.

"Buyer in good faith" is not a valid defense in a forfeiture proceeding.

Forfeiture proceedings are in the nature of proceedings *in rem* and are directed against the *res*.[28] Petitioner's claim that she purchased the subject goods in good faith, for value, and without notice of any infirmity or defect in the legality of the subject goods does not render said goods immune from forfeiture. This is so because the forfeiture proceeding in this case was instituted against the goods themselves. Thus, petitioner's defense cannot absolve the subject goods from forfeiture.[29]

Overall, the Court *En Banc* is one with the Court in Division in affirming respondent's Order forfeiting petitioner's imported medical supplies in favor of the government.

WHEREFORE, the Petition for Review in CTA EB No. 2946 is **DENIED**, for lack of merit. The Decision dated January 3, 2024 and

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27 Joint Stipulation of Facts and Issues, CTA Case No. 10355, Docket — Volume III, pp. 1079 to 1088.

28 *Commissioner of Customs v. Manila Star Ferry, Inc.*, G.R. Nos. L-31776-78, October 21, 1993; *Commissioner of Customs v. Court of Tax Appeals*, G.R. No. L-31733, September 20, 1985.

29 *Id.*

ffl

the Resolution dated June 20, 2024 rendered by the Court in Division in CTA Case No. 10355 are **AFFIRMED**.

SO ORDERED.

MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

With due respect, please see Dissenting Opinion.
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ARLYN SOLITA A. BRIONES, owner and proprietor of ELJ1 Medical Shop,
Petitioner,

- versus -

COMMISSIONER OF CUSTOMS,
Respondent.

CTA EB NO. 2946
(CTA Case No. 10355)

Present:

RINGPIS-LIBAN, ***P.J.,***
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:

FEB 02 2026 2:21p.m.

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DISSENTING OPINION

FERRER-FLORES, J.:

With due respect to our esteemed colleague, Honorable Associate Justice Marian Ivy F. Reyes-Fajardo, I am constrained to withhold my assent on the *ponencia*.

In the Decision penned by Honorable Associate Justice Reyes-Fajardo, it was ruled that, considering the factual antecedents of the case, the conditions for the conduct of a valid seizure as provided for in Section 224 of the Customs Modernization and Tarriff Act (CMTA) were met. Thus, it was held that the seizure of the goods subject of the Warrant of Seizure and Detention (WSD) dated April 17, 2020[1] was proper.

I respectfully disagree.

Section 1113 (f) and (l)(5) of the CMTA provides:

[1] Exhibit "R-5", Division Docket, Vol. II, pp. 962 to 974.

CHAPTER 4
Seizure and Forfeiture

> SECTION 1113. *Property Subject to Seizure and Forfeiture.* — Property that shall be subject to seizure and forfeiture include:
>
> xxx xxx xxx
>
> (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;
>
> xxx xxx xxx
>
> (l) Goods sought to be imported or exported:
>
> xxx xxx xxx
>
> (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.

Based on the foregoing, goods shall be seized and forfeited in favor of the government if their importation is effected contrary to law, they are goods of prohibited importation or exportation, or are 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. The goods are also considered subject to forfeiture if imported 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. In essence, it must be ascertained if the alleged importation was indeed contrary to law.

In the *ponencia*, it was held that petitioner's affirmative response to the question regarding the presence of imported goods among the subject good constitutes judicial admission.

It is humbly submitted that petitioner's testimony during the hearing on November 24, 2021 cannot be considered a judicial admission.

In *Tranquilino Agbayani vs. Lupa Realty Holding Corporation,*[2] the Supreme Court relied on American jurisprudence in articulating the parameters of judicial admissions, recognizing that for a statement to constitute a judicial admission, it must be contrary to an essential fact or

[2] G.R. No. 201193, June 10, 2019.

defense asserted by the party making it, and must be deliberate, clear, and unequivocal.

In the instant case, it is not disputed that several of the products subject of the WSD were manufactured abroad. What is in issue is whether these were locally sourced or directly imported by petitioner and, relatedly, whether the proper taxes and duties of the same have been paid.

Moreover, even assuming that the petitioner's affirmative response constitutes a judicial admission, such an admission does not, in and of itself, establish that the petitioner was the importer or consignee of the products manufactured abroad.

To recall, petitioner merely admitted that the products themselves were manufactured abroad, to wit:[3]

Sol. Manabat:	Madam Witness, can you also read to the Honorable Court the manufacturer?
	...
Witness:	Barcelona, Spain
Sol. Manabat:	And sasang-ayon po ba kayo sa akin, Madam Witness, na ibig sabihin itong mga produktong ito ay na-manufacture sa Spain? Tama po ba?
Witness:	Opo
Sol. Manabat:	...
Justice Liban:	Attorney, can you just stipulate that some of products or listed in that product registration are not manufactured in the Philippines? I think that is what you want to – Atty. Manabat that is your questions [sic], isn't it?
Sol. Manabat:	Yes, Your Honor.
Justice Liban:	So, can you just stipulate? That some of the products listed are not manufactured in the Philippines but manufactured in other countries?
Atty. Li:	Yes, Your Honor.
	...
Justice San Pedro:	That is the stipulation that numerous items were manufactured outside the Philippines.
Atty. Li:	Yes, Your Honors, we would like to clarify on [sic] that.
Sol. Manabat:	Madam Witness, would you agree therefore- sang-ayon ho ba kayo na dahil ang iilang produkto ay na-manufactured sa ibang bansa, may import po sila dito sa Pilipinas, tama po?
Witness:	Opo

[3] Transcript of Stenographic Notes (TSN) dated November 24, 2021, pp. 13 to 14.

It is humbly submitted that the witness merely acknowledged that some of the products listed were manufactured abroad and subsequently imported into the Philippines. At no point in petitioner's testimony did she admit that she herself imported the products. Moreover, the statements of Presiding Justice Ma. Belen M. Ringpis-Liban and Justice Maria Rowena Modesto-San Pedro reflect that the parties' stipulation was limited to the fact that several items were manufactured outside the Philippines, and not as to the identity of the importer.

With all due respect, petitioner's admission that several of the seized products were manufactured abroad does not lead to the conclusion that she was the direct importer of the same and that she is liable to pay the taxes and duties thereof. In fact, during the same hearing, petitioner stressed that these products were locally sourced, to wit:[4]

Sol. Manabat:	Madam Witness, sinabi po ninyo sa inyong Judicial Affidavit na yung mga produkto ninyo ay galing sa mga local suppliers, tama po?
Witness:	Opo
Q:	Pero sasang-ayon ho ba kayo na hindi ho ibig sabihin na naibili nyo ito sa local suppliers ay hindi ho sila imported, tama ho ba?
A:	Opo
Q:	Madam Witness, dahil kayo po ay masino at maingat na business woman, nabasa nyo ho ba yung Letter of Authority na inisyu ng Commissioner of Customs?
A:	Opo.
Q:	At sasang-ayon ho kayo na ang nakalagay doon sa letter of authority ay mag-provide kayo ng documents o ebidensya na nagpapakitang bayad ang mga import duties sa mga produktong ito, tama po?
A;	Opo
	…
Atty. Li:	Just a few, Your Honors. Madam Witness, in your answer to the cross of the good counsel, can you explain to this court, where ELJ1 gets its supplies?
	…
A:	**Sa mga local suppliers po lamang, wholesalers at retailers lamang po dito sa Pilipinas. Hindi po kami nag-iimport.**
Atty. Li:	Madam Witness, in your answer to the question of Atty. Manabat regarding the inspection and the raid done by the Bureau of Customs, can you explain to the Court, what if any, the documents you supplied to prove the nature of the goods that were seized?

4 TSN dated November 24, 2021, pp. 15 to 17.

Witness: **Yun pong sinabmit po naming official receipts and sales invoices, certificate of registration po ng products at saka po yung mga affidavit na nanggaling lamang po sa mga local suppliers. Yung lamang po ang prinovide po namin.**

It is underscored that the issuance of the WSD essentially rests on the petitioner's failure to submit proof of payment of duties and taxes on the goods allegedly imported by petitioner. In compliance with the directive of BOC officials, however, petitioner submitted receipts or invoices demonstrating that the goods were locally purchased.

In its Decision dated May 21, 2020,[5] District Collector Guillermo Pedro A. Francia, IV acknowledged that petitioner submitted receipts or invoices to prove that the seized goods were locally purchased. This was further confirmed during the hearing held on February 2, 2021, when respondent's counsel admitted that about 60% of the goods were backed by receipts, to wit:

JUSTICE LIBAN

And I counted those and it's around 86 of the items. It is stated there, item in the inventory do not reflect receipt, the 86 items. So out of the 297 items, there are 86 items that are, the findings of which are items in the inventory do not reflect in the receipt and then you also stated that there is no receipt attached. There are 18 of these. So all in all, out of the 297 items that you stated, more than 60% are covered by receipts.

ASSOCIATE SOLICITOR MANABAT

Yes, Your Honors. However, your Honors, the reason that the . . . interrupted

JUSTICE LIBAN

So your reason is, since 30% or, 30% of the items in the inventory are not reflected in the receipts that are given to you, so necessarily, all the items should be confiscated. Is that the basis of the Acting Collector?

ASSOCIATE SOLICITOR MANABAT

Yes, your Honors. However, your Honors, this is without prejudice to the final determination of petitioner's ultimate liability to the state, your Honors. Initially, your Honors, the inspection team deemed it proper to, first, confiscate and seize all items in the warehouse.

JUSTICE LIBAN

Yes. Despite the fact that they also said that, these are covered by the receipts.

ASSOCIATE SOLICITOR MANABAT

Yes, your Honors. Although covered by receipts, your Honors, again, there are notable discrepancies even to those items.

[5] Exhibit "P-1", Division Docket, Vol. III, pp. 1260 to 1290.

JUSTICE LIBAN

> Yes. And in the findings, there are only 86 items, out of 297 items, which are not reflected in the receipts. I just want to know how the Bureau of Customs thinks.

On the other hand, respondent's witness, Mr. Manfred C. Rosete, testified on August 3, 2022 that petitioner submitted receipts or invoices evidencing that the goods subject of the seizure were locally purchased, viz:[6]

> Assoc. Sol. Manabat:
> Para klaruhin, Mr. Witness, ang mga isinabmit na resibo ni Ms. Briones ay napi-pertain sa mga local na items. Tama po ba?
> Witness:
> Meron pong local at mayroon din pong imported.
> Assoc. Sol. Manabat:
> At hindi po ito bumabangga or nagmamatch sa mga imported articles na nakita Ninyo?
> Witness:
> Opo, opo
> Justice Uy:
> **Actually, I asked him. Ang tinanong ko po sa inyo, imported goods pero dito nya sa Pilipinas binili, hindi sya ang ang import?**
> Witness:
> **Opo, opo.**
> Justice Uy:
> **Ang sagot mo ay yes.**
> Witness:
> Opo.

It is noted that respondent and District Collector Francia, in their respective Order[7] and Decision, found that the sales invoices and receipts presented by petitioner were not in order as they failed to tally with the inventoried goods. It is submitted, however, that such discrepancies are to be expected. Retail operations involve continuous movement of stock, and inventory levels shift throughout the day. It is, therefore, practically impossible for any retailer to maintain an inventory that is perfectly current at every moment.

Honorable Associate Justice Reyes-Fajardo's Decision also provides that petitioner failed to demonstrate the origin or source of the subject goods and provide the necessary proof of payment of duties and taxes. Hence, the seizure and initiation of forfeiture proceedings for the subject goods.

On this point, I respectfully beg to differ.

Although petitioner did not submit evidence of payment of taxes and duties, such evidence was not provided precisely because petitioner asserts

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6 TSN dated August 3, 2022, p. 14.
7 Exhibit "R-6", Exhibit "P-2", Division Docket, Vol. II, pp. 896 to 925.

that it is not the importer of the subject goods, and therefore, not liable for those payments. This was reiterated by petitioner when she testified on November 24, 2021, viz:

> JUSTICE SAN PEDRO :
> Your proof submitted that the items were sourced from local suppliers, correct? yung pruweba nyo na sa local suppliers nyo binili itong mga items na ito, tama?
> A:
> Opo, Your Honor.
> JUSTICE SAN PEDRO:
> Did you present any proof of payment of taxes on the seized items from the local suppliers? May pinakita po ba kayong pruweba na nagbayad itong mga supplier na ito ng buwis sa mga items?
> Witness:
> Wala po, Your Honor, kase po nanghingi kami ng proof po binigay lamang po nil ana ang ELJ1 ay customer po lamang nila.
> JUSTICE SAN PEDRO:
> Pero hindi sila nagbigay ng pruweba na bayad sila sa mga taxes dyan?
> A:
> Hindi po.

For purposes of ascertaining the correctness of the goods declaration and determining the liability of the importer for duties, taxes and other charges, including any fine or penalty,[8] Section 1003 of the CMTA requires **importers** to keep at their principal place of business, for a period of three years from the date of final payment of duties and taxes or customs clearance, all documents pertaining to the ordinary course of their business and to any activity or information contained in the records, viz.:

> SECTION 1003. Requirement to Keep Records. — (a) All importers are required to keep at their principal place of business, in the manner prescribed by regulations to be issued by the Commissioner and for a period of three (3) years from the date of final payment of duties and taxes or customs clearance, as the case may be, all records pertaining to the ordinary course of business and to any activity or information contained in the records required by this title in connection with any such activity.
>
> For purposes of the post clearance audit and Section 1005 of this Act, the term importer shall include the following:
>
> (1) Importer-of-record or consignee, owner or declarant, or a party who:
>
> (i) Imports goods into the Philippines or withdraws such goods into the Philippine customs territory for consumption or warehousing; files a claim for refund or drawback; or transports or stores such goods carried or held under security; or
>
> (ii) Knowingly causes the importation or transportation or storage of imported goods referred to above, or the filing of refund or drawback claim.

[8] Section 1000 of the CMTA.

(2) An agent of any party described in paragraph (1); or

(3) A person whose activities require the filing of a goods declaration.

A person ordering imported goods from a local importer or supplier in a domestic transaction shall be exempted from the requirements imposed by this section unless:

(1) The terms and conditions of the importation are controlled by the person placing the order; or

(2) The circumstances and nature of the relationship between the person placing the order and the importer or supplier are such that the former may be considered as the beneficial or true owner of the imported goods; or

(3) The person placing the order had prior knowledge that they will be used in the manufacture or production of the imported goods.

(b) All parties engaged in customs clearance and processing are required to keep at their principal place of business, in the manner prescribed by regulations to be issued by the Commissioner and for a period of three (3) years from the date of filing of the goods declaration, copies of the abovementioned records covering the transactions handled.

(c) Locators or persons authorized to bring imported goods into free zones, such as the special economic zones and free ports, are required to keep subject records of all its activities, including in whole or in part, records on imported goods withdrawn from said zones into the customs territory for a period of three (3) years from the date of filing of the goods declaration.

Failure to keep the records required by this Act shall constitute a waiver of this right to contest the results of the audit based on records kept by the Bureau. (*Emphasis ours*)

Clearly, the importer-of-record or consignee, owner or declarant, or other party who imports goods or causes the importation of goods, shall be required to keep the records of importation.

One of the documents required to be kept by an importer-of record or consignee, owner or declarant, or other party who imports goods or causes the importation under Section 4.5.3 (a) of Customs Administrative Order (CAO) No. 001-19[9] is the proof of payment of duties and taxes.

Section 1003 of the CMTA, however, exempts from this requirement a person ordering imported goods from a local importer or supplier in a

[9] SUBJECT: *Post Clearance Audit and Prior Disclosure Program*, November 29, 2018.

domestic transaction, unless said person falls under the exceptions enumerated therein.

An understanding of the foregoing would show that a person ordering imported goods from a local importer or supplier in a domestic transaction is exempted from the duty to keep the records of importation unless said person falls under the exceptions enumerated in Section 1003 of the CMTA. Thus, petitioner, being a reseller of medical suppliers and not an importer-of-record, and who is not among the exceptions enumerated above, is not required to keep proof of payment of duties and taxes.

It is humbly submitted that petitioner does not fall under the circumstances enumerated. The affidavits, ORs, certificates of product registration and permits presented by petitioner collectively shows that she buys from another local store, which may or may not be an importer-of-record. It was not established that the terms of the importation are controlled by petitioner, neither were the circumstances and nature of the relationship between petitioner and the importer/supplier are such that petitioner may be considered as the beneficial or true owner of the imported goods.

Clearly, as the subject goods were locally purchased by petitioner, she is not required to keep in his possession the proof of payment of the corresponding duties and taxes. Consequently, respondent failed to establish that the subject goods were imported contrary to law; thus, the seizure and forfeiture of the subject goods was improper.

As to the issuance of the WSD dated April 17, 2020, Section 1117 of the CMTA[10] requires that the same be issued after determination of the existence of probable cause and, in case of non-existence thereof, the issuance of order of release.

Section 3.25 of Customs Administrative Order (CAO) No. 003-19[11] defines probable cause as:

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[10] **SECTION 1117**. *Warrant of Seizure or Order of Release.* — The District Collector shall have the authority to issue a warrant of seizure of the goods upon determination of the existence of probable cause and in case of nonexistence thereof, the issuance of order of release. In case the District Collector issued an order of release, the District Collector shall immediately transmit all the records to the Commissioner who shall automatically review within forty-eight (48) hours, or within twenty-four (24) hours in case of perishable goods. When no decision is made by the Commissioner within the prescribed period, the imported goods shall be deemed released.

The lifting of the alert order shall be issued by the District Collector only upon the affirmation of the decision of the District Collector by the Commissioner, or after the lapse of the period of review by the Commissioner, whichever is earlier.

[11] SUBJECT: *Customs Jurisdiction and Exercise of Police Authority,* April 1, 2019.

> 3.25. Probable Cause — shall refer to the reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant a cautious man in the belief that the person accused is guilty of the offense with which he is charged. It may also refer to the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and the items or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched.

In light of the above, the District Collector should have determined, based on the documents submitted, whether there was reasonable ground of suspicion to believe that petitioner imported the goods contrary to law and therefore the subject goods should be seized and forfeited in favor of the government.

In the instant case, it is noted that there were lapses in the issuance of the WSD. First, the inventory[12] prepared by the BOC officials, which is the basis for the issuance of the WSD, neither state the country of origin nor the brand or manufacturer of the goods to show that the subject goods are imported goods and were imported contrary to law.

Second, the Memorandum[13] recommending the issuance of WSD against the goods found at ELJ1 Medical Shop does not also indicate the country of origin, brand, or manufacturer of the goods listed therein. Mr. Alvin Y. Enciso, Chief of Customs Intelligence and Investigation Service-Manila International Container Port, merely recommended the issuance of a WSD based on petitioner's failure to submit proof of payment of taxes and duties. Without identifying the origin of the goods or establishing that they were imported, the Memorandum clearly lacks any legal basis for requiring the submission of proof of payment in the first place.

Citing the case of *Ang Tibay vs. The Court of Industrial Relations*,[14] the Supreme Court, in the case of *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc.*,[15] held that although quasi-judicial agencies "may be said to be free from the rigidity of certain procedural requirements, [it] does not mean that it can, in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirements of due process in trials and investigations of an administrative character".

In the aforesaid case, the Supreme Court emphasized that one of the fundamental requirements of due process that must be respected in administrative proceedings is that the administrative tribunal or body must consider the evidence presented.

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[12] Exhibit "R-3", Division Docket, Vol. II, pp. 942 to 951.
[13] Exhibit "R-4", Division Docket, Vol. II. Pp. 952 to 961.
[14] G.R. No. 46496, February 27, 1940.
[15] G.R. Nos. 201398-99 & 201418-19, October 3, 2018.

Clearly, the BOC should have considered the substantial evidence presented by petitioner, which casts doubt as to the existence of probable cause to seize and forfeit the subject goods.

On the basis of the foregoing, it is respectfully submitted that there is no probable cause to seize and forfeit the subject goods in favor of the government.

All told, I **VOTE** to (1) **GRANT** the **Petition for Review** dated and filed on July 31, 2024; (2) **REVERSE** and **SET ASIDE** the Order and Decision of respondent and the District Collector dated May 21, 2020 and March 30, 2020, respectively; (3) **RECALL** and **LIFT** the Warrant of Seizure and Detention (Seizure Identification No. 074-2020); and, (4) **ORDER** respondent to release to petitioner the subject seized medical goods, as enumerated in the Warrant of Seizure and Detention (Seizure Identification No. 074-2020), sans payment of duties and taxes.

CORAZON G. FERRER-FLORES
Associate Justice